

**§ 870.802**

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

court order, instead of according to the order of precedence.

(2) To qualify a person for such payment, a certified copy of the court order must be received by the appropriate office on or after July 22, 1998, and before the death of the insured.

(3)(i) For employees, the appropriate office is their employing agency.

(ii) For annuitants, the appropriate office is OPM.

(iii) For compensationers during the first 12 months of nonpay status, the appropriate office is their employing agency.

(iv) For compensationers after separation or the completion of 12 months in nonpay status, the appropriate office is OPM.

(v) For employees and former employees who have ported Option B coverage, the appropriate office is the Portability Office.

(4) If, within the applicable time frames, the appropriate office receives conflicting court orders entitling different persons to the same insurance, benefits will be paid based on whichever court order was issued first.

(e) Upon the death of an insured family member, Option C benefits are paid to the employee, annuitant, or compensationer responsible for withholdings under § 870.402(a), except as provided in paragraph (f) of this section.

(f) If an employee, annuitant, or compensationer entitled to receive Option C benefits dies before the benefits are paid, the Option C benefits are paid to the individual(s) entitled to receive Basic life insurance benefits under the statutory order of precedence. However, if the insurance has been assigned in accordance with subpart I of this part, any prior designations of beneficiary were cancelled; benefits in this instance are paid under the statutory order of precedence, starting with the second on the list.

[62 FR 48731, Sept. 17, 1997, as amended at 64 FR 16602, Apr. 6, 1999; 64 FR 72464, Dec. 28, 1999; 68 FR 59082, Oct. 14, 2003]

**§ 870.802 Designation of beneficiary.**

(a) Except as provided in paragraph (i) of this section, if an insured individual wants benefits paid differently from the order of precedence, he/she

must file a designation of beneficiary. A designation of beneficiary cannot be filed by anyone other than the insured individual. Exception: if the insurance has been assigned under subpart I of this part, the insured individual cannot designate a beneficiary; only the assignee(s) can designate beneficiaries.

(b) A designation of beneficiary must be in writing, signed by the insured individual, and witnessed and signed by 2 people. The appropriate office must receive the designation before the death of the insured.

(1) For employees, the appropriate office is the employing office.

(2) For annuitants and compensationers, the appropriate office is OPM.

(3) For employees and former employees who have ported Option B coverage, the appropriate office is the Portability Office.

(c) A designation, change, or cancellation of beneficiary in a will or any other document not witnessed and filed as required by this section has no legal effect with respect to benefits under this chapter.

(d) A witness to a designation of beneficiary cannot be named as a beneficiary.

(e) Any individual, firm, corporation, or legal entity can be named as a beneficiary, except an agency of the Federal or District of Columbia Government.

(f) An insured individual (or an assignee) may change his/her beneficiary at any time without the knowledge or consent of the previous beneficiary. This right cannot be waived or restricted.

(g)(1) A designation of beneficiary is automatically cancelled 31 days after the individual stops being insured. Exception: If the individual elects portability for Option B, a valid designation remains in effect.

(2) An assignment under subpart I of this part automatically cancels an insured individual's designation of beneficiary.

(h) An insured individual may provide that a designated beneficiary is entitled to the insurance benefits only if the beneficiary survives him/her for a specified period of time (not more than

30 days). If the beneficiary doesn't survive for the specified period, insurance benefits will be paid as if the beneficiary had died before the insured.

(i)(1) Except as provided in paragraph (i)(2) of this section, if a court order has been received in accordance with §870.801(d), an insured individual cannot designate a different beneficiary, unless

(i) The person(s) named in the court order gives written consent for the change, or

(ii) The court order is modified.

(2) If a court order has been received in accordance with §870.801(d), and the court order applies to only part of the insurance benefits, an insured individual can designate a different beneficiary to receive the insurance benefits that are not included under the court order. If the insured individual does not make a designation for these benefits and there is no previous valid designation on file, benefits will be paid according to the order of precedence shown in §870.801(a).

(3) If a court order received in accordance with §870.801(d) is subsequently modified without naming a new person to receive the benefits, and a certified copy of the modified court order is received by the appropriate office before the death of the insured, the insured individual can designate a beneficiary. Benefits will be paid according to the order of precedence shown in §870.801(d) if the insured individual does not complete a new designation of beneficiary.

[62 FR 48731, Sept. 17, 1997; 62 FR 52181, Oct. 6, 1997, as amended at 64 FR 16602, Apr. 6, 1999; 64 FR 72464, Dec. 28, 1999]

#### **§ 870.803 Child incapable of self-support.**

(a) When it receives a claim for Option C benefits because of the death of a child age 22 or older, OFEGLI determines, based on whatever evidence it considers necessary, whether the deceased child was incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

(b) If an employee elects Option C under §870.506(a) (3), and the opportunity to elect is based solely on the acquisition of a child age 22 or older, the employee must submit to the em-

ploying office, at the time of making the election, a doctor's certificate stating that the child is incapable of self-support because of a physical or mental disability which existed before the child reached age 22 and which is expected to continue for more than 1 year. The certificate must include the name of the child, the type of disability, how long it has existed, and its expected future course and duration. The certificate must be signed by the doctor and show his/her office address.

### **Subpart I—Assignments of Life Insurance**

#### **§ 870.901 Assignments permitted.**

(a) (1) Section 208 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. 98-353 (98 Stat. 355), effective July 10, 1984, permits Federal judges to irrevocably assign their FEGLI coverage to one or more individuals, corporations, or trustees. Section 4 of Pub. L. 103-336 (108 Stat. 2661), effective October 3, 1994, extended this right to all Federal employees, annuitants, and compensationers.

(2) An individual may assign ownership of all life insurance under this part, except Option C. If an individual wishing to make an assignment owns more than one type of coverage, he/she must assign all the insurance; an individual cannot assign only a portion of the coverage. Option C cannot be assigned.

(b) An individual cannot name conditional assignees in case the primary assignee dies before the insured individual.

(c) If the insurance is assigned to two or more individuals, corporations, or trustees, the insured individual must specify percentage shares, rather than dollar amounts or types of insurance, to go to each assignee.

(d) If an individual who has made an assignment later elects increased insurance coverage under §870.506 or during an open enrollment period, the increased coverage is considered included in the already existing assignment. The right to increase coverage remains with the insured individual, rather than transferring to the assignee.

(e) An individual who assigns ownership of insurance continues to be the