United States

Office of

Personnel Management

The Federal Government's Human Resources Agency

Benefits Administration Letter

Number: 11-201 Date: February 1, 2011

Subject: **Federal Employees' Group Life Insurance (FEGLI) Program: Announcing New FEGLI Regulations**

Background

On December 31, 2009, OPM announced proposed changes to the regulations for the Federal Employees' Group Life Insurance (FEGLI) Program. Most of the changes in this rulemaking are expanded opportunities and timeframes for employees to elect coverage which have already been implemented through guidance materials to agencies. These changes include the expanded coverage opportunities for certain civilian and Department of Defense employees deployed in support of a contingency operation as prescribed by Public Law 110-417 and Public Law 110-181. Other miscellaneous changes and clarifications were included in these regulations as discussed below.

Purpose

This Benefits Administration Letter (BAL) provides guidance on various FEGLI Program regulatory changes, clarifications, and corrections.

Effective Date

The final regulations became effective October 1, 2010.

<u>CHANGES</u>

Expanded Enrollment Opportunities

Timeframe to Elect Coverage

The timeframe for initial election of optional insurance is **60 calendar days** after the employee becomes eligible instead of the previous 31 days. The 60 calendar day timeframe applies regardless of the reason for the election, including a new or newly eligible employee, via a qualifying life event, or when the Office of Federal Employees' Group Life Insurance (OFEGLI) approves an application to enroll after an the employee provides satisfactory medical evidence of insurability. (*Note*: OPM sets the effective dates and timeframes for Open Seasons). This election timeframe is consistent with other election opportunities for Federal benefits.

The 60 day election time frame applies to employees whose eligibility for FEGLI coverage begins on or after October 1, 2010. They must be new or newly eligible on or after October 1, 2010

Example: Tom is hired by the Federal government on September 27, 2010. He has 31 days to elect FEGLI optional coverage.

Coverage Can Be Elected Based on a Life Event

The final regulations increase the amount of coverage an employee can elect based on a qualifying life event (QLE). Previously, an employee could elect only Option B and/or Option C coverage based on a QLE, the employee already had to be enrolled in Basic insurance, and the Option B election was limited to the number of new family members acquired as a result of the life event. Now an employee can elect any FEGLI coverage s/he wishes, without restriction. The employee must have or must newly elect Basic to elect any Optional coverage. So, for example, an employee with no FEGLI coverage at all may now newly elect Basic, Option A, Option B (up to the maximum of 5 multiples) and Option C (up to the maximum of 5 multiples) based on a FEGLI QLE.

The expanded coverage opportunity applies to FEGLI qualifying life events that occur on or after October 1, 2010.

Example: Adrienne, a Department of Energy employee, had a baby on September 27, 2010. She can now elect 1 multiple of Option B and Option C (up to 5 multiples) based on the life event.

Belated Election Opportunity for a Life Event

The employing agency may allow a six-month belated election opportunity based on a QLE. Previously, a belated opportunity to make an election existed only for new and newly eligible employees. There was no belated opportunity to elect coverage based on a QLE. Now, if within six months after an employee becomes eligible to make an election based on a QLE, the employee does not do so within the 60-day time limit, the employing agency may determine that the employee was unable for reasons beyond the employee's control and allow a belated election. This decision is made by the employing agency, not OPM.

The belated election opportunity applies to FEGLI qualifying life events that occur on or after October 1, 2010.

Example: Steve got married on July 17, 2010. His timeframe to elect FEGLI coverage based on the life event ended September 15, 2010. He did not make an election. He is not eligible to request a belated election opportunity since his life event took place before October 1, 2010.

Example: Natalie's divorce was final on September 9, 2010. Her timeframe to elect FEGLI coverage based on the life event ends November 8, 2010. She did not make an election. She is not eligible to request a belated election opportunity since the life event took place before October 1, 2010.

If the employee is allowed to make the belated election, the employee has 60 days from the date s/he is notified of the employing agency determination to do so. If the employee does not elect coverage within the 60 days, the opportunity to elect coverage ends. Any coverage elected is **retroactive** to the first day of the first pay period beginning after the date the employee became eligible, if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the first day after the date the employee returned to pay and duty status.

Emergency Essential DOD Employees and Civilian Employees Deployed in Support of a Contingency Operation

The regulations include updates required by the Duncan Hunter National Defense Authorization Act for FY 2009 (P.L. 110-417), enacted October 14, 2008, and prior related statutory changes. The amended regulations allow new coverage opportunities for two categories of FEGLI-eligible employees:

- a civilian employee deployed in support of a contingency operation as defined by section 101 (a) (13) of title 10, or
- a Department of Defense employee designated as "emergency essential" under section 1580 of title 10.

The eligible employee may elect Basic, Option A and Option B (up to the maximum of 5 multiples). The employee must make the election on the SF 2817 (or its electronic equivalent) within 60 days after the date of notification of deployment in support of a contingency operation, or within 60 days of the date of the notification of the designation as an emergency essential employee. See more details in BAL 08-204.

Continuation of FEGLI coverage for an additional 12 months for Federal employees called to active duty

The regulations include updates required by Public Law 110-181, the National Defense Authorization Act for FY 2008, enacted January 28th, 2008. The law authorizes the continuation of FEGLI coverage for up to 24 months for Federal employees called to active duty. FEGLI coverage is free for the first 12 months, but employees must pay the full cost (government and employee share) of the premiums for the additional 12 months. See more details in BAL 08-203.

Termination and Conversion: New Timeframe; Option C; Power of Attorney

New Timeframe

The employee/assignee(s) must submit the request for conversion information to OFEGLI. OFEGLI must receive the request for conversion within 31 calendar days of the date on the conversion notification the employee receives from the employing agency (60 days if overseas) or within **60 calendar days after the date of the terminating event** (90 days, if overseas), **whichever is earlier.**

This new timeframe applies to employees who lose FEGLI coverage on or after October 1, 2010.

Example: Julie separates from her agency October 23, which is the terminating event date of her FEGLI coverage. Her agency issues the conversion notice to her October 29. She must make her conversion request by November 29 because it is 31 days from receipt of the notice, and earlier than the 60-day timeframe from date of the event (December 22).

Example: Glen separates from his agency October 23. Glen later contacts his agency to tell them he needs a conversion notice. His agency issues the conversion notice to him December 15. He must make his conversion request by December 22 because it is 60 days from the date of the event, and earlier than the 31-day timeframe from the date of receipt of the notice.

The regulations still allow for the enrollee/assignee/POA to make a belated election request to OFEGLI within six months of the terminating event if the individual was unable to make the request for reasons beyond his or her control. OFEGLI will make these determinations.

Option C Conversion

Family members may convert Option C if the employee dies, or if the insurance stops under circumstances that allow the employee to convert Option C coverage but the employee does not convert.

If an employee with Option C coverage dies, the employing office must send a conversion notice to the family members at the employee's last address on file.

Family members must submit the request for conversion information to OFEGLI. OFEGLI must receive the request for conversion within 31 calendar days of the date on the conversion notification the employee receives from his or her employing agency (60 days if overseas) or within 60 calendar days after the date of the terminating event (90 days, if overseas), whichever is earlier. There is no extension to these time limits. Family members are considered to have refused coverage if they do not request conversion within these time limits.

Power of Attorney

The regulations allow an individual having power of attorney to convert the FEGLI coverage on behalf of the insured, if the insured is unable to convert.

Optional Insurance Elections at Retirement: New Procedures

The final regulations state that there will be only one post-65 election for Option B and Option C. The election will be made at the time of retirement. In this election, the employee can choose No Reduction for some multiples and Full Reduction for other multiples. For example, an employee who has three multiples can elect to have two with Full Reduction and one with No Reduction. "Mixed elections" are allowed. There is no "second election" at age 65.

Annuitants and compensationers in receipt of benefits from the Office of Workers' Compensation Programs (OWCP) who retired since this statutory provision became effective on April 24^{th}, 1999, who are under age 65, and who have Option B and/or Option C insurance will be given the opportunity to make their "second" final election in the near future.

The SF 2818 *Continuation of Life Insurance Coverage as a Retiree or Compensationer* is currently being revised based on these changes. Until the new form is ready, employees should be informed of the changes by the agency (**Attachment 1**). Employees should make the election for No Reduction and Full Reduction multiples on the SF 2818. In Box 11 for Option B and Box 14 for Option C, the employee should indicate the total number of multiples wanted in retirement. In Box 12 for Option B and Box 15 for Option C, the employee should put a number in the box to indicate how many multiples for No Reduction and how many multiples for Full Reduction. If the number is zero, a "0" should be written in the box.

Reemployed Compensationers: Coverage Changes

The regulations treat an individual in receipt of benefits from the OWCP who has returned to work at the agency (reemployed compensationer) the same as reemployed annuitants. Previously, when a reemployed compensationer returned to work, the compensation stopped, and the FEGLI coverage reinstated upon reemployment took effect, regardless of the annual rate of pay or tour of duty of the position. Now, when a reemployed compensationer returns to work under conditions that allow him or her to continue receiving compensation, Basic insurance (and Options A and C, if applicable) held as a compensationer is suspended, and the insured's coverage as an employee is reinstated. If covered under Option B, the employee/compensationer must elect Option B as an employee, otherwise the coverage continues with OWCP.

If the reemployed compensationer dies in service, OFEGLI would pay Basic insurance benefits based on whichever amount is higher: the suspended compensationer coverage or the coverage acquired through reemployment. As with reemployed annuitants, Option B would remain with the individual's compensation, unless the employee elects to have it through reemployment.

If a reemployed compensationer stops working and continues to receive compensation or has compensation reinstated, s/he could continue the reemployment-acquired FEGLI if the individual meets the 5-year/all-opportunity requirement and has been reemployed for the length of time required for a reemployed annuitant to earn a supplemental annuity (1 year for full-time employment).

Living Benefit: New Calculation and Power of Attorney

The extra benefit age factor for employees who elect a partial living benefit has changed. The age factor computation will be based on the age factor that in is effect nine months from the date OFEGLI received the living benefit application. This is consistent with the age factor used to compute the amount of the life insurance.

In addition, the regulations allow an individual having power of attorney to apply for a living benefit on behalf of the insured individual.

Market Pay for VA Physicians and Dentists

The regulations include updates required by Public Law 108-445, The Department of Veterans Affairs (VA) Health Care Personnel Enhancement Act of 2004, which provided for the payment of market pay, in addition to base pay, for physicians and dentists employed by the VA.

Accordingly, in addition to base pay, market pay must be used to determine the annual rate of pay for FEGLI. Bonuses for VA physicians and dentists are no longer included in annual pay.

Judges

The regulations include changes found in the Court Security Act of 2007, and the Omnibus Appropriations Act of 2009. These acts amend FEGLI law to include certain categories of judges considered to be employees after retirement. Eligible judges include those who retire under one of the following provisions: 28 U.S.C. 371(a) or (b); 28 U.S.C. 372(a); 28 U.S.C. 377; 26 U.S.C. 7447; 11 D.C. Code 776; or Section 7447 of the Internal Revenue Code.

Former Senate Restaurants Employees

The regulations include changes found in Public Law 110-279, enacted July 17, 2008, which continued FEGLI benefits for certain employees of the Senate Restaurants after its operations are contracted to be performed by a private business concern. A Senate restaurant employee who had life insurance coverage on the date of transfer to a private contractor on or after July 17, 2008, and who elected to continue FEGLI coverage and their retirement coverage under either chapter 83 or 84 of title 5, United States Code, is eligible for FEGLI during continuous employment with the private contractor, unless the employee opts out of the FEGLI program.

DC Employees

The regulations include amendments by Public Law 106-522, which changed the entitlement to Federal employee benefits for the District of Columbia (D.C.) Offender Supervision Trustee and employees of the Trustee. Previously these employees were treated as Federal employees for purposes of Federal employee retirement and insurance programs only if they transferred to the DC government within three days of separating from Federal service. These employees now have retroactive entitlement to be treated as Federal employees on the date of their appointment or the date their sub-organizations transferred to the Trustee's office, whichever is later.

Concurrent Employment: Basic and Optional Insurance Amounts

If an employee legally serves in more than one position at the same time, and at least one of those positions entitles the employee to life insurance, the amount of Basic insurance and Option B insurance is based on the combined salaries. Previously, if an employee accepted a temporary position while in nonpay status from a covered position, the amount of insurance was based on whichever salary was higher. We eliminated this exception, so that this situation will be treated the same as other instances of concurrent employment.

The regulations stipulate that the amount of Basic insurance and Option B insurance is based on the combined salaries in all instances of concurrent employment.

Electing Coverage Based Upon Medical Information (SF 2822)

The regulations allow Basic insurance to become effective on the date of OFEGLI's approval if the employee is in a pay and duty status on that day. Previously, the earliest coverage could become effective as a result of providing satisfactory medical information was the day after the date OFEGLI approved the employee's request for coverage. Now, it is effective on the day of approval if the employee is in pay and duty status. If the employee is not in pay and duty status on the date of OFEGLI's approval, the insurance is effective the first day the employee returns to pay and duty status, as long as it is within 60 calendar days of OFEGLI's approval. If the employee is not in pay and duty status within 60 calendar days after OFEGLI's approval, the approval is revoked automatically and the employee does not have Basic insurance.

Option A and/or Option B coverage also is effective on the date of OFEGLI's approval, if the employing office receives the employee's SF 2817 on or before that date and the employee is in pay and duty status. Otherwise, Option A and/or Option B coverage become effective the first day in pay and duty status after receipt of the SF 2817 by the employing office.

If the employee is not in pay and duty status on the date of OFEGLI's approval, the Optional insurance becomes effective the first day in pay and duty status after receipt of the SF 2817 by the employing office, as long as it is within 60 calendar days of OFEGLI's approval. Like Basic, if the employee is not in pay and duty status within 60 calendar days after OFEGLI's approval, the approval is revoked automatically, the employee cannot elect Optional insurance, and s/he must start over.

Address Changes for Designated Beneficiaries of Assignees

The regulations eliminate the requirement for designated beneficiaries of assignees to notify the appropriate employing office of any change in address, since we do not require any other designated beneficiaries to make such a notification. Assignees must continue to notify the appropriate employing office of any address changes.

Reconsideration Requests

The regulations eliminate the requirement for the insured to provide a social security number when filing a request for reconsideration. Agencies can identify employees by their names, addresses, and dates of birth. Retirees and compensationers may be identified by their retirement and compensation claim numbers.

Optional Coverage Portability Demonstration Project

The regulations remove portability language. Beginning April 24, 1999 and continuing until April 24, 2002, eligible employees could elect portability for Option B coverage that would otherwise terminate. The 3-year portability demonstration project expired in 2002, and employees are no longer able to elect portability. We removed subpart L and all references to portability from the regulations, including the definitions of ``Portability Office'' and ``ported coverage.''

CLARIFICATIONS

Incontestability: Option C Cancellation; Retirement

Option C Cancellation

The regulations clarify that if the erroneous coverage obtained based on Incontestability is Option C and there are no eligible family members, then the cancellation of Option C is retroactive to the end of the pay period in which there stopped being any eligible family members. The regulations provide for a refund of the Option C premiums for this period of erroneous coverage.

Retirement

The regulations clarify that retirees cannot elect FEGLI after retirement. Any erroneous coverage obtained must be corrected even if two years pass and the retiree paid the applicable premiums.

Effective Dates of Coverage

The regulations clarify the term "on or after" when describing the effective date of coverage. Most elections require that the employee be in a pay and duty status before coverage can become effective. In these instances, the coverage becomes effective the day the employing office receives the election, if the employee is in a pay and duty status on that date. If the employee is not in a pay and duty status on the date the employing office receives the election, the coverage becomes effective the next date the employee is in a pay and duty status.

Computation of Premium and Availability Pay

The regulations clarify that the employee's annual rate of basic pay is multiplied by the applicable percentage factor to determine pay for FEGLI purposes.

Election of Coverage While In Nonpay Status

The regulations clarify that the election of coverage while in extended nonpay positions with employee organizations, state government, local government, or an institution of higher education, must be in writing.

Other Terms Clarified

The regulations add some clarity to definitions, including definitions of "covered position", "beneficiary", "acquisition of an eligible child", "accidental death and dismemberment", and "court order".
The "Acquisition of an eligible child" definition has been expanded and includes the following:
(1) a child is born to the insured; (2) the insured adopts a child; (3) the insured acquires a foster child; (4) the insured's stepchild or recognized natural child moves in with the insured; (5) an otherwise eligible child's marriage is dissolved by divorce or annulment, or his or her spouse dies; (6) the insured gains custody of an eligible child.

The prior exception for acquiring a foster child no longer applies. Basic, Option A, Option B (up to the maximum of 5 multiples) and Option C (up to the maximum of 5 multiples) can be elected by an employee upon acquisition of an eligible child, including acquiring a foster child.

The foster child certification must be completed and file in the employee's Official Personnel Folder (OPF) or its electronic equivalent. **Attachment 2** is a revised foster child certification.

CORRECTIONS

Premium Rate for Insured Individual

The regulations state that premiums are based upon the amount of insurance last in force for an individual during the pay period. Previously, they stated that the premiums were based on the amount in force on the last day of the pay period. In most instances this is the same thing; however, if an individual dies or separates during a pay period, the amount of insurance in force on the last day of the pay period is $0. In these instances, the amount of the withholding from the final pay must be based on the amount of insurance on the date of death or separation.

UPDATED INFORMATION ON THE WEB

This information will be posted on the FEGLI website at: www.opm.gov/insure/life. We are also updating the FEGLI Handbook and FEGLI forms to reflect the new information.

If you have any other questions or comments regarding this BAL, you may contact Ronald Brown, Policy Analyst, Planning and Policy Analysis, at Ronald.Brown@opm.gov or at 202.606.0004.

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