

**§ 846.723**

**5 CFR Ch. I (1–1–03 Edition)**

(ii) If OPM does not have a copy of a qualifying court order in its possession, OPM's notice to the employing office that it has no qualifying court order completes the employee's election of FERS coverage and the election becomes effective at the beginning of the first pay period after the employing office receives OPM's notification.

(iii) If OPM has a copy of a qualifying court order, OPM will notify both the individual and the employing office that it has a qualifying court order and that an extension until June 30, 1999, has been granted.

**§ 846.723 Agency responsibilities.**

(a) The employing office must determine whether the employee is eligible to elect FERS coverage.

(b)(1) As close as practicable to the beginning of the open enrollment period, the employing office must provide each employee eligible to elect FERS coverage with notice of that employee's right to make an election.

(2) The employing office must provide each employee eligible to elect FERS coverage with a copy of or ready access to the FERS Transfer Handbook.

(c) An election received by an employing office before July 1, 1998, is deemed to have been received by the employing office on July 1, 1998.

(d) An agency decision that an employee is not eligible to elect FERS coverage or refusing to accept a belated election under § 846.724 must be in writing, must fully set forth the findings and conclusions of the agency, and must notify the employee of the right to appeal the decision under this section to the Merit Systems Protection Board, including all information required under the Board's regulations. See 5 CFR 1201.21.

**§ 846.724 Belated elections and correction of administrative errors.**

(a) *Belated elections.* The employing office may accept a belated election of FERS coverage if it determines that—

(1) The employing office did not provide adequate notice to the employee in a timely manner;

(2) The agency did not provide access to the FERS Transfer Handbook to the employee in a timely manner; or

(3) The employee was unable, for cause beyond his or her control, to elect FERS coverage within the prescribed time limit.

(b) *Correction of administrative errors.* Failure to begin employee deductions and Government contributions on the effective date of coverage must be corrected in accordance with § 841.505 of this chapter.

**§ 846.725 Appeal to the Merit Systems Protection Board.**

(a) A person whose rights or interests under this part are affected by an agency decision that an employee is not eligible to elect FERS coverage or an agency refusal to accept a belated election under § 846.724, or an OPM decision denying an extension or waiver under § 846.722, may request the Merit Systems Protection Board (MSPB) to review such decision in accord with procedures prescribed by MSPB. MSPB regulations relating to appeals are contained in chapter II of this title.

(b) Paragraph (a) of this section is the exclusive remedy for review of agency decisions concerning eligibility to make an election under this subpart. An agency decision must not allow review under any employee grievance procedures, including those established by chapter 71 of title 5, United States Code, and 5 CFR part 771.

**§ 846.726 Delegation of authority to act as OPM's agent for receipt of employee communications relating to elections.**

The employing office is delegated authority to act as OPM's agent for the receipt of any documents that employees are required by this subpart to file with OPM. Such documents are deemed received by OPM on the date that the employing office receives them.

**PART 847—ELECTIONS OF RETIREMENT COVERAGE BY CURRENT AND FORMER EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES**

**Subpart A—General Provisions**

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