

## § 870.102

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

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premiums during that time. This applies 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]