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For Publication
October 2010

Disability Annuities for Railroad Employees

The Railroad Retirement Act provides disability annuities for railroaders who become totally or occupationally disabled. Medicare coverage before age 65 is also available for totally disabled employees and those suffering from chronic kidney disease.

The following questions and answers describe these disability benefits, their requirements, and how to apply for them.

1. How do railroad retirement provisions for total disability and occupational disability differ?

A total disability annuity is based on permanent **disability for all employment** and is payable at any age to employees with at least 10 years of railroad service, and under certain conditions to employees with five years of service after 1995.

An occupational disability annuity is based on **disability for the employee's regular railroad occupation** and is payable at age 60 if the employee has 10 years of service, or at any age if the employee has at least 20 years of service. A "current connection with the railroad industry" is also required for an occupational disability annuity. The current connection requirement is normally met if the employee worked for a railroad in at least 12 of the last 30 consecutive months immediately preceding the annuity beginning date.

If an employee does not qualify for a current connection on this basis, but has 12 months' service in an earlier 30-month period, he or she may still meet the current connection requirement. This alternative generally applies if the employee did not have any regular employment outside the railroad industry after the end of the last 30-month period which included 12 months of railroad service and before the month the annuity begins or the date of death. Full or part-time work for a nonrailroad employer in the interval between the end of the last 30-month period including 12 months of railroad service and the beginning date of an employee's annuity, or the month of death if earlier, can break a current connection.

2. Under what conditions can disabled employees with five years of service be eligible for railroad retirement disability annuities?

Employees with five years of service **after 1995** may qualify for an annuity based on total and permanent, but not occupational, disability if they have a disability insured status under social security law. A disability insured status is established when an employee has social security or railroad

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retirement earnings credits in 20 calendar quarters in a period of 40 consecutive quarters ending in or after the quarter in which the disability began.

Unlike the two-tier annuities payable to a 10-year employee, disability annuities payable to five-year employees are initially limited to a tier I social security equivalent benefit; a tier II benefit is not payable in these cases until the employee attains age 62. And, the employee's tier II benefit will be reduced for early retirement in the same manner as the tier II benefit of an employee who retired on the basis of age rather than disability at age 62 with less than 30 years of service.

3. How do the standards for total disability and occupational disability differ?

An employee is considered to be totally disabled if medical evidence shows a permanent physical and/or mental impairment preventing the performance of any regular and gainful work. A condition is considered to be permanent if it has lasted or may be expected to last for a continuous period of at least 12 months or result in death.

An employee is considered to be occupationally disabled if a physical and/or mental impairment prevents the employee from performing the duties of his or her regular railroad occupation, even though the employee may be able to perform other kinds of work. An employee's regular occupation is generally that particular work he or she has performed for hire in more calendar months, which may or may not be consecutive, than any other work during the last five years; or that work which was performed for hire in at least one-half of all the months, which must be consecutive, in which the employee worked for hire during the last 15 years.

4. How does the amount of a railroad retirement disability annuity compare to a social security disability benefit?

Disabled railroad workers retiring directly from the railroad industry at the end of fiscal year 2009 were awarded nearly \$2,800 a month on the average, while awards for disabled workers under social security averaged about \$1,125.

5. When is early Medicare coverage available for the disabled?

In general, Medicare coverage before age 65 may begin after a totally disabled employee has been entitled to a disability annuity for at least 24 months and has a disability insured status under social security law. The fact that an employee is initially awarded an occupational disability annuity does not preclude early Medicare coverage, if the employee's physical and/or mental condition is such that he or she is totally and permanently disabled.

Medicare coverage on the basis of kidney disease requiring dialysis or a kidney transplant is available not only to employee annuitants, but also to employees who have not retired but meet certain minimum service requirements, as well as spouses and dependent children. For those suffering from chronic kidney disease, coverage may begin with the third month after dialysis treatment begins, or earlier under certain conditions.

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6. Do the railroad retirement disability annuity requirements include a waiting period similar to that required for social security disability benefits?

Yes. A five-month waiting period beginning with the month after the month of the disability's onset is required before railroad retirement disability annuity payments can begin. However, an applicant need not wait until this five-month period is over to file for benefits.

The Board accepts disability applications up to 3 months in advance of an annuity beginning date which allows the agency to complete the processing of most new claims before a person's actual retirement date. An employee can be in compensated service while filing a disability application provided that the compensated service is not active service and terminates before the annuity beginning date and the end of the 3-month period. When an employee files a disability application while still in compensated service, it will be necessary for the employee to provide a specific ending date of the compensation.

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.

7. What documentation is required when filing for a railroad retirement disability annuity?

Employees filing for disability annuities are required to submit medical evidence supporting their claim. Applicants should be prepared to furnish dates of hospitalization, names and dosages of medication, names of doctors, etc. Applicants may also be asked to take special medical examinations given by a doctor named by the RRB. If a disability applicant is receiving workers' compensation or public disability benefits, notice of such payments must be submitted.

Sources of medical evidence for railroad retirement disability purposes may include, but are not limited to, the applicant's railroad employer, personal physician and hospital, the Social Security Administration or the agency paying workers' compensation or public disability benefits. This evidence generally should not be more than 12 months old. In addition, proof of age and proof of any military service credit claimed and a description of past work activity will also be required.

8. What is the best way to apply for a railroad retirement disability annuity or early Medicare coverage?

Applications for railroad retirement disability annuities are generally filed at one of the Board's field offices, or at one of the office's Customer Outreach Program (CORP) service locations, or by telephone and mail. However, applications by rail employees for early Medicare coverage on the basis of kidney disease have to be filed with an office of the Social Security Administration, rather than the Railroad Retirement Board.

To expedite filing for a railroad retirement disability annuity, disabled employees or a family member should call or write the nearest Railroad Retirement Board field office to schedule an appointment. For the appointment, claimants should bring in any medical evidence in their possession and any medical records they can secure from their treating sources, such as their regular physician.

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Employees who are unable to personally visit an RRB office or meet an RRB representative at a CORP service location may request special assistance, such as having an RRB representative come to a hospital or the employee's home. RRB personnel can assist disabled employees with their applications and advise them on how to obtain any additional medical evidence required or any other necessary documents or records.

9. Can an individual continue to receive an employee disability annuity even if he or she does some work after it begins?

Special earnings rules apply to disability annuitants and they are more stringent than those that apply to annuitants who have retired on the basis of age and service. Disability annuities are not payable for any month in which the annuitant earns more than \$780 in 2010 in any employment or self-employment, exclusive of work-related expenses. Withheld payments will be restored if earnings for 2010 are less than \$9,750 after deduction of disability-related work expenses. Failure to report such earnings could involve a significant penalty charge.

These disability work restrictions cease upon a disabled employee annuitant's attainment of full retirement age (age 65 for those born before 1938 to age 67 for those born in 1960 or later), when the annuitant becomes subject to the work and earnings restrictions applicable to employee annuities based on age and service. This transition is effective no earlier than full retirement age, even if the annuitant had 30 years of service.

If a disabled annuitant works before full retirement age, this may also raise a question about the possibility of that individual's recovery from disability, regardless of the amount of earnings. Consequently, any earnings must be reported promptly to avoid overpayments, which are recoverable by the Board and may also include penalties.

10. Does employment with a rail labor organization affect eligibility for a disability annuity?

Payment of an employee's disability annuity cannot begin earlier than the day after the employee stops working in compensated service for any railroad employer, including labor organizations. Such work includes service for **more than \$24.99 in a calendar month** to a local lodge or division of a railway labor organization. Also, work by a local lodge or division secretary collecting insurance premiums, **regardless of the amount of salary**, is railroad work which must be stopped.

11. Must an employee relinquish employment rights in order to receive a disability annuity?

An employee can be in compensated, but non-active, service while filing a disability annuity application as long as the compensated service terminates within 90 days from the date of filing. However, in order for a supplemental annuity to be paid or for an eligible spouse to begin receiving benefits, a disability annuitant under full retirement age must relinquish employment rights.

12. How can individuals find out more information about disability annuities?

More information is available by visiting the RRB's website, www.rrb.gov, or by calling an RRB office toll-free at 1-877-772-5772. Persons can find the address of the RRB office servicing their area by calling the agency's toll-free number or at www.rrb.gov.