



Department of Defense INSTRUCTION

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SUBJECT: DoD Civilian Personnel Management System: Post Separation Entitlement and Benefit Authority

References: (a) Sections 8336, 8412, 8414, and 8905 and chapters 63, 83, 85, and 89 of title 5, United States Code
(b) Parts 351 and 752 of title 5, Code of Federal Regulations
(c) U.S. Office of Personnel Management, Benefits Administration Letter No. 04-208, September 8, 2004

1. PURPOSE

a. Instruction. This Instruction is composed of several Volumes, each containing its own purpose. The purpose of the overall Instruction is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the Department of Defense.

b. Volume. This Volume of this Instruction implements statutory and Office of Personnel Management (OPM) regulatory authorities contained in chapters 63, 83, 84, and 89 of Reference (a) and part 351 of Reference (b) to 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).

2. PROCEDURES. See Enclosure.

3. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

4. EFFECTIVE DATE. This Volume is effective immediately.

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ENCLOSURE

PROCEDURES

1. GENERAL. The DoD Components shall use the authorities cited in paragraph 1.b. of the front matter of this Volume to assist civilian employees affected by downsizing.

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

a. 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 sections 8336, 8412, and 8414 of Reference (a) or to become eligible for continued health benefit coverage during retirement as described in section 8905 of Reference (a).

b. Usually an employee is released on the effective date of the reduction in force (RIF). However, in accordance with part 351.606 (b) of 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, DoD activities shall make a similar temporary exception to retain an employee facing separation under adverse action procedures described in part 752 of Reference (b) due to declination of an offer to relocate outside the commuting area or declination of a transfer of function.

c. 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 benefits 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.

d. The supporting human resources office shall identify eligible employees and provide information concerning this entitlement, including applicable conditions and waiver procedures. (See samples at Appendixes 1 and 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.

e. The employing DoD Component shall fund this entitlement.

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

a. 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 section 8905a(d)(4) of 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.

b. 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, separate under the voluntary reduction in force program pursuant to Volume 1702 of this Instruction, 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. (See Reference (a) for information concerning the duration of the authority.)

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

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

(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

(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].

e. 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.

4. AUTOMATIC WAIVER OF FEHB MINIMUM PARTICIPATION REQUIREMENT

a. The provisions of section 8905 of 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. In accordance with procedures in OPM Letter (Reference (c)), OPM 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 1 to September 30. OPM will grant pre-approved waivers to DoD employees who:

(1) Have been covered under the FEHB program continuously since October 1 for each succeeding fiscal year; and

(2) Retire during the DoD VERA/VSIP period; and

(3) Receive a VSIP; or

(4) Take early optional retirement; or

(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.

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

(1) A statement that the employee meets the requirements for a pre-approved waiver by OPM;

(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

(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.

Appendixes:

Sample Extended Release Date Notification

Sample Extended Release Date Waiver

APPENDIX 1 TO ENCLOSURE

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 (Employee may be attaining either first retirement eligibility, FEHB eligibility during retirement, or both. Notification and waiver form must be prepared appropriately.)] 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 RETIRMENT/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 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.

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

APPENDIX 2 TO ENCLOSURE

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]