

SC1704. SUBCHAPTER 1704

POST SEPARATION ENTITLEMENT AND BENEFIT AUTHORITY
TABLE OF CONTENTS

<u>SECTIONS</u>	<u>Page</u>
SC1704.1. GENERAL	2
SC1704.2. EXTENDED EMPLOYMENT FOR RETIREMENT AND/OR HEALTH BENEFITS ELIGIBILITY	2
SC1704.3. TEMPORARY CONTINUATION OF FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB) COVERAGE	3
SC1704.4. AUTOMATIC WAIVER OF THE FEHB MINIMUM PARTICIPATION REQUIREMENT	4
 <u>APPENDICES</u>	
SC1704.AP1. SAMPLE EXTENDED RELEASE DATE NOTIFICATION	6
SC1704.AP2. SAMPLE EXTENDED RELEASE DATE WAIVER	8

SC1704. SUBCHAPTER 1704

POST SEPARATION ENTITLEMENT AND BENEFIT AUTHORITY

- References: (a) Sections 8336, 8412, 8414, 8905 and Chapters 63, 83, 85, and 89 of title 5, United States Code
(b) Title 5, Code of Federal Regulations, Parts 351 and 751
(c) U. S. Office of Personnel Management, Benefits Administration Letter, No. 04-208, dated September 8, 2004

SC1704.1. GENERAL

Statutory and Office of Personnel Management (OPM) regulatory authorities contained in Chapters 63, 83, 84 and 89 of title 5, United States Code (U.S.C.) (reference (a)) and title 5 of the Code of Federal Regulations (CFR) 351 (reference (b)), respectively, provide expanded post separation entitlements and benefits to ease employee transition. Specifically, the expanded authorities concern first eligibility for retirement, first eligibility for continued health benefits coverage entering retirement, and temporary continuation of health benefits coverage (TCC). The DoD Components shall use these authorities to assist civilian employees affected by downsizing.

SC1704.2. EXTENDED EMPLOYMENT FOR RETIREMENT AND/OR HEALTH BENEFITS ELIGIBILITY

SC1704.2.1. The DoD Components shall retain eligible civilian employees in an annual leave status beyond their scheduled separation date (employee must have adequate annual leave balance) to attain first eligibility for immediate retirement as described in 5 U.S.C. 8336, 8412 and 8414 (reference (a)) or to become eligible for continued health benefit coverage during retirement under 5 U.S.C. 8905 (reference (a)).

SC1704.2.2. Usually an employee is released on the effective date of the reduction in force (RIF). However, in accordance with 5 CFR 351.606 (b) (reference (b)), an affected employee must be granted temporary exception to the normal order of release to attain these expanded benefits, if he or she elects to use annual leave for this purpose. Additionally, the DoD activities shall make a similar temporary exception to retain an employee facing separation under adverse action procedures described in 5 CFR 752 (reference (b)) due to declination of an offer to relocate outside the commuting area or declination of a transfer of function.

SC1704.2.3. Employees meeting these criteria shall be carried on the DoD Component's rolls (in an annual leave status) beyond the effective date of separation until the employee attains entitlement eligibility. The employee shall be retained for a period sufficient to satisfy both retirement and health benefit requirements. All leave available in an employee's annual leave account may be used for this purpose; however, upon attaining retirement eligibility, the retirement action is made effective and all remaining annual leave shall be paid in a lump sum.

SC1704.2.4. The supporting human resources office shall identify eligible employees and provide information concerning this entitlement, including applicable conditions (sample at Appendix 1) and waiver procedures (sample notice at Appendix 2). An employee may waive this entitlement. Waivers must be submitted in writing. An employee shall be automatically covered by this exception, unless a waiver is signed.

SC1704.2.5. The employing DoD Component shall fund this entitlement.

SC1704.3. TEMPORARY CONTINUATION OF FEDERAL EMPLOYEE HEALTH BENEFITS (FEHB) COVERAGE

SC1704.3.1. The DoD Component that last employed the individual is required to pay the Government's share of an eligible employee's health insurance premium (and applicable administrative fees) for a period of up to 18 months after involuntary separation from a position or voluntary separation from a surplus position in accordance with 5 U.S.C. 8905a(d)(4) (reference (a)). Payment begins on the 32nd day after the effective date of the employee's involuntary separation or voluntary separation from a surplus position, due to a DoD RIF. A surplus position is a position identified in pre-RIF planning as no longer required and is expected to be eliminated under formal RIF procedures.

SC1704.3.2. Temporary continuation of coverage applies to employees enrolled in the FEHB Program during their covered separation. It applies to employees who are separated by RIF, resign after receipt of a RIF separation notice, volunteer for reduction in force (VRIF program), or resign from a surplus position. Likewise, employees serving on temporary appointments receiving a government contribution to their FEHB coverage and whose appointment terminates (or is allowed to expire) because of RIF are eligible. Employees declining a transfer of function are not eligible. This entitlement is based on the legislative authority contained in reference (a) and may be extended or terminated by future legislative action. For information concerning the duration of the authority, refer to that reference.

SC1704.3.3. Employees must continue to pay their share of the premiums during the extended coverage period.

SC1704.3.4. The supporting human resources office shall include the following information on the Health Benefits Registration Form SF 2809, "Employee Health Benefits Registration Form":

SC1704.3.4.1. Self, DoD-RIF, Involuntary Separation, 5 U.S.C. 8905a(d)(4)); separation date: [ENTER DATE]; last day of pay period: [ENTER DATE]; Agency Code: [ENTER FOUR DIGIT CODE]; Appropriations Code: [ENTER NINE DIGIT CODE], or

SC1704.3.4.2. Self, DoD-Voluntary Separation from a Surplus Position, 5 U.S.C. 8905a(d)(4)); separation date: [ENTER DATE]; last day of pay period: [ENTER DATE]; Agency Code: [ENTER FOUR DIGIT CODE]; Appropriations Code: [ENTER NINE DIGIT CODE].

SC1704.3.5. The employing DoD Component shall fund this entitlement. For closing installations, the relevant DoD Component must furnish pertinent information regarding the designated, successor human resources office to the National Finance Center. (The successor human resources office shall provide ongoing support to eligible employees including enrollment advice and information.) This notification must be provided before the first day of the month in which the successor human resources office assumes responsibility. If an employee moves to a temporary position with another DoD Component without a break in service, delaying the beginning date of entitlement to subsidized TCC, the employing DoD Component continues to be responsible for funding the entitlement during the time the employee gains eligibility.

SC1704.4. AUTOMATIC WAIVER OF FEHB MINIMUM PARTICIPATION REQUIREMENT

SC1704.4.1. The provisions of 5 U.S.C. 8905 (reference (a)) require employee enrollment in the FEHB program for at least 5 years immediately prior to retirement (or for all service during which the employee was eligible for FEHB coverage, if less than 5 years) to continue coverage as a retiree. The OPM, in accordance with procedures in reference (c), will grant pre-approved waivers to DoD employees covered under the FEHB Program continuously since the beginning date of the DoD Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Pay (VSIP) period. Since the DoD VERA and VSIP authority is permanent, the VERA/VSIP period is renewed each fiscal year and lasts from October 1st to September 30th. The OPM will grant pre-approved waivers to DoD employees who:

SC1704.4.1.1. Have been covered under the FEHB program continuously since October 1st for each succeeding fiscal year; and

SC1704.4.1.2. Retire during the DoD VERA/VSIP period; and

SC1704.4.1.3. Receive a VSIP; or

SC1704.4.1.4. Take early optional retirement; or

SC1704.4.1.5. Take a discontinued service retirement based on an involuntary separation due to RIF, directed reassignment, reclassification to a lower grade, or abolishment of position.

SC1704.4.2. The DoD activities must attach a memorandum to the employee's retirement application that provides:

SC1704.4.2.1. A statement that the employee meets the requirements for a pre-approved waiver by the OPM;

SC1704.4.2.2. The beginning and ending date of the VERA/VSIP period during which the employee retired (i.e., the beginning and ending date of the applicable fiscal year); and

SC1704.4.2.3. A statement that the employee was enrolled in the FEHB Program on the beginning date of the VERA/VSIP period during which he or she retired and that he or she was enrolled continuously to the date of retirement.

SC1704.AP1. APPENDIX 1 TO SUBCHAPTER 1704

SAMPLE EXTENDED RELEASE DATE NOTIFICATION

[DATE]

From: [PERSONNEL DIRECTOR]

To: [EMPLOYEE'S NAME]

Subject: Extended Release Date Notice – First Eligibility for Retirement or Health Benefits

Initial review of your personnel records indicates that you shall be very close to [attaining eligibility for an immediate annuity/establishing eligibility to carry health benefits coverage into retirement]* on the date set for your reduction in force (RIF) separation. Regulations allow you to temporarily remain on the employment rolls in an annual leave status beyond your RIF separation date to attain such “first” eligibility.

By the date set for your RIF separation, you have enough accrued annual leave to carry you to the date you would first become eligible for [IMMEDIATE RETIREMENT/CONTINUATION OF HEALTH BENEFITS]. For this purpose, accrued annual leave includes all your accumulated and accrued annual leave, any restored annual leave you may have, and if applicable, annual leave that you may have received as an approved leave recipient under the voluntary leave transfer/bank program. Additionally, it includes annual leave you shall earn while being carried in an annual leave status. However, no annual leave may be advanced for this purpose.

Annual leave is the only type of leave used for this purpose. While in this annual leave status, you may not use sick leave, compensatory time accrued in lieu of overtime payments, credit hours earned under a flexible work schedule, or leave without pay.

This exception shall be applied unless you sign and return the attached waiver by [DATE]. Unless waived, you shall be placed in an annual leave status on [DATE]. This is the first workday after the day you would have otherwise been separated due to RIF. You are projected to attain retirement/FEHB coverage eligibility on [DATE]. This shall be the effective date of your retirement, your annual leave status shall be terminated, and you shall receive a lump sum payment for the remaining annual leave balance.

While in this annual leave status, you shall be entitled to all of your current benefits. Use of this temporary exception does not alter your retention standing or entitle you to any additional placement or incentive consideration. Employees exercising this temporary exception are precluded from placement consideration through the DoD Priority Placement Program (PPP).

* Employee may be attaining either first retirement eligibility, FEHB eligibility during retirement, or both. Notification and waiver form must be prepared appropriately.

Please contact [(NAME AND TELEPHONE NUMBER OF HUMAN RESOURCES OFFICIAL) BY (DATE)] to discuss your decision regarding this temporary exception.

[SIGNATURE OF HUMAN RESOURCES OFFICIAL]

Attachment:
As stated

SC1704.AP2. APPENDIX 2 TO SUBCHAPTER 1704

SAMPLE EXTENDED RELEASE DATE WAIVER

[DATE]

From: [EMPLOYEE'S NAME]

To: [CPO'S NAME]

Subject: Extended Release Date Waiver

This is to certify that I, [EMPLOYEE'S NAME], received an Extended Release Date Notice dated [DATE OF NOTIFICATION]. Further, I have read and I understand my entitlement provided by this notice as well as my right to waive this entitlement.

It is my decision to waive this opportunity to stay on the employment rolls in an annual leave status. I understand that I shall not be retained past my reduction in force (RIF) separation date in order to attain first retirement or continued FEHB eligibility and that my separation shall take place on [RIF SEPARATION DATE].

[EMPLOYEE'S SIGNATURE]

[DATE SIGNED]

[SIGNATURE OF HUMAN RESOURCES OFFICIAL WHO RECEIVES THE WAIVER]

[DATE-OF RECEIPT]