

§ 1620.40

from Federal Government service as of the date of the move.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

§ 1620.40 Scope.

To be covered by this subpart, an employee must have:

- (a) Separated from Federal civilian service or entered leave-without-pay status in order to perform military service; and
- (b) Become eligible to seek reemployment or restoration to duty by virtue of a release from military service, discharge from hospitalization, or other similar event that occurred on or after August 2, 1990; and
- (c) Been reemployed in, or restored to, a position covered by CSRS or FERS pursuant to the provisions of 38 U.S.C. chapter 43.

§ 1620.41 Definitions.

As used in this subpart:

Current contributions means contributions that must be made for the current pay date which is reported on the journal voucher that accompanies the payroll submission.

Nonpay status means an employer-approved temporary absence from duty.

Reemployed or returned to pay status means reemployed in or returned to a pay status, pursuant to 38 U.S.C. chapter 43, to a position that is subject to 5 U.S.C. 8351 or chapter 84.

Retroactive period means the period for which an employee can make up missed employee contributions and receive missed agency contributions. It begins the day after the employee separates or enters nonpay status to perform military service and ends when the employee is reemployed or returned to pay status.

Separate from civilian service means to cease employment with the Federal Government, the U.S. Postal Service, or with any other employer from a position that is deemed to be civilian Government employment for purposes of participating in the TSP, for 31 or more full calendar days.

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5 CFR Ch. VI (1–1–03 Edition)

§ 1620.42 Processing TSP contribution elections.

(a) *Time for filing election.* Upon reemployment or return to pay status, an employee has 60 days to submit contribution elections to make current contributions and to make up missed contributions. An employee's right to make a retroactive TSP contribution election will expire if the election is not made within 60 days of the participant's reemployment or return to pay status. After the 60-day contribution election period expires, the employee must wait for an open season to submit a contribution election to make current contributions.

(b) *Current contributions.* If the employee entered nonpay status with a valid contribution election on file, the agency must immediately reinstate that election for current contributions when the employee returns to pay status, unless the employee files a new contribution election as described in paragraph (a) of this section. If the employee separated to perform military service, the agency is not required to reinstate a prior contribution election. An election to make current contributions will be effective as soon as administratively feasible, but no later than the first day of the first full pay period after it is received by the employing agency.

(c) *Makeup contributions.* An election to make up contributions will be processed as follows:

(1) If the employee had a valid contribution election on file when he or she separated or entered nonpay status to perform military service, that election form will be reinstated for purposes of makeup contributions, unless the employee submits new contribution elections effective for any missed open season.

(2) An employee who terminated contributions within two months of entering military service will be eligible to make a retroactive contribution election for the first open season that occurs after the effective date that the contributions were terminated. This election may be made even if the termination was made outside an open season.

[67 FR 49526, July 30, 2002]