

**TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES****PART III - EMPLOYEES****Subpart G - Insurance and Annuities****CHAPTER 84 - FEDERAL EMPLOYEES RETIREMENT SYSTEM****SUBCHAPTER IV - SURVIVOR ANNUITIES****§ 8443. Rights of a child**

- (a) (1) If an employee or Member dies after completing at least 18 months of civilian service which is creditable under section 8411, or an annuitant dies, each surviving child is, for any month, entitled to an annuity equal to—
- (A) the amount by which the applicable amount under paragraph (2) for such month exceeds the applicable amount under paragraph (3) for such month, divided by
  - (B) the number of children entitled to a payment under this section for such month.
- (2) The applicable amount under this paragraph for any month is the total amount to which the surviving child or children (as the case may be) of the annuitant, employee, or Member would be entitled for such month under subchapter III of chapter 83 (including any adjustment based on section 8340) based on the service of such annuitant, employee, or Member, if the service of such annuitant, employee, or Member were creditable under such subchapter.
- (3) The applicable amount under this paragraph for any month is the total amount of child's insurance benefits which are payable (or would, on proper application, be payable) under title II of the Social Security Act for such month based on the wages and self-employment income of such annuitant, employee, or Member.
- (b) The annuity of a child under this subchapter—
- (1) commences on the day after the annuitant, employee, or Member dies;
  - (2) commences or resumes on the first day of the month in which the child later becomes or again becomes a student as described by section 8441 (4), if any lump sum paid is returned to the Fund; or
  - (3) commences or resumes on the first day of the month in which the child later becomes or again becomes incapable of self-support because of a mental or physical disability incurred before age 18 (or a later recurrence of such disability), if any lump sum paid is returned to the Fund.

This annuity and the right thereto terminate on the last day of the month before the child—

- (A) becomes 18 years of age unless then a student as described or incapable of self-support;
- (B) becomes capable of self-support after becoming 18 years of age unless then such a student;
- (C) becomes 22 years of age if then such a student and capable of self-support;
- (D) ceases to be such a student after becoming 18 years of age unless then incapable of self-support; or
- (E) dies or marries;

whichever occurs first. On the death of the surviving wife or husband, or former wife or husband, or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the wife or husband, former wife or husband, or child had not survived the annuitant, employee, or Member. If the annuity of a child under this subchapter terminates under subparagraph (E) because of marriage, then, if such marriage ends, such annuity shall resume on the first day of the month in which it ends, but only if any lump sum paid is returned to the Fund, and that individual is not otherwise ineligible for such annuity.

(Added Pub. L. 99-335, title I, § 101(a), June 6, 1986, 100 Stat. 563; amended Pub. L. 99-556, title I, § 117(a), Oct. 27, 1986, 100 Stat. 3134; Pub. L. 104-208, div. A, title I, § 101(f) [title VI, § 633(a)(2)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-363.)

## **References in Text**

The Social Security Act, referred to in subsec. (a)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## **Amendments**

1996—Subsec. (b). Pub. L. 104–208 inserted at end “If the annuity of a child under this subchapter terminates under subparagraph (E) because of marriage, then, if such marriage ends, such annuity shall resume on the first day of the month in which it ends, but only if any lump sum paid is returned to the Fund, and that individual is not otherwise ineligible for such annuity.”

1986—Subsec. (a)(2). Pub. L. 99–556 inserted “(including any adjustment based on section 8340)”.

## **Effective Date of 1996 Amendment**

Amendment by Pub. L. 104–208 applicable with respect to termination of marriage taking effect before, on, or after Sept. 30, 1996, except that benefits are payable only with respect to amounts accruing for periods beginning on first day of month beginning after the later of termination of marriage or Sept. 30, 1996, see section 101 (f) [title VI, § 633(b)] of Pub. L. 104–208, set out as a note under section 8341 of this title.