

## Office of Personnel Management

## § 870.101

870.1208 Return to active service.

AUTHORITY: 5 U.S.C. 8716; subpart J also issued under sec. 599C, Pub. L. 101-513, 104 Stat. 2064, as amended; §870.302(a)(3)(ii) also issued under sec. 153, Pub. L. 104-134, 110 Stat. 1321; §870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251 and sec. 7(e), Pub. L. 105-274, 112 Stat. 2419.

SOURCE: 62 FR 48731, Sept. 17, 1997, unless otherwise noted.

### Subpart A—Administration and General Provisions

#### § 870.101 Definitions.

*Annuitant* means a former employee entitled to an annuity under a retirement system established for employees. This includes the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard.

*Assign* and *assignment* refer to an individual's irrevocable transfer to another individual, corporation, or trustee all ownership of FEGLI coverage (except Option C).

*Assignee* means the individual, corporation, or trustee to which an individual irrevocably transfers ownership of FEGLI coverage (except Option C).

*Child*, as used in the definition of *Family member* for Option C coverage, means a legitimate child, an adopted child, a stepchild or foster child who lives with the employee or former employee in a regular parent-child relationship, or a recognized natural child. It does not include a stillborn child or a grandchild (unless the grandchild meets all the requirements of a foster child). The child must be under age 22 or, if age 22 or over, must be incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

*Child*, as used in the *order of precedence for payment of benefits*, means a legitimate child, an adopted child, or a recognized natural child, of any age. It does not include a stepchild, a stillborn child, a grandchild, or a foster child. An individual who has reached age 18 is considered an adult and can receive a benefit payment in his/her name. However, if the age of adulthood where the individual has his/her legal residence is set at a lower age, the individual is

considered an adult upon reaching that lower age. Adopted children do not inherit from their birth parents under the order of precedence stated in 5 U.S.C. 8705, other than as designated beneficiaries, but inherit from their adoptive parents. However, a child who is adopted by the spouse of a birth parent inherits from that birth parent.

*Compensation* means compensation under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

*Compensation* means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty.

*Court order* means any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement relating to any court decree of divorce, annulment, or legal separation, the terms of which require FEGLI benefits to be paid to a specific person or persons.

*Date of retirement*, as used in 5 U.S.C. 8706(b)(1)(A), means the starting date of annuity.

*Dependent* means living with or receiving regular and substantial support from the insured individual.

*Duly appointed representative of the insured's estate* means an individual named in a court order granting the individual the authority to receive, or the right to possess, the insured's property; the order must be issued by a court having jurisdiction over the insured's estate. Where the law of the insured's legal residence provides for the administration of estates through alternative procedures which do away with the need for a court order, this term also means an individual who shows that he/she is entitled to receive, or possess, the insured's property under the terms of those alternative procedures.

*Employee* means an individual defined by section 8701(a) of title 5, United States Code.

*Employing office* means the agency office or retirement system office that has responsibility for life insurance actions.

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**5 CFR Ch. I (1-1-05 Edition)**

(1) The Administrative Office of the United States Courts is the employing office for judges of the following courts:

- (i) All United States Courts of Appeals;
- (ii) All United States District Courts;
- (iii) The Court of International Trade;
- (iv) The Court of Federal Claims; and
- (v) The District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands.

(2) The Washington Headquarters Services is the employing office for judges of the United States Court of Appeals for the Armed Forces.

(3) The United States Tax Court is the employing office for judges of the United States Tax Court.

(4) The United States Court of Veterans Appeals is the employing office for judges of the United States Court of Veterans Appeals.

*Family member* means a spouse (including a valid common law marriage) and unmarried dependent child(ren).

*Immediate annuity* means:

(1) An annuity that begins no later than 1 month after the date the insurance would otherwise stop (the date of separation from service), and

(2) An annuity under §842.204(a)(1) of this title for which the starting date has been postponed under §842.204(c) of this title.

*Judge* means an individual appointed as a Federal justice or judge under Article I or Article III of the Constitution.

*OFGLI* means the Office of Federal Employees' Group Life Insurance, which pays benefits under the policy.

*OPM* means the Office of Personnel Management.

*OWCP* means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers subchapter I of chapter 81 of title 5, United States Code.

*Parent* means the mother or father of a legitimate child or an adopted child. The term *parent* includes the mother of a recognized natural child; it also includes the father of a recognized natural child if the recognized natural child meets the definition provided below.

*Portability Office* means the office OPM designates to manage ported coverage and to collect premiums for ported coverage.

*Ported coverage* means continued coverage that would otherwise have terminated.

*Recognized natural child*, with respect to paternity, is one for whom the father meets one of the following:

(1) (i) Has acknowledged paternity in writing;

(ii) Was ordered by a court to provide support;

(iii) Before his death, was pronounced by a court to be the father;

(iv) Was established as the father by a certified copy of the public record of birth or church record of baptism, if the insured was the informant and named himself as the father of the child; or

(v) Established paternity on public records, such as records of schools or social welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(2) If paternity is not established by paragraph (1) of this definition, such evidence as the child's eligibility as a recognized natural child under other State or Federal programs or proof that the insured included the child as a dependent child on his income tax returns may be considered when attempting to establish paternity.

*Reconsideration* means the final level of administrative review of an employing office's initial decision to determine if the employing office followed the law and regulations correctly in making the initial decision concerning FEGLI eligibility and coverage.

*Regular parent-child relationship* means that the employee or former employee is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and medical care.

*Service* means civilian service which is creditable under subchapter III of chapter 83 or chapter 84 of title 5, United States Code. This includes service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard for an individual who elected to remain under a

retirement system established for employees described in section 2105(c) of title 5.

*Terminally ill* means having a medical prognosis of a life expectancy of 9 months or less.

*Underdeduction* means a failure to withhold the required amount of life insurance deductions from an individual's pay, annuity, or compensation. This includes nondeductions (when none of the required amount was withheld) and partial deductions (when only part of the required amount was withheld).

[62 FR 48731, Sept. 17, 1997; 62 FR 52181, Oct. 6, 1997, as amended at 64 FR 16602, Apr. 6, 1999; 64 FR 72461, Dec. 28, 1999]

#### § 870.102 The policy.

Basic, Option A, Option B, and Option C benefits are payable according to a contract with the company or companies that issue a policy under § 8709 of title 5, United States Code. Any court action to obtain money due from this insurance policy must be taken against the company that issues the policy.

#### § 870.103 Correction of errors.

(a) The employing office may make corrections of administrative errors regarding coverage or changes in coverage. Retroactive corrections are subject to the provisions of § 870.401(f).

(b) OPM may order correction of an error after reviewing evidence that it would be against equity and good conscience not to do so.

#### § 870.104 Incontestability.

(a) If an individual erroneously becomes insured, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the individual has paid applicable premiums during that time. This applies to errors discovered on or after October 30, 1998.

(b) If an employee is erroneously allowed to continue insurance into retirement or compensation, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the annuitant or compensationner has paid applicable premiums during that time. This ap-

plies to such errors discovered on or after October 30, 1998.

(c) If an individual who is allowed to continue erroneous coverage because of incontestability does not want the coverage, he/she may cancel the coverage on a prospective basis. There is no refund of premiums.

[64 FR 72461, Dec. 28, 1999]

#### § 870.105 Initial decision and reconsideration.

(a) An individual may ask his/her agency or retirement system to reconsider its initial decision denying life insurance coverage, the opportunity to change coverage, the opportunity to assign insurance, or the opportunity to elect portability for Option B coverage.

(b) An employing office's decision is an initial decision when the employing office gives it in writing and informs the individual of the right to an independent level of review (reconsideration) by the appropriate agency or retirement system.

(c) A request for reconsideration must be made in writing and must include the employee's (or annuitant's) name, address, date of birth, Social Security number, reason(s) for the request, and, if applicable, retirement claim number.

(d) A request for reconsideration must be made within 30 calendar days from the date of the initial decision. This time limit may be extended when the individual shows that he/she was not notified of the time limit and was not otherwise aware of it or that he/she was unable, due to reasons beyond his/her control, to make the request within the time limit.

(e) The reconsideration must take place at or above the level at which the initial decision was made.

(f) After reconsideration, the agency or retirement system must issue a final decision to the insured individual. This decision must be in writing and must fully state the findings.

[62 FR 48731, Sept. 17, 1997. Redesignated and amended at 64 FR 72461, Dec. 28, 1999]