



Linking Employee Relations And Retirement



Types Of Retirement

- ∩ **Regular/optional**
- ∩ **Early retirement**
 - **Early optional**
 - **Discontinued service**
- ∩ **Disability**
- ∩ **Special provisions**
- ∩ **Deferred**



Disability Retirement

Ω **An employee benefit intended only for those employees who are unable to complete a normal career due to a disease or injury and who meet all of the statutory and regulatory criteria**



Statutory And Regulatory Provisions

- ∞ **CSRS - 5 U.S.C. Section 8337 and 5 C.F. R. 831.502 and 831.1203**
- ∞ **FERS - 5 U.S.C. Section 8451 and 5 C.F.R. Chapter 844**



Other Pertinent Laws

- Ω **The Rehabilitation Act of 1973 - 29 U.S.C. Section 701 et. seq.**
- Ω **The American with Disabilities Act of 1990 as amended by the ADA Amendment Act of 2008**

Role of OPM and Employing Agency

Ω OPM

- **Independently adjudicate claim based on application submitted**

Ω Agency

- **Forward any application to OPM**
- **Provide documentation**
- **Take appropriate personnel actions**



Criteria for Entitlement

- ∩ **Minimum service**
- ∩ **Medical condition**
- ∩ **Which arose while employed**
- ∩ **Deficiency in service**
- ∩ **Nexus between medical condition & deficiency in service**
- ∩ **Duration of one year or more**
- ∩ **Reasonable accommodation not possible**
- ∩ **Placement not possible**



Minimum Service

- Ω **CSRS - 5 years**
- Ω **FERS - 18 months**



Medical Condition

- ⌚ **Health impairment resulting from disease or injury, including psychiatric disease**
- ⌚ **Can occur on or off the job**
- ⌚ **Must be demonstrated by objective medical evidence**



Which Arose While Employed

- ⌚ **Pre-existing disease - substantially worsened during period of employment**
- ⌚ **Progressive disease - able to perform duties of position when hired, but has subsequently become disabled due to progression of disease**



Deficiency in Service

∩ Performance or

∩ Conduct or

∩ Attendance or

Deficiency in Service

Ω **If no service deficiency, a medically warranted restriction from performing essential duties or from the workplace based on risk of**

- **Sudden incapacitation**
- **Further health impairment caused by working**
- **Transmission of communicable disease**



Nexus

∞ **Showing that medical condition has caused the service deficiency**



Duration

- ⌚ **Anticipated duration of more than one year**
- ⌚ **Measured from date application is filed**
- ⌚ **Refusal/failure to follow prescribed treatment may preclude approval**
- ⌚ **Surgery, invasive medical procedures cannot be required**



Reasonable Accommodation

- ⌚ **Any action which agency would be obligated to take under Rehabilitation Act**
- ⌚ **Obligation extends through adjudication process**



Placement

- ⌚ **Agency obligation to review all vacant positions at same pay or grade and tenure within commuting area for which person is qualified**
- ⌚ **Agency not obligated to create position**
- ⌚ **Extends through adjudication process**



Placement (Continued)

- Ω **OPM should be notified of refusal to accept placement**
- Ω **Agency may want to use detail to try out placement**
- Ω **Voluntary acceptance of lower graded position treated as withdrawal of application**

Application Process

- **Submission by employee, family member**
- **Agency filed applications very rare**
 - **Decision to remove has been issued &**
 - **Documented nexus between medical condition and reason for removal &**
 - **Employee incapable of filing &**
 - **No representative or immediate family member**

Application Process (Cont'd)

- **Time limit for filing - one year from date of separation from service**
 - **Established by statute**
 - **Waiver - only on basis of mental incompetence**

Application Process (Continued)

Ω **Effective date of annuity**

- **Generally, first day after pay status as employee terminates and all disability & service requirements are met**

Ω **Withdrawal of application**

- **Can be made at any time prior to date of separation or approval of application, whichever is later**



Duration of Annuity

∞ Lifetime benefit

- Medical Recovery
- Restoration to Earning Capacity

Duration (Continued)

∞ Restoration to earning capacity

- **80% of current rate of pay of former salary**
- **If exceeds limitation, benefits terminate six months from end of calendar year in which earnings capacity was restored**



Interrelationship With Other Actions

- Ω **OWCP determinations**
- Ω **Social security determinations**
- Ω **Adverse actions**
- Ω **Settlement agreements**
- Ω **Appeals**



OWCP and Social Security

Ω OWCP

- **Cannot receive concurrently with disability payments**

Ω Social Security

- **FERS employee must file for Social Security**



Adverse Actions

- ⌚ **Agency required to give information regarding disability retirement to employee separated under 432 or 752 if employee claims problem leading to separation is due to medical condition**
- ⌚ **Removal due to physical inability**



Adverse Actions (Continued)

Ω **Use of settlement agreements - see OPM guidance**

Ω **Appeals**

Discontinued Service Retirement

Ω **Criteria for Entitlement**

- **Age and service**
- **Involuntary separation**
- **Specific notice**
- **Reasonable offer**



DSR (Continued)

∩ **Performance**

∩ **RIF**

∩ **Use of settlement agreements - see OPM guidance**

∩ **Appeals**



Additional Settlement Issues

⌚ **Eligibility**

⌚ **Payments**