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§ 842.505 Reduction in annuity supplement because of excess earnings.

(a)(1) Except as provided in paragraphs (a)(2) and (b) of this section, the annuity supplement payable under § 842.504 is reduced by excess earnings in the test year, divided by twelve.

(2) Any annuity supplement payable during the year in which an individual loses entitlement to the annuity supplement by reason of § 842.503(c) is reduced by excess earnings in the test year divided by the number of months for which the annuity supplement is payable.

(b) Any reduction in the annuity supplement during a month because of excess earnings may not exceed the amount of annuity supplement payable during that month.

(c) Earnings and estimated earnings for each test year will be furnished by retirees in a form prescribed by OPM.

(d) Failure to furnish earnings and estimated earnings in the form or at the times prescribed by OPM is cause to suspend payment of the supplement until the annuitant establishes to the satisfaction of OPM that he/she continues to be eligible for the supplement.

(e) The reductions described in paragraphs (a) and (b) of this section are not subject to the due process procedures described in 5 U.S.C. 8461(e).

Subpart F—Survivor Elections

SOURCE: 52 FR 2061, Jan. 16, 1987, unless otherwise noted.

§ 842.601 Purpose.

This subpart explains the survivor annuity elections available under FERS for retirees, and retiring employees and Members, and the actions that they must take to provide these survivor annuities.

§ 842.602 Definitions.

In this subpart—

Current spouse means a living person who is married to the employee, Member, or retiree at the time of the employee's, Member's, or retiree's death.

Current spouse annuity means a recurring benefit under FERS that is payable (after the employee's, Member's or retiree's death) to a current spouse who meets the requirements of § 843.303 of this chapter.

Deposit means a deposit required to provide a survivor benefit. *Deposit,* as used in this subpart, does not include a service credit deposit or redeposit.

FERS means chapter 84 of title 5, United States Code.

First regular monthly payment means the first annuity check payable on a recurring basis (other than an estimated payment or an adjustment check) after OPM has initially adjudicated the regular rate of annuity payable under FERS and has paid the annuity accrued since the time of retirement. The *first regular monthly payment* is generally preceded by estimated payments before the claim can be adjudicated and by an adjustment check (including the difference between the estimated rate and the initially adjudicated rate).

Former spouse means a living person who was married for at least 9 months to an employee, Member, or retiree who performed at least 18 months of creditable service under FERS. The ''former spouse's'' marriage to the employee must have been terminated prior to the death of the employee, Member, or retiree.

Former spouse annuity means a recurring benefit under FERS that is payable to a former spouse after the employee's, Member's, or retiree's death.

Fully reduced annuity means the recurring payments under FERS received by a retiree who has elected the maximum reduction in his or her annuity to provide a current spouse annuity and/or a former spouse annuity or annuities.

Insurable interest rate means the recurring payments under FERS to a retireee who has elected a reduction in annuity to provide a survivor annuity to a person with an insurable interest in the retiree.

Marriage has the same meaning as in § 843.102 of this chapter.

Member means a Member of Congress.

Net annuity means the net annuity as defined in § 838.103 of this chapter.

One-half reduced annuity means the recurring payments under FERS received by a retiree who has elected one-half of the full reduction in his or

her annuity to provide a partial current spouse annuity or a partial former spouse annuity or annuities.

Present value factor means the amount of money (earning interest at an assumed rate) required at the time of retirement to fund an annuity that starts out at the rate of $1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for non-disability annuitants under the Civil Service Retirement System; and increases each year at an assumed rate of inflation. Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the System, based on dynamic assumptions. The present value factors are unisex factors obtained by averaging six distinct present value factors, weighted by the total dollar value of annuities typically paid to new retirees at each age.

Qualifying court order means a court order that awards a former spouse annuity and that satisfies the requirements of section 8445 of title 5, United States Code, for awarding a former spouse annuity.

Retiree means a former employee or Member who is receiving recurring payments under FERS based on service by the employee or Member. ''Retiree,'' as used in this subpart, does not include a current spouse, former spouse, child, or person with an insurable interest receiving a survivor annuity.

Self-only annuity means the recurring unreduced payments under FERS to a retiree with no survivor annuity payable to anyone.

Time of retirement means the effective commencing date for retired employee's or Member's annuity. An employee or Member is unmarried at the time of retirement for all purposes under this subpart only if the employee or Member was unmarried on the date that the annuity begins to accrue.

[52 FR 2061, Jan. 16, 1987, as amended at 56 FR 65419, Dec. 17, 1991; 57 FR 33598, July 29, 1992; 57 FR 54678, Nov. 20, 1992; 58 FR 52883, Oct. 13, 1993]

§ 842.603 Election at time of retirement of a fully reduced annuity to provide a current spouse annuity.

(a) A married employee or Member retiring under FERS will receive a fully reduced annuity to provide a current spouse annuity unless—

(1) The employee or Member, with the consent of the current spouse, elects a self-only annuity, a one-half reduced annuity to provide a current spouse annuity, or a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, in accordance with § 842.604 or § 842.606; or

(2) The employee or Member elects a self-only annuity or a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, and current spousal consent is waived in accordance with § 842.607.

(b) Qualifying court orders that award former spouse annuities prevent payment of current spouse annuities to the extent necessary to comply with the court order and § 842.613.

(c) The amount of the reduction to provide a current spouse annuity under this section is 10 percent of the retiree's annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54678, Nov. 20, 1992]

§ 842.604 Election at time of retirement of a fully reduced annuity or a one–half reduced annuity to provide a former spouse annuity.

(a) An unmarried employee or Member retiring under FERS may elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity or annuities.

(b) A married employee or Member retiring under FERS may elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity or annuities instead of a fully reduced annuity to provide a current spouse annuity, if the current spouse consents to the election in accordance with § 842.606 or spousal consent is waived in accordance with § 842.607.

(c) An election under paragraph (a) or (b) of this section is void to the extent that it—

(1) Conflicts with a qualifying court order; or

(2) Would cause the total of current spouse annuities and former spouse annuities payable based on the employee's or Member's service to exceed the maximum amount of survivor annuity that the employee or Member is entitled to provide under § 842.613.

(d) Any reduction in an annuity to provide a former spouse annuity will terminate on the first day of the month after the former spouse remarries before age 55 or dies, or the former spouse's eligibility for a former spouse annuity terminates under the terms of a qualifying court order, unless—

(1) The retiree elects, within 2 years after the former spouse's death or remarriage, to continue the reduction to provide a former spouse annuity for another former spouse, or to provide a current spouse annuity; or

(2) A qualifying court order requires the retiree to provide another former spouse annuity.

(e) Except as provided in § 842.614, the amount of the reduction to provide a former spouse annuity equals—

(1) Ten percent of the employee's or Member's annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee's or Member's annuity if the employee or Member elects a one-half reduced annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54678, Nov. 20, 1992]

§ 842.605 Election of insurable interest rate.

(a) At the time of retirement, an employee or Member in good health and who is applying for a non-disability annuity may elect an insurable interest rate. An election under this section does not exempt a married employee or Member from the provisions of § 842.603(a).

(b) An insurable interest rate may be elected by an employee or Member electing a fully reduced annuity or a one-half reduced annuity to provide a current spouse annuity or a former spouse annuity or annuities.

(c)(1) In the case of a married employee or Member, an election under this section may not be made on behalf of a current spouse unless that current spouse has consented to an election not to provide a current spouse annuity in accordance with § 842.603(a)(1).

(2) A consent (to an election not to provide a current spouse annuity in accordance with § 842.603(a)(1)) required by paragraph (c)(1) of this section to be eligible to be the beneficiary of an insurable interest rate is cancelled if—

(i) The retiree fails to qualify to receive the insurable interest rate; or

(ii) The retiree changes his or her election to receive an insurable interest rate under § 842.608; or

(iii) The retiree elects a fully reduced annuity to provide a current spouse annuity under § 842.610.

(3) An election of a one-half reduced annuity under § 842.610(b) to provide a current spouse annuity for a current spouse who is the beneficiary of an insurable interest rate is void unless the spouse consents to the election.

(4) If a retiree who had elected an insurable interest rate to benefit a current spouse elects a fully reduced annuity to provide a current spouse annuity (or with the consent of the spouse, a one-half reduced annuity to provide a current spouse annuity) under § 842.610(b), the election of the insurable interest rate is cancelled.

(5)(i) A retiring employee or Member may not elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity and an insurable interest rate to benefit the same former spouse.

(ii) If a retiring employee or Member who is required by court order to provide a former spouse annuity elects an insurable interest rate to benefit the former spouse with the court-ordered entitlement—

(A) If the benefit based on the election is greater than or equal to the benefit based on the court order, the election of the insurable interest rate will satisfy the requirements of the court order as long as the insurable interest rate continues.

(B) If the benefit based on the election is less than the benefit based on the court order, the election of the insurable interest rate is void.

(iii) An election under § 842.611 of a fully reduced annuity or a one-half reduced annuity to benefit a former spouse by a retiree who elected and

continues to receive an insurable interest rate to benefit that former spouse is void.

(d) To elect an insurable interest rate, an employee or Member must indicate the intention to make the election on the application for retirement and must submit a certificate of good health in a form prescribed by OPM.

(e) An insurable interest rate may be elected to provide a survivor benefit only for a person who has an insurable interest in the retiring employee or Member.

(1) An insurable interest is presumed to exist with—

(i) The current spouse;

(ii) A blood or adopted relative closer than first cousins;

(iii) A former spouse;

(iv) A person to whom the employee or Member is engaged to be married;

(v) A person with whom the employee or Member is living in a relationship that would constitute a common-law marriage in jurisdictions recognizing common-law marriages.

(2) When an insurable interest is not presumed, the employee or Member must submit affidavits from one or more persons with personal knowledge of the named beneficiary's having an insurable interest in the employee or Member. The affidavits must set forth the relationship, if any, between the named beneficiary and the employee or Member, the extent to which the named beneficiary is dependent on the employee or Member, and the reasons why the named beneficiary might reasonably expect to derive financial benefit from the continued life of the employee or Member.

(3) The employee or Member may be required to submit documentary evidence to establish the named beneficiary's date of birth.

(f) OPM will notify the employee or Member of initial monthly annuity rates with and without the election of an insurable interest rate and the initial rate payable to the named beneficiary. No election of an insurable interest rate is effective unless the employee or Member confirms the election in writing or dies no later than 60 days after the date of the notice described in this paragraph.

(g)(1) When an employee or Member elects both an insurable interest rate, and a fully reduced annuity or a one-half reduced annuity, the combined reduction may exceed the maximum 40 percent reduction in the retired employee's or Member's annuity permitted under section 8420 of title 5, United States Code, applicable to insurable interest annuities.

(2) The additional reduction to provide a current spouse annuity or a former spouse annuity is not considered in determining the rate of annuity payable to a beneficiary of an insurable interest election.

(h)(1) Except as provided in § 842.604(d), if a retiree who is receiving a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity has also elected an insurable interest rate to benefit a current spouse and if the eligible former spouse remarries before age 55, dies, or loses eligibility under the terms of the court order, and no other former spouse is entitled to a survivor annuity based on an election made in accordance with § 842.611 or a qualifying court order, the retiree may elect, within 2 years after the former spouse's remarriage, death, or loss of eligibility under the terms of the court order, to convert the insurable interest rate to a fully reduced annuity to provide a current spouse annuity, effective on the first day of the month following the event causing the former spouse to lose eligibility.

(2) An election under paragraph (h)(1) of this section cancels any consent not to receive a current spouse annuity required by paragraph (c) of this section for the current spouse to be eligible for an annuity under this section.

(3) When a former spouse receiving an annuity under section 8445 of title 5, United States Code, loses eligibility to that annuity, a beneficiary of an insurable interest rate who was the current spouse at both the time of the retiree's retirement and death may, within 2 years after the former spouse's death, remarriage, or loss of eligibility under the terms of the court order, elect to receive a current spouse annuity instead of the annuity he or she had been receiving.

The election is effective on the first day of the month following the event causing the former spouse to lose eligibility.

(i) Upon the death of the current spouse, a retiree whose annuity is reduced to provide both a current spouse annuity and an insurable interest benefit for a former spouse is not permitted to convert the insurable interest rate to a reduced annuity to provide a former spouse annuity.

(j) An employee or Member may name only one natural person as the named beneficiary of an insurable interest rate. OPM will not accept the designation of contingent beneficiaries and such a designation is void.

(k)(1) An election under this section is prospectively voided by an election of a fully reduced annuity to provide a current spouse annuity under § 842.612 that would benefit the same person.

(2)(i) If the current spouse is not the beneficiary of the election under this section, a retiree may prospectively void an election under this section at the time the retiree elects a reduced annuity to provide a current spouse annuity under § 842.612.

(ii) A retiree's election to void an election under paragraph (k)(2)(i) of this section must be filed at the same time as the election under § 842.612.

(3) An annuity reduction under this section terminates on the first day of the month after the beneficiary of the insurable interest rate dies.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54679, Nov. 20, 1992]

§ 842.606 Election of a self-only annuity or a one–half reduced annuity by married employees and Members.

(a) A married employee may not elect a self-only annuity or a one-half reduced annuity to provide a current spouse annuity without the consent of the current spouse or a waiver of spousal consent by OPM in accordance with § 842.607.

(b) Evidence of spousal consent or a request for waiver of spousal consent must be filed on a form prescribed by OPM.

(c) The spousal consent form will require that a notary public or other official authorized to administer oaths certify that the current spouse presented identification, gave consent, signed or marked the form, and acknowledged that the consent was given freely in the notary's or official's presence.

(d) The form described in paragraph (c) of this section may be executed before a notary public, an official authorized by the law of the jurisdiction where executed to administer oaths, or an OPM employee designated for that purpose by the Associate Director.

(e) A request for waiver of the spousal consent requirement must be by letter and fully state the basis for the request.

(f) The amount of the reduction in the retiree's annuity for a one-half reduced annuity to provide a current spouse annuity is 5 percent of the retiree's annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54679, Nov. 20, 1992]

§ 842.607 Waiver of spousal consent requirement.

(a) The spousal consent requirement will be waived upon a showing that the spouse's whereabouts cannot be determined. A request for waiver on this basis must be accompanied by—

(1) A judicial determination that the spouse's whereabouts cannot be determined; or

(2)(i) Affidavits by the employee or Member and two other persons, at least one of whom is not related to the employee or Member, attesting to the inability to locate the current spouse and stating the efforts made to locate the spouse; and

(ii) Documentary corroboration such as tax returns filed separately or newspaper stories about the spouse's disappearance.

(b) The spousal consent requirement will be waived based on exceptional circumstances if the employee or Member presents a judicial determination finding that—

(1) The case before the court involves a Federal employee who is in the process of retiring from Federal employment and the spouse of that employee;

(2) The nonemployee spouse has been given notice and an opportunity to be heard concerning this order;

(3) The court has considered sections 8416(a) of title 5, United States Code, and this section as they relate to waiver of the spousal consent requirement for a married Federal employee to elect an annuity without a reduction to provide a survivor benefit to a spouse at retirement; and

(4) The court finds that exceptional circumstances exist justifying waiver of the nonemployee spouse's consent.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54679, Nov. 20, 1992]

§842.608 Changes of election before final adjudication.

An employee or Member may name a new survivor or change his or her election of type of annuity if, not later than 30 days after the date of the first regular monthly payment, the named survivor dies or the employee or Member files with OPM a new written election. All required evidence of spousal consent or justification for waiver of spousal consent, if applicable, must accompany any new written election under this section.

[56 FR 65419, Dec. 17, 1991]

§842.609 [Reserved]

§842.610 Changes of election after final adjudication.

(a) Except as provided in §842.611, §842.612, or paragraph (b) of this section, an employee or Member may not revoke or change the election or name another survivor later than 30 days after the date of the first regular monthly payment.

(b)(1) Except as provided in §842.605 and paragraphs (b)(2) and (b)(3) of this section, a retiree who was married at the time of retirement and has elected a self-only annuity, a one-half reduced annuity to provide a current spouse annuity, a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, or an insurable interest rate may elect, no later than 18 months after the time of retirement, an annuity reduction or an increased annuity reduction to provide a current spouse annuity.

(2) A current spouse annuity based on an election under paragraph (b)(1) of this section cannot be paid if it will, when combined with any former spouse annuity or annuities that are required by court order, exceed the maximum survivor annuity permitted under §842.613.

(3) To make an election under paragraph (b)(1) of this section, the retiree must pay, in full no later than 18 months after the time of retirement, a deposit equal to the sum of the monthly differences between the annuity paid to the retiree and the annuity that would have been paid if the additional annuity reduction elected under paragraph (b)(1) of this section had been in effect since the time of retirement, plus—

(i) If the election under paragraph (b)(1) of this section changes the annuity from a self only annuity to a fully reduced annuity, 24.5 percent of the retiree's annual annuity, plus 6 percent interest on both; or

(ii) If the election under paragraph (b)(1) of this section changes the annuity from a self only annuity to a one-half reduced annuity or from a one-half reduced annuity to a fully reduced annuity, 12.25 percent of the retiree's annual annuity, plus 6 percent interest on both.

(4) If a retiree makes an election under paragraph (b)(1) of this section and is prevented from paying the deposit within the 18-month time limit because OPM did not send him or her a notice of the amount of the deposit at least 30 days before the time limit expires, the time limit for making the deposit will be extended 30 days after OPM sends the notice of the amount of the deposit.

(5) An election under paragraph (b)(1) of this section cancels any spousal consent under §842.603.

(6) An election under paragraph (b)(1) of this section is void unless filed with OPM before the retiree dies.

(7) If a retiree who had elected a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity (or annuities) makes an election under paragraph (b)(1) of this section which would cause the combined current spouse annuity and former spouse annuity (or annuities) to exceed the maximum allowed under §842.613, the former spouse annuity (or annuities)

must be reduced to not exceed the maximum allowable under § 842.613.

[52 FR 2061, Jan. 16, 1987, as amended at 56 FR 65419, Dec. 17, 1991; 57 FR 54680, Nov. 20, 1992]

§ 842.611 Post-retirement election of a fully reduced annuity or one–half reduced annuity to provide a former spouse annuity.

(a) Except as provided in paragraphs (b) and (c) of this section, when a retiree's marriage terminates after retirement, the retiree may elect in writing a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity. Such an election must be filed with OPM within 2 years after the retiree's marriage to the former spouse terminates.

(b)(1) Qualifying court orders prevent payment of former spouse annuities to the extent necessary to comply with the court order and § 842.613.

(2) A retiree who elects a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity may not elect to provide a former spouse annuity in an amount that either—

(i) Is smaller than the amount required by a qualifying court order; or

(ii) Would cause the sum of all current and former spouse annuities based on a retiree's elections under §§ 842.603, 842.604, 842.612 and this section to exceed the maximum allowed under § 842.613.

(3) An election under this section is void—

(i) In the case of a married retiree, if the current spouse does not consent to the election on a form as described in § 842.606(c) and spousal consent is not waived by OPM in accordance with § 842.607; or

(ii) To the extent that it provides a former spouse annuity for the spouse who was married to the retiree at the time of retirement in an amount that is inconsistent with any joint designation or waiver made at the time of retirement under § 842.603(a)(1) or (a)(2).

(c) An election under this section is not permitted unless the retiree agrees to deposit the amount equal to the difference between the amount of annuity actually paid to the retiree and the amount of annuity that would have been paid if the reduction elected under paragraph (a) of this section had been in effect continuously since the time of retirement, plus 6 percent annual interest (computed under § 841.107 of this chapter) from the date when each difference occurred.

(d) Any reduction in an annuity to provide a former spouse annuity will terminate on the first day of the month after the former spouse remarries before age 55 or dies, or the former spouse's eligibility for a former spouse annuity terminates under the terms of a qualifying court order, unless—

(1) The retiree elects, within 2 years after the event causing the former spouse to lose eligibility, to continue the reduction to provide or increase a former spouse annuity for another former spouse, or to provide or increase a current spouse annuity; or

(2) A qualifying court order requires the retiree to provide another former spouse annuity.

(e) The amount of the reduction to provide one or more former spouse annuities or a combination of a current spouse annuity and one or more former spouse annuities under this section equals—

(1) Ten percent of the employee's or Member's annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee's or Member's annuity if the employee or Member elects a one-half reduced annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54680, Nov. 20, 1992]

§ 842.612 Post-retirement election of a fully reduced annuity or one-half reduced annuity to provide a current spouse annuity.

(a) Except as provided in paragraph (c) of this section, a retiree who was unmarried at the time of retirement may elect, within 2 years after a post-retirement marriage, a fully reduced annuity or a one-half reduced annuity to provide a current spouse annuity.

(b) Except as provided in paragraph (c) of this section, a retiree who was married at the time of retirement may elect, within 2 years after a post-retirement marriage—

(1) A fully reduced annuity or a one-half reduced annuity to provide a current spouse annuity if—

(i) The retiree was awarded a fully reduced annuity under §842.603 at the time of retirement; or

(ii) The election at the time of retirement was made with a waiver of spousal consent in accordance with §842.607; or

(iii) The marriage at the time of retirement was to a person other than the spouse who would receive a current spouse annuity based on the post-retirement election; or

(2) A one-half reduced annuity to provide a current spouse annuity if—

(i) The retiree elected a one-half reduced annuity under §842.606 at the time of retirement;

(ii) The election at the time of retirement was made with spousal consent in accordance with §842.606; and

(iii) The marriage at the time of retirement was to the same person who would receive a current spouse annuity based on the post-retirement election.

(c)(1) Qualifying court orders prevent payment of current spouse annuities to the extent necessary to comply with the court order and §842.613.

(2) If an election under this section causes the total of all current and former spouse annuities provided by a qualifying court order or elected under §842.604, §842.611, or this section to exceed the maximum survivor annuity permitted under §842.613, OPM will accept the election but will pay the portion in excess of the maximum only when permitted by §842.613(c).

(d)(1) Except as provided in paragraph (d)(2) or (e)(3) of this section, a retiree making an election under this section must deposit an amount equal to the difference between the amount of annuity actually paid to the retiree and the amount of annuity that would have been paid if the reduction elected under paragraphs (a) or (b) of this section had been in effect continuously since the time of retirement, plus 6 percent annual interest, computed under §841.606 of this chapter, from the date when each difference occurred.

(2) An election under this section may be made without deposit, if that election prospectively voids an election of an insurable interest annuity.

(e)(1) An election under this section is irrevocable when received by OPM.

(2) An election under this section is effective when the marriage duration requirements of §843.303 of this chapter are satisfied.

(3) If an election under paragraph (a) or (b) of this section does not become effective, no deposit under paragraph (d) of this section is required.

(4) If payment of the deposit under paragraph (d) of this section is not required because the election never became effective and if some or all of the deposit has been paid, the amount paid will be returned to the retiree, or, if the retiree has died, to the person who would be entitled to any lump-sum benefits under the order of precedence in section 8424 of title 5, United States Code.

(f) Any reduction in an annuity to provide a current spouse annuity will terminate effective on the first day of the month after the marriage to the current spouse ends, unless—

(1) The retiree elects, within 2 years after a divorce terminates the marriage, to continue the reduction to provide for a former spouse annuity; or

(2) A qualifying court order requires the retiree to provide a former spouse annuity.

(g) The amount of the reduction to provide a current spouse annuity under this section equals—

(1) Ten percent of the employee's or Member's annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee's or Member's annuity if the employee or Member elects a one-half reduced annuity.

(h) If a retiree who is receiving a reduced annuity to provide a former spouse annuity and who has remarried that former spouse (before the former spouse attained age 55) dies, the retiree will be deemed to have elected to continue the reduction to provide a current spouse annuity unless the retiree requests (or has requested) in writing that OPM terminate the reduction.

[57 FR 54680, Nov. 20, 1992, as amended at 60 FR 14202, Mar. 16, 1995]

§ 842.613 Division of a survivor annuity.

(a) The maximum combined total of all current and former spouse annuities (not including any benefits based on an election of an insurable interest rate) payable based on the service of a former employee or Member equals 50 percent of the rate of the self-only annuity that otherwise would have been paid to the employee, Member, or retiree.

(b) By using the elections available under this subpart or to comply with a court order under subpart I of part 841 of this chapter, a survivor annuity may be divided into a combination of former spouse annuities and a current spouse annuity so long as the aggregate total of the current and former spouse annuities does not exceed the maximum limitation in paragraph (a) of this section.

(c) Upon termination of former spouse annuity payments because of death or remarriage of the former spouse, or by operation of a court order, the current spouse will be entitled to a current spouse annuity or an increased current spouse annuity if—

(1) The employee or Member died while employed in a position covered under FERS; or

(2) The current spouse was married to the employee or Member continuously from the time of retirement and did not consent to an election not to provide a current spouse annuity; or

(3) The current spouse married a retiree after retirement and the retiree elected, under §842.612, to provide a current spouse annuity for that spouse in the event that the former spouse annuity payments terminate.

§ 842.614 Computation of partial annuity reduction.

If a court order or the death of a current or former spouse results in providing less than the maximum permitted survivor reduction under §842.613, the reduction in the employee's annuity will be 10 percent of the amount of the employee's annuity on which the survivor benefits will be computed (called the ''base'').

§ 842.615 Deposits required.

(a) The deposits required to elect reduced annuities under §§842.610, 842.611, and 842.612 are not annuity overpayments and their collection is not subject to waiver.

(b) *Actuarial reduction in annuity of retirees who make post-retirement elections to provide a current spouse annuity or a former spouse annuity.* (1) The annuity reduction required by paragraph (b)(2) of this section applies to all retirees who are required to pay deposits under §842.611 or §842.612 and have not paid any portion of the deposit prior to October 1, 1993, or from annuity accruing before that date.

(2) Retirees described in paragraph (b)(1) of this section must have a permanent annuity reduction computed under paragraph (b)(4) of this section.

(3) A reduction under paragraph (b)(2) of this section commences on the same date as the annuity reduction under §842.611 or §842.612.

(4) The annuity reduction under paragraph (b)(2) of this section is equal to the lesser of—

(i) The amount of the deposit under §842.611 or §842.612 divided by the present value factor for the retiree's age on the commencing date of the reduction under paragraph (b)(3) of this section (plus any previous reduction(s) in the retiree's annuity required under paragraph (b)(2) or (c)(2) of this section); or

(ii) Twenty-five percent of the rate of the retiree's self-only annuity on the commencing date of the reduction (under paragraph (b)(3) of this section).

(5)(i) The reduction under paragraph (b)(2) or paragraph (c)(2) of this section terminates on the date that the retiree dies.

(ii) If payment of a retiree's annuity is suspended or terminated and later reinstated, or if a new annuity becomes payable, OPM will increase the amount of the original reduction computed under paragraph (b)(4) or paragraph (c)(4) of this section by any cost-of-living adjustments under section 8462 of title 5, United States Code, occurring between the commencing date of the original reduction and the commencing date of the reinstated or new annuity (but the adjusted reduction may not

exceed 25 percent of the rate of the reinstated or new self-only annuity).

(c) *Post-retirement survivor election deposits that were partially paid before October 1, 1993.* (1) The annuity reduction required by paragraph (c)(2) of this section applies to all retirees who are required to pay deposits under §842.611 or §842.612 and have paid any portion (but not all) of the deposit prior to October 1, 1993, or from annuity accruing before that date.

(2) Retirees described in paragraph (c)(1) of this section must have a permanent annuity reduction computed under paragraph (c)(4) of this section.

(3) A reduction under paragraph (c)(2) of this section commences on October 1, 1993.

(4) The annuity reduction under paragraph (c)(2) of this section is equal to the lesser of—

(i) The amount of the principal balance remaining to be paid on October 1, 1993, divided by the present value factor for the retiree's age on October 1, 1993; or

(ii) Twenty-five percent of the rate of the retiree's self-only annuity on October 1, 1993.

(5)(i) The reduction under paragraph (c)(2) of this section terminates on the date that the retiree dies.

(ii) If payment of a retiree's annuity is suspended or terminated and later reinstated, or if a new annuity becomes payable, OPM will increase the amount of the original reduction computed under paragraph (b)(4) or paragraph (c)(4) of this section by any cost-of-living adjustments under section 8462 of title 5, United States Code, occurring between the commencing date of the original reduction and the commencing date of the reinstated or new annuity (but the adjusted reduction may not exceed 25 percent of the rate of the reinstated or new self-only annuity).

(d) For retirees who die before October 1, 1993, any unpaid portion of the deposit required under §842.611 or §842.612 will be collected from the survivor annuity (for which the election required the deposit) before OPM pays any survivor annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 58 FR 52883, Oct. 13, 1993]

Subpart G—Alternative Forms of Annuities

SOURCE: 52 FR 2067, Jan. 16, 1987, unless otherwise noted.

§842.701 Purpose.

This subpart explains the benefits available to employees and Members who elect alternative forms of annuity under section 8420a of title 5, United States Code.

§842.702 Definitions.

In this subpart—

Alternative form of annuity means the benefit elected under §842.705.

Current spouse annuity has the same meaning as in §842.602.

Date of final adjudication means the date 30 days after the date of the first regular monthly payment as defined in §831.603.

Former spouse annuity has the same meaning as in §842.602.

Present value factor represents the amount of money (earning interest at an assumed rate) required at the time of retirement to fund an annuity that (a) starts out at the rate of $1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for non-disability annuitants; and (b) increases each year at an assumed rate of inflation. Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries for valuation of the System, based on dynamic assumptions. The present value factors are unisex factors obtained by averaging sex-distinct present value factors, weighted by the total dollar value of annuities typically paid to new retirees at each age.

Time of retirement has the same meaning as in §842.602.

[52 FR 2067, Jan. 16, 1987, as amended at 53 FR 11635, Apr. 8, 1988]

§842.703 Eligibility.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, an employee or Member who retires under any provision of subchapter II of chapter 84 of title 5, United States Code, may elect an alternative form of annuity instead of any other benefits under the subchapter.