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AUTHORITY: 5 U.S.C. 8716; §870.210(b) also issued under sec. 153 of Pub. L. 104–134, 110 Stat. 1321; §870.202(c) also issued under 5 U.S.C. 7701(b)(2); subpart J also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended.

SOURCE: 49 FR 3034, Jan. 25, 1984, unless otherwise noted.

Subpart A—Administration and General Provisions

§870.101 Actions on the policy.

Life and accidental death and dismemberment benefits (''basic insurance'') shall be payable in accordance with a policy or policies purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, under section 8709 of title 5, United States Code. Actions at law or in equity to recover on an insurance policy, in which there is not alleged any breach of any obligation undertaken by the United States, shall be brought against the insurance company.

§870.102 Correction of errors.

(a) The employing office may make corrections of administrative errors as to coverage or changes in coverage at any time.

(b) OPM may order correction of an administrative error upon a showing satisfactory to OPM that it would be against equity and good conscience not to do so.

(c) Retroactive corrections of coverage are subject to the provisions of §870.401(h).

[59 FR 66436, Dec. 27, 1994]

§870.103 Initial decision and reconsideration.

(a) *Who may file.* (1) An employee may request his or her agency to reconsider an employing office's initial decision denying insurance coverage or the opportunity to change coverage.

(2) An annuitant may request his or her retirement system to reconsider its initial decision affecting insurance coverage.

(3) A judge may request his or her agency, or retirement system if applicable, to reconsider an employing office's initial decision that denies an entitlement related to assignments under 5 U.S.C. 8706(e) of this chapter.

(b) *Initial employing office decision.* An employing office's decision is considered an initial decision as used in paragraph (a) of this section when rendered by the employing office in writing and stating the right to an independent level of review (reconsideration) by the appropriate agency or retirement system. However, an initial decision rendered at the highest level of review available within OPM is not subject to reconsideration.

(c) *Reconsideration.* (1) A request for reconsideration must be made in writing, must include the claimant's name, address, date of birth, Social Security number, reason(s) for the request, and, if applicable, retirement claim number.

(2) The reconsideration review must be an independent level of review made at or above the level at which the initial decision was rendered.

(d) *Time limit.* A request for reconsideration of an initial decision must be filed within 30 calendar days from the date of the written decision stating the

right to a reconsideration. The time limit on filing may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit. An agency or retirement system decision in response to a request for reconsideration of an employing office's decision is a final decision as described in paragraph (e) of this section.

(e) *Final decision.* After reconsideration, the agency or retirement system must issue a final decision, which must be in writing and must fully set forth the findings and conclusions.

[59 FR 66436, Dec. 27, 1994]

§ 870.104 Definitions.

Annuitant means a former employee entitled to an annuity under a retirement system established for employees, including the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard.

Assign and *assignment* refer to a judge's irrevocable transfer to another person of all incidents of ownership of FEGLI coverage (except family optional insurance).

Assignee means the person to whom a judge irrevocably transfers ownership of basic life insurance and, if applicable, standard optional life insurance and additional optional life insurance.

Compensation means compensation under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

Compensationer means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty.

Employee means an individual who is an ''employee'' as defined by section 8701 of title 5, United States Code.

Employing office means the office of the agency or retirement system to which jurisdiction and responsibility for life insurance actions have been delegated.

(a) For judges of the following courts, the employing office is the Administrative Office of the United States Courts:

(1) All United States Courts of Appeals;

(2) All United States District Courts;

(3) The Court of International Trade;

(4) The Claims Court; and

(5) The District Courts in Guam, the Northern Mariana Islands, and the Virgin Islands.

(b) For judges of the United States Court of Military Appeals, the employing office is the Washington Headquarters Services.

(c) For judges of the United States Tax Court, the employing office is the United States Tax Court.

(d) For judges of the United States Court of Veterans Appeals, the employing office is the United States Court of Veterans Appeals.

Immediate annuity means (1) an annuity that begins to accrue no later than one month after the date the insurance would otherwise stop and (2) an annuity under §842.204(a)(1) of this chapter for which the commencing date has been postponed under §842.204(c) of this chapter.

Judge means an individual appointed as a Federal justice or judge under Article I or Article III of the Constitution. Administrative law judges, bankruptcy judges, and magistrates are not judges for purposes of assignment of FEGLI coverage.

OPM means the Office of Personnel Management.

OWCP means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers subchapter I of chapter 81 of title 5, United States Code.

Person means an individual, corporation, or a trustee.

Reconsideration means the final level of administrative review of an employing office's initial decision to determine if the employing office correctly applied the law and regulations.

Service means civilian service which is creditable under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, including service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard for an individual who elected to remain subject to a retirement system established for employees described in section 2105(c) of title 5.

Underdeduction means a failure to withhold the required amount of life insurance deductions from an individual's pay, annuity, or compensation. This definition includes both nondeductions (when none of the required amount was withheld) and partial deductions (when only part of the required amount was withheld). Withholdings are not required while an individual is in a nonpay status; therefore, the nonpayment of premiums in this instance does not result in an underdeduction.

[49 FR 3034, Jan. 25, 1984, as amended at 50 FR 8096, Feb. 28, 1985; 51 FR 39362, Oct. 28, 1986; 52 FR 3398, Feb. 4, 1987; 55 FR 994, Jan. 11, 1990; 56 FR 55051, Oct. 24, 1991. Redesignated and amended at 59 FR 66436, Dec. 27, 1994]

Subpart B—Coverage

§ 870.201 Coverage.

(a) Except as provided in § 870.202, each employee shall, at the time and subject to the conditions prescribed in this part, be insured for an amount of basic insurance as specified in §§ 870.301, 870.602, and 870.702.

(b) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) who makes an election under the Technical Corrections to Financial Responsibility and Management Assistance Act (section 153 of Public Law 104–134, 110 Stat. 1321) to be considered a Federal employee for life insurance and other benefit purposes is subject to this part. Subject to the provisions of § 870.203, Basic life insurance is effective the later of either the date the employee enters on duty in a pay status with the Authority or the date the Authority receives the employee's election to be considered a Federal employee for life insurance purposes. Employees of the Authority who are former Federal employees are subject to the provisions of § 870.204 and § 870.601(e).

[49 FR 3034, Jan. 25, 1984, as amended at 61 FR 58459, Nov. 15, 1996]

§ 870.202 Exclusions.

(a) Employees in the following groups are excluded from the application of this part:

(1) An employee serving under an appointment limited to 1 year or less, except: (i) An employee so appointed for full-time employment or part-time employment with a regular tour of duty without break in service or after a separation of 3 days or less, following service in which he/she was insured, (ii) an acting postmaster, (iii) a Presidential appointee appointed to fill an, unexpired term; and (iv) an appointee whose appointment meets the definition of provisional appointment set out in §§ 316.401 and 316.403 of this chapter.

(2) An employee whose employment is of uncertain or purely temporary duration, or who is employed for brief periods at intervals, and an employee who is expected to work less than six months in each year, except for an employee who is employed under an OPM-approved career-related work-study program under Schedule B of at least one year's duration and who is expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

(3) An intermittent employee—a non-full-time employee without a regularly scheduled tour of duty, except when the employee enters into such a status without break in service or after a separation of three days or less, following service in a position in which he/she was insured and to which he/she is expected to return.

(4) An employee whose pay on an annual basis is $12 a year or less.

(5) A beneficiary or patient employee in a government hospital or home.

(6) An employee paid on a contract or fee basis, except an employee who is a citizen of the United States who is appointed by a contract between the employee and the Federal employing authority which requires his/her personal service and is paid on the basis of units of time.

(7) An employee paid on a piecework basis, except one whose work schedule provides for full-time service or part-time service with a regularly scheduled tour of duty.

(8) An individual first employed by the government of the District of Columbia on or after October 1, 1987. However, this exclusion does not apply to