

**Office of Personnel Management**

**§ 839.242**

(1) A TSP annuity after separation from service, but before receiving a FERS annuity; or

(2) A single payment or monthly payments after separation from service; or

(3) An age-based in-service withdrawal.

(b) If you received an automatic cashout of your TSP account after you separated (because your account balance was \$3,500 or less), or if you received a financial hardship in-service withdrawal, you may make a retirement coverage election.

**§ 839.214 Am I disqualified from making an election of retirement coverage under the FERCCA if I withdrew my TSP account after I retired under FERS?**

No, you may make an election of retirement coverage under the FERCCA if you made a TSP withdrawal as a retiree.

**§ 839.215 May I make a retirement coverage election under the FERCCA if I received a payment as settlement of my claim for losses because of a qualifying retirement coverage error?**

You can make a retirement coverage election under the FERCCA if OPM waives repayment of the entire amount under § 839.1202. If OPM does not waive the entire repayment, you must pay back the amount that OPM did not waive.

**PREVIOUS ELECTION OPPORTUNITY**

**§ 839.221 If my qualifying retirement coverage error was that I was put into FERS by mistake and then, after the error was discovered, I chose my current retirement coverage, can I now make another election?**

No, OPM regulations allow certain employees who were put in FERS in error to choose between remaining in FERS or being covered under their automatic retirement coverage. (See § 846.204(b)(2) of this chapter). If you already had this opportunity to choose your retirement coverage; then you may not make an election of retirement coverage based on the same error under these rules.

**COURT-ORDERED BENEFITS FOR FORMER SPOUSES**

**§ 839.231 Can I make an election if my former spouse is entitled to a portion of my retirement benefits by qualifying court order?**

Yes, but if you want to elect FERS you need your former spouse's consent to the election. If you are subject to a qualifying court order and want to elect FERS, the requirements in § 846.722 of this chapter (Former Spouse's Consent to an Election of FERS Coverage) apply to you.

**§ 839.232 If a deceased employee's survivors include both a current spouse and a former spouse, or spouses, who are eligible for survivor annuities, must all of them consent to an election of FERS?**

If the employee dies before making an election of retirement coverage under the FERCCA, all eligible potential survivors, that is, both the current and any former spouses, must consent to an election of FERS coverage. If they do not all consent, the election cannot be made.

**ELECTIONS**

**§ 839.241 Am I eligible to make an election under the FERCCA if I had a qualifying retirement coverage error and none of the conditions mentioned in § 839.212 through § 839.232 apply to me?**

If you were in CSRS or CSRS Offset and should have been in FERS or Social Security-Only, or if you were in FERS and should have been in CSRS, CSRS Offset, or Social Security-Only, then you have an election opportunity. This is summarized in the following chart:

You are or were in:	And you belong in:
CSRS or CSRS Offset .....	FERS.
CSRS or CSRS Offset .....	Social Security-Only.
FERS .....	Social Security-Only.
FERS .....	CSRS.
FERS .....	CSRS Offset.

**§ 839.242 Do these rules apply to me if I had multiple errors?**

You must be in the wrong retirement plan for at least 3 years of Federal service after December 31, 1986. You