

Office of Personnel Management
Retirement and Insurance Service



1920



1954



1959



1986

Benefits Administration Letter

Number: 96-111

Date: November 15, 1996

SUBJECT: Recent changes in retirement benefits made by Congress

This is to update you on legislative initiatives from the last Congress that have a significant effect on benefits programs administered by the Office of Personnel Management.

COLAs, Contributions, and Benefit Accrual Rates

In BAL 96-103 (June 25, 1996), we informed you that Congress was considering proposals to continue the 3 month deferral of retiree COLAs, increase CSRS and FERS deductions, and prospectively conform retirement benefit accrual rates for Members of Congress and Congressional staff to those available to Federal employees generally. These proposals did not pass into law in the 104th Congress. Consequently --

- o There is no COLA delay. CSRS and FERS COLAs will be effective on December 1, 1996, and included in January payments.
- o There is no change in either employee retirement deductions or agency retirement contributions.
- o There is no change in employee retirement benefits for Members of Congress and Congressional employees.

New Child Survivor Benefit

Section 633 of P.L. 104-208, the Omnibus Consolidated Appropriations Act (September 30, 1996), allows a child survivor annuity under CSRS or FERS that ends because of marriage to be restored. Prior to the passage of this law, a child survivor's annuity benefits ended permanently when he or she married. Unlike a spousal survivor annuity, a child survivor annuity could not be restored if the marriage ended.

Under the new law, OPM will restore a child survivor's benefits if (1) the child's marriage subsequently ends and (2) the child still meets all other eligibility

requirements for a child survivor annuity. If a child survivor's marriage ended on or before September 30, 1996, and if the child survivor meets all other eligibility requirements, OPM will resume payment of benefits on October 1, 1996. If a child survivor's marriage ends on or after October 1, 1996, OPM will resume benefit payments on the first day of the month in which the marriage ends. The resumed benefit includes all of the cost of living adjustments that would have been paid had the child never married. When the child survivor benefit resumes, health insurance coverage under FEHB can also resume.

Use of Leave to Qualify for Retirement

Under OPM regulations, each agency had the discretion to allow employees who would otherwise be separated by a RIF or a transfer of function to use their unexpended annual leave to remain on the agency's rolls, but only to the extent needed to have title to an immediate annuity, or to be eligible to carry health benefits into retirement. Section 634 of P.L. 104-208 provides a similar leave program which is non-discretionary: all agencies must offer it to eligible employees. OPM will issue guidance on implementing this provision.

Voluntary Separation Incentive Payments

Section 663 of P.L. 104-208 provides a new authority to offer voluntary separation incentive payments (VSIPs) through September 30, 1997, in the interest of eliminating positions and functions Governmentwide. This VSIP authority is substantially different from the Federal Workforce Restructuring Act of 1994 (P.L. 103-226). A VSIP can only be paid in accordance with an agency strategic plan submitted to Congress, and several categories of employee are barred from receiving the payment. The amount of a VSIP is the lesser of (1) severance pay or (2) any amount up to \$25,000 determined by the agency head. A VSIP is not part of an employee's pay for the purpose of computing a retirement benefit or any other government benefit. An agency must reduce its employment level by one FTE for each employee who accepts a VSIP.

An agency must also pay into the Retirement Fund an amount equal to 15% of the final base pay of each employee covered by CSRS or FERS who accepts a payment under the new VSIP authority, regardless of whether the employee resigns or retires. This is different than the practice under the Federal Workforce Restructuring Act (FWRA) of 1994, which only required agencies to pay 9% of a employee's final base pay into the Retirement Fund, and only if the employee was covered by CSRS and separated under a voluntary early retirement authority. **Note -- some employees are still separating with delayed VSIPs under the Federal Workforce Restructuring Act of 1994. These delayed VSIP separations are not governed by the new requirement for a 15% deposit into the Retirement Fund.**

An employee who accepts a VSIP is barred for five years from working for the government (as either an employee or as a personal services contractor) unless he or she repays the VSIP prior to reemployment.

Separate guidance will be issued by OPM explaining this new separation incentive authority in greater detail.

In addition to establishing a new Governmentwide VSIP authority, the 104th Congress established a number of agency-specific VSIP authorities (for example, for the U.S. Department of Agriculture, the U.S. Agency for International Development, the Railroad Retirement Board, the Central Intelligence Agency, and the Smithsonian Institution). Eligibility requirements, deadlines, maximum amounts payable to employees, and payments into the Retirement Fund vary from program to program.

New Pilot Programs

Enhanced Deferred Retirement --

Section 1616 of Public Law 104-201, the National Defense Authorization Act for Fiscal Year 1997 (September 23, 1996) permits the Secretary of Defense, after consultation with the Director of OPM, to establish one or more enhanced deferred retirement programs for CSRS employees. This benefit applies to certain Department of Defense (DOD) employees who convert from Federal employment to employment by a defense contractor, in connection with the privatization of functions at selected military installations being closed under the base closure and realignment process. Deferred benefits under FERS are not affected by this provision. No installation has yet been approved for a pilot program.

Electronic Fund Transfers --

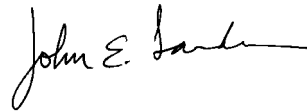
Section 664 of P.L. 104-208 appropriates funds for a pilot project that will allow the Treasury to designate financial institutions as its agents for electronically disbursing benefits to individuals who do not have accounts at financial institutions.

Definitions of "Marriage" and "Spouse" for Benefit Purposes

P.L. 104-199, the Defense of Marriage Act (September 21, 1996) creates a new section 7 to title 1 of the U.S. Code, providing that in the interpretation of any law enacted by the Congress, "the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife." This definition is to be applied in "any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States." P.L. 104-199 clarifies that same-sex marriages cannot be recognized for benefit entitlement purposes under FERS, CSRS, FEHB, and FEGLI.

New Death Gratuity

Section 651 of P.L. 104-208 establishes a new death gratuity of \$10,000, payable to the personal representative of any Federal employee who dies from an injury sustained on or after August 2, 1990, in the line of duty. This benefit is paid from agency appropriations, and is not administered by the Office of Personnel Management. However, OPM and the Department of Labor's Office of Workers' Compensation Programs (OWCP) have provided data and guidance to agencies to assist them in implementing this benefit. For complete information on eligibility and payment requirements, refer to BAL 96-109 (October 16, 1996).

A handwritten signature in black ink, appearing to read "John E. Landers". The signature is written in a cursive style with a long horizontal stroke at the end.

John E. Landers, Chief
Retirement Policy Division