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(iii) Have the period of service treated like the nondeduction service described in § 831.303.

(2) When the agency withholds part of the required employee deductions for any pay period, the balance must be submitted to OPM in the manner currently prescribed for the transmission of withholdings and contributions as soon as possible, but not later than provided by standards established by OPM in the Federal Personnel Manual. The agency must correct its error. The employee does not have the option to pay a deposit directly to OPM when partial deductions have been withheld.

(3) If the agency waives the employee's repayment of the salary overpayment that resulted from the administrative error, the agency must also submit (in addition to the agency contribution) the employee's share of the unpaid contributions to OPM in the manner currently prescribed for the transmission of withholdings and contributions.

[53 FR 35295, Sept. 13, 1988]

§ 831.112 Definitions of employee.

(a) *Determinations involving an employee's ability to make a deposit or redeposit.* A person may make a deposit or redeposit under section 8334 of title 5, United States Code, if he or she is an ''employee.'' For purposes of this paragraph, an *employee* is—

(1) A person currently employed in a position subject to the civil service retirement law; or

(2) A former employee (whose annuity has not been finally adjudicated) who retains civil service retirement annuity rights based on a separation from a position in which retirement deductions were properly withheld and remain (or have been redeposited in whole or in part) in the Civil Service Retirement and Disability Fund.

(b) *Determinations involving the payment of survivor benefits at an employee's or former employee's death.* To determine entitlement to survivor benefits, OPM establishes whether the deceased individual was an ''employee'' or a ''retiree'' on the date of death. If the decedent was an ''employee'' on the date of death, survivor benefits are paid as though the individual died in service. If the decedent was a ''retiree'' on the date of death, survivor benefits are only paid as provided in the individual's election, provided it was properly made. However, if a former employee was eligible only for a deferred annuity at age 62, survivor benefits are only paid if the individual was a ''retiree'' on the date of death. For purposes of this paragraph—

(1) *Employee* is a person—

(i) Who had not been separated from service prior to his or her death, even if he or she had applied for retirement (for example, an applicant for disability annuity) and the application had been approved; or

(ii) Whose death occurs before the commencing date of annuity, even though separation has occurred.

(2) *Retiree* or *annuitant* is a person—

(i) Who has been separated from service and met all the requirements to receive an annuity including having filed an application for the annuity prior to his or her death; and

(ii) Whose death occurs on or after the commencing date of annuity.

(c) *Determinations involving the requirement of spousal consent for elections of alternative annuity and survivor annuity benefits.* Spousal consent is required as specified in §§ 831.614 and 831.2203(c), if the employee/annuitant is married on the commencing date of annuity, regardless of whether that date is before or after the date of separation from service.

[56 FR 45883, Sept. 9, 1991, as amended at 58 FR 52880, Oct. 13, 1993]

§ 831.113 Payments to children.

For purposes of section 8345(e) of title 5, United States Code, persons who have attained age 18 are considered adults regardless of the age of majority in the jurisdiction in which they reside.

[56 FR 45884, Sept. 9, 1991]

Subpart B—Coverage

§ 831.201 Exclusions from retirement coverage.

(a) The following groups of employees in the executive branch of the Government are excluded from subchapter III of chapter 83 of title 5, United States Code:

(1) Employees serving under appointments limited to one year or less, except annuitants appointed by the President to fill unexpired terms of office on or after January 1, 1976.

(2) Intermittent employees—non-full-time employees without a prearranged regular tour of duty.

(3) Employees whose salary, pay, or compensation on an annual basis is $12 a year or less.

(4) Member or patient employees in Government hospitals or homes.

(5) Employees paid on a piecework basis, except those whose work schedule provides for regular or full-time service.

(6) Intermittent alien employees engaged on work outside the continental limits of the United States.

(7) Employees serving under temporary appointments pending establishment of registers, or pending final determination of eligibility for permanent appointment.

(8) Officers in Charge, clerks in fourth-class post offices, substitute rural carriers, and special-delivery messengers at second- third-, and fourth-class post offices.

(9) Consular agents appointed under authority of section 551 of the Foreign Service Act of 1946 (22 U.S.C. 951).

(10) Employees serving under emergency-indefinite appointments not exceeding 5 years.

(11) United States citizens given ''overseas limited appointments.''

(12) Employees serving under nonpermanent appointments made pursuant to section 1 of Executive Order 10180 of November 13, 1950.

(13) Employees serving under nonpermanent appointments, designated as indefinite, made after January 23, 1955, the effective date of the repeal of Executive Order 10180.

(14) Employees serving under term appointments.

(15) Temporary employees of the Census Bureau employed under temporary limited appointments exceeding 1 year.

(16) Employees serving under limited term, limited emergency and noncareer (designated as indefinite) appointments in the Senior Executive Service.

(17) Health care employees of the National Health Service Corps serving under appointments limited to four years or less in health manpower shortage areas.

(b) Paragraph (a) of this section does not deny retirement coverage when:

(1) Employment in an excluded category follows employment subject to subchapter III of chapter 83 of title 5, United States Code, without a break in service or after a separation from service of 3 days or less, except in the case of an alien employee whose duty station is located in a foreign country;

(2) The employee receives a career or career-conditional appointment under part 315 of this chapter;

(3) The employee is granted competitive status under legislation, Executive order, or civil service rules and regulations, while he or she is serving in a position in the competitive service; or

(4) The employee is granted merit status under 35 CFR chapter I, subchapter E;

(5) The appointment meets the definition of a provisional appointment contained in §§ 316.401 and 316.403 of this chapter;

(6) The employee receives an interim appointment under § 772.102 of this chapter and was covered by CSRS at the time of the separation for which interim relief is required.

(c) Members of the following boards and commissions of the government of the District of Columbia appointed on or after August 13, 1960, are excluded from subchapter III of chapter 83 of title 5, United States Code, except that this exclusion does not operate in the case of a member serving on August 13, 1960, who is reappointed on expiration of term without a break in service or after a separation from serwice of 3 days or less:

Board of Accountancy.
Board of Examiners and Registrars of Architects.
Board of Barber Examiners.
Boxing Commission.
Board of Cosmetology.
Board of Dental Examiners.
Electrical Board.
Commission on Licensure to Practice the Healing Arts.
Board of Examiners in the Basic Sciences.
Board of Examiners in Medicine and Osteopathy.
Motion Picture Operators' Board.
Nurses' Examining Board.
Board of Optometry.
Board of Pharmacy.

Plumbing Board.
Board of Podiatry Examiners.
Board of Registration for Professional Engineers.
Real Estate Commission.
Refrigeration and Air Conditioning Board.
Steam and Other Operating Engineers' Board.
Undertakers' Committee.
Board of Examiners of Veterinarian Medicine.

(d) The following groups of employees of the government of the District of Columbia, appointed on or after October 1, 1965, are excluded from subchapter III of chapter 83 of title 5, United States Code:

(1) Employees serving under appointments limited to one year or less, except temporary teachers of the District of Columbia public school system.

(2) Intermittent employees—non-full-time employees without a prearranged regular tour of duty.

(3) Employees whose pay on an annual basis is $12.00 per year or less.

(4) Patient or inmate employees in District Government hospitals, homes or penal institutions.

(5) Employees paid on a contract or fee basis.

(6) Employees paid on a piecework basis, except those whose work schedule provides for regular or full-time service.

(7) Employees serving under temporary appointments pending establishment of registers, or pending final determination of eligibility for permanent appointment.

(e) Paragraph (d) of this section does not deny retirement coverage when (1) employment in an excluded category follows employment subject to subchapter III of chapter 83 of title 5, United States Code, without a break in service or after a separation from service of 3 days or less, or (2) the employee is granted competitive status under legislation, Executive order, or the Civil Service rules and regulations, while he is serving in a position in the competitive service.

(f) Also excluded are any temporary employees, appointed for one year or less, by the government of the District of Columbia under any program or project established pursuant to the Economic Opportunity Act of 1964 (42 U.S.C. 2701 *et seq.*), and summer trainees employed by the Government of the District of Columbia in furtherance of the President's Youth Opportunity Campaign.

(g) Individuals first employed by the government of the District of Columbia on or after October 1, 1987, are excluded from subchapter III of chapter 83 of title 5, United States Code. However, employees of St. Elizabeths Hospital who were hired before January 1, 1984, and who were covered under subchapter III of chapter 83 of title 5, United States Code, and accept offers of employment with the District of Columbia government without a break in service, as provided in section 6 of Pub. L. 98–621, continue to be covered by this part.

(h) Employees who have elected coverage under another retirement system in accordance with part 847 of this chapter are excluded from subchapter III of chapter 83 of title 5, United States Code, during that and all subsequent periods of service (including service as a reemployed annuitant).

[33 FR 12498, Sept. 4, 1968, as amended at 45 FR 24856, Apr. 11, 1980; 45 FR 46782, July 11, 1980; 47 FR 2285, Jan. 15, 1982; 48 FR 38784, Aug. 26, 1983; 51 FR 23037, June 25, 1986; 52 FR 38220, Oct. 15, 1987; 53 FR 42936, Oct. 25, 1988; 56 FR 4930, Feb. 7, 1991; 56 FR 10142, Mar. 11, 1991; 57 FR 3713, Jan. 31, 1992; 61 FR 41720, Aug. 9, 1996]

§ 831.202 Continuation of coverage for food service employees of the House of Representatives.

(a) Congressional employees who provide food service operations for the House of Representatives can elect to continue their retirement coverage under subchapter III of chapter 83 of title 5, United States Code, when such food service operations are transferred to a private contractor. These regulations also apply to any successor contractors.

(b) *Eligibility requirements.* To be eligible for continuation of retirement coverage, an employee must:

(1) Be a Congressional employee (as defined in section 2107 of title 5, United States Code), other than an employee of the Architect of the Capitol, engaged in providing food service operations for the House of Representatives under the administrative control of the Architect of the Capitol;

(2) Be subject to subchapter III of chapter 83 of title 5, United States Code;

(3) Elect to remain covered under civil service retirement provisions no later than the day before the date on which the food service operations transfer from the House of Representatives to a private contractor; and

(4) Become employed to provide food services under contract without a break in service. A ''break in service'' means a separation from employment of at least three calendar days.

(c) *Employee deductions.* An employee who elects to continue coverage under title 5 retirement provisions is deemed to consent to deductions from his or her basic pay for the Civil Service Retirement and Disability Fund in the amount determined in accordance with 5 U.S.C. 8334(k). The employer providing the food services under contract must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from an employee's pay.

(d) *Employer contributions.* The employer providing food services under contract must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions that would be required if the individual were a Congressional employee covered by the Civil Service Retirement System.

[52 FR 5069, Feb. 19, 1987, and 53 FR 10055, Mar. 29, 1988. Redesignated at 53 FR 10055, Mar. 29, 1988]

§ 831.203 Continuation of coverage for employees of the Metropolitan Washington Airports Authority.

(a) Permanent Federal Aviation Administration employees assigned to Washington National Airport or Dulles International Airport who elect to transfer to the Metropolitan Washington Airports Authority, retain their retirement coverage under subchapter III of chapter 83 of title 5, United States Code.

(b) *Eligibility requirements.* To be eligible for continuation of retirement coverage, an employee must (1) be a permanent Federal Aviation Administration employee assigned to the Metropolitan Washington Airports who elects to transfer to the Airports Authority; (2) be subject to subchapter III chapter 83 of title 5 United States Code on the day before the date the lease takes effect; and (3) become continually employed by the Airports Authority without a break in service. A ''break in service'' means a separation from employment of at least 3 calendar days.

(c) *Employee deductions.* Employees of the Airports Authority who have continuing coverage under title 5 retirement provisons are deemed to consent to deductions from their basic pay for the Civil Service Retirement and Disability Fund. The amounts deducted will be the same as if the employees were still employed by the Federal Government. The Airports Authority must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from an employee's pay.

(d) *Employer contributions.* The Airports Authority must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions that would be required for employees covered by the Civil Service Retirement System.

(e) *Sick leave.* An employee who retires, or dies leaving a survivor entitled to an annuity, from the Airports Authority within the 5 year period beginning on the date the lease takes effect will be permitted to credit unused sick leave in his or her annuity computation. After the 5 year period, use of unused sick leave in the annuity computation will be permitted if the employee is under a formal leave system as defined in § 831.302.

[52 FR 19125, May 21, 1987, and 53 FR 10055, Mar. 29, 1988. Redesignated at 53 FR 10055, Mar. 29, 1988]

§ 831.204 Elections of retirement coverage under the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(a) *Who may elect*—(1) *General rule.* Any individual appointed by the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) in a position

not excluded from CSRS coverage under §831.201 may elect to be deemed a Federal employee for CSRS purposes unless the employee has elected to participate in a retirement, health or life insurance program offered by the District of Columbia.

(2) *Exception.* A former Federal employee being appointed by the Authority on or after October 26, 1996, no more than 3 days (not counting District of Columbia holidays) after separation from Federal employment cannot elect to be deemed a Federal employee for CSRS purposes unless the election was made before separation from Federal employment.

(b) *Opportunity to elect FERS.* An individual who elects CSRS under paragraph (a) of this section after a break of more than 3 days between Federal service and employment with the Authority may elect FERS in accordance with 5 CFR 846.201(b)(ii).

(c) *Procedure for making an election.* The Authority or the agency providing administrative support services to the Authority (Administrative Support Agency) must establish a procedure for notifying employees of their election rights and for accepting elections.

(d) *Time limit for making an election.* (1) An election under paragraph (a)(1) of this section must be made within 30 days after the employee receives the notice under paragraph (c) of this section.

(2) The Authority or its Administrative Support Agency will waive the time limit under paragraph (d)(1) of this section upon a showing that—

(i) The employee was not advised of the time limit and was not otherwise aware of it; or

(ii) Circumstances beyond the control of the employee prevented him or her from making a timely election and the employee thereafter acted with due diligence in making the election.

(e) *Effect of an election.* (1) An election under paragraph (a) of this section is effective on the commencing date of the employee's service with the Authority.

(2) An individual who makes an election under paragraph (a) of this section is ineligible, during the period of employment covered by that election, to participate in any retirement system for employees of the government of the District of Columbia.

(f) *Irrevocability.* An election under paragraph (a) of this section becomes irrevocable when received by the Authority or its Administrative Support Agency.

(g) *Employee deductions.* The Authority or its Administrative Support Agency must withhold, from the pay of an employee of the District of Columbia Financial Responsibility and Assistance Authority who has elected to be deemed a Federal employee for CSRS purposes, an amount equal to the percentage withheld from Federal employees' pay for periods of service covered by CSRS and, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from an employee's pay.

(h) *Employer contributions.* The District of Columbia Financial Responsibility and Assistance Authority must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions required under CSRS.

[61 FR 58458, Nov. 15, 1996]

Subpart C—Credit for Service

§ 831.301 Military service.

(a) *Service of an individual who first became an employee or Member under the civil service retirement system before October 1, 1982.* A period of honorable active service after December 31, 1956, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Services Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity provided—

(1) The employee or Member has completed 5 years' (18 months' for survivors of employees or Members who die in service) civilian service;