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Subpart G—Computation of Benefits Under the Retroactive Provisions

§ 847.701 Purpose and scope.

This subpart establishes the methodology that OPM will use to determine benefit payable in connection with an election made under subpart D of this part.

§ 847.702 Lump-sum payments and refunds.

(a) Employee contributions with interest which are transferred to the Fund under subpart E of this part are included in any lump-sum credit or unexpended balance payable to the employee or the employee's survivors under subpart T of part 831 of this chapter or under part 843 of this chapter.

(b) Government contributions which are transferred to the Fund under subpart E of this part are not included in any lump-sum credit or unexpended balance and are not payable to the employee or the employee's survivors.

§ 847.703 Reductions in annuity.

The CSRS or FERS basic annuity of an employee or survivor who has elected retirement coverage under subpart D of this part is reduced in the following order—

(a) For age, if applicable, as provided under sections 8339(h) and 8415(f) of title 5, United States Code.

(b) For noncontributory service performed before October 1, 1982, if applicable, as provided under 5 U.S.C.A. 8339(i), note.

(c) For deficiency, as determined under subpart F of this part.

(d) To provide a survivor annuity to a spouse or former spouse, if applicable, as provided under sections 8339(j)(4) and 8419(a) of title 5, United States Code.

(e) Any other reductions which may apply.

§ 847.704 Maximum survivor annuity election.

The amount of the employee's benefit after reduction for any deficiency under § 847.608 is—

(a) For CSRS, the maximum amount that may be designated as the survivor base under section 8339 (j) or (k) to title 5, United States Code;

(b) For FERS, the employee annuity (for survivor benefit purposes) under sections 8416 through 8420 of title 5, United States Code.

§ 847.705 Cost-of-living adjustments.

Cost-of-living adjustments are applied to the rate payable to the retiree or survivor, including the reduction for any deficiency described in § 847.608.

PART 870—BASIC LIFE INSURANCE

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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

employees of St. Elizabeths Hospital who 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.

(b) OPM shall make the final determination regarding applicability of the above classifications to a specific employee or group of employees.

(c) Paragraph (a) of this section does not deny coverage to an employee serving under an interim appointment established under § 772.102 of this chapter.

[49 FR 3034, Jan. 25, 1984, as amended at 52 FR 38220, Oct. 15, 1987; 56 FR 10143, Mar. 11, 1991; 57 FR 3715, Jan. 31, 1992]

§ 870.203 Effective dates of insurance coverage.

(a)(1) Following an appointment or transfer to a position in which an employee is not excluded from coverage, the employee is insured on the day he/she actually enters on duty in pay status, unless he/she files a waiver of basic insurance coverage before the end of his/her first pay period with the employing office, or a previously filed waiver remains uncanceled.

(2) An employee who moves from a position in which he/she is insured to another position in which he/she is not excluded from coverage is insured on the effective date of the change, unless the employee files a waiver of basic insurance coverage with the new employing office before the end of his/her first pay period in the new position.

(b) An employee who returns to pay and duty status after a period of more than 12 months of nonpay status is insured at the time he/she actually enters on duty in pay status, unless the employee files a waiver of basic coverage before the end of the first pay period with the employing office, or had previously filed such a waiver which remains uncanceled.

(c) In the case of an employee serving in cooperation with a non-Federal agency and who is paid in whole or in part from non-Federal funds, insurance may not take effect until the date set by OPM for coverage to begin. This date is to be part of an agreement between OPM and the non-Federal agency providing (1) that the required withholdings and contributions will be made from federally controlled funds and timely deposited into the Employees' Life Insurance Fund, or (2) that the cooperating non-Federal agency will, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and will transmit the total of these amounts to the Federal agency for timely deposit into the Employees' Life Insurance Fund.

(d) An open enrollment election of basic life insurance filed during the period from March 29 through April 30, 1993, is effective on the first day of the first day period beginning on or after May 30, 1993, which immediately follows a pay period during which the employee was in a pay and duty status for at least 32 hours. A part-time employee will need to have been in a pay and duty status for one-half of the regularly-scheduled tour of duty indicated on his or her current Standard Form 50 for newly-elected coverage to become effective. An employee who has no regularly-scheduled tour of duty or who is employed on an intermittent basis will have to have been in a pay and duty status for one-half of the hours customarily worked before newly-elected coverage can become effective. For the purpose of this subsection, employing offices can determine the number of hours customarily worked by averaging the number of hours worked in the calendar year quarter ending March 31, 1993.

(e) An open enrollment election of basic life insurance filed during the period from May 22, 1995, through July 21, 1995, is effective on the 1st day of the first pay period beginning on or after the date the employing office received the enrollment form. There is no requirement to be in a pay and duty status for the enrollment to be effective.

[49 FR 3034, Jan. 25, 1984, as amended at 50 FR 26688, June 28, 1985; 58 FR 11954, Mar. 2, 1993; 60 FR 31372, June 15, 1995]

§ 870.204 Waiver and cancellation of waiver of insurance coverage.

(a) An insured person may cancel his/her basic insurance at any time by filing a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers

his/her retirement system. If still employed, a compensationer files with the employing office, and, if not still employed, with OWCP. The waiver shall be effective and the insurance shall cease at the end of the pay period in which the waiver is properly filed.

(b) An employee who has filed a waiver of basic insurance coverage may cancel the waiver and become insured if:

(1) At least 1 year has elapsed since the effective date of such waiver; and

(2) He/she furnishes satisfactory evidence of insurability.

(c) An employee who has complied with paragraph (b) of this section is insured when he/she actually enters on duty in pay status in a position in which he/she is not excluded from insurance by law or regulation, following the approval of his/her Request for Insurance by the Office of Federal Employees' Group Life Insurance established by the insurance company. The approval is revoked automatically and the employee is not insured unless he/she enters on duty in pay status within 31 days following the date of the approval.

(d) Waivers of basic insurance coverage filed on or before February 28, 1981, are automatically canceled effective on the first day an employee whose waiver is so canceled actually enters on duty in a pay status on or after April 1, 1981. Basic insurance coverage automatically attaches on the date of the cancellation unless the employee files a waiver of basic insurance with the employing office before the end of the pay period during which the cancellation became effective.

(e) Notwithstanding paragraphs (b), (c), and (d) of this section, the waiver of basic insurance coverage of an employee who is or becomes an employee of the United States Postal Service on or after July 20, 1974, in a position in which he/she is not excluded from insurance coverage is automatically canceled and he/she is insured for basic insurance on the first day he/she actually enters on duty in a pay status on or after July 24, 1974.

(f)(1) A previous waiver is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new waiver is filed, basic insurance coverage automatically attaches on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulations.

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983, after a 180-day break in service may elect basic insurance coverage upon application to his or her employing office before March 7, 1984.

(g)(1) An open enrollment period will be held from March 29 through April 30, 1993, during which time employees otherwise eligible for coverage may cancel their existing waivers of coverage by affirmatively electing to be insured on a form designated by OPM.

(2) An employing office may make a determination, within 6 months after the March 29 through April 30, 1993 open enrollment period, that an employee was unable, for cause beyond his or her control, to cancel his or her then existing waiver of coverage by affirmatively electing to be insured during the 1993 open enrollment period. The employee shall be permitted to submit an affirmative election of coverage within 31 days after he or she is advised of that determination. Basic life insurance coverage in that case is retroactive to the first pay period beginning on or after May 30, 1993, which immediately follows a pay period during which the employee was in a pay and duty status for a sufficient length of time, as specified in § 870.203(d), to acquire coverage. Failure on the part of the employee to file an election within the 31 days prescribed in this paragraph shall be deemed a waiver of all coverage.

(h)(1) An Open Season will be held from May 22, 1995, through July 21, 1995, during which time employees otherwise eligible for coverage may cancel their existing waivers of coverage by affirmatively electing to be insured on a form designated by OPM.

(2) An employing office may make a determination, within 6 months after the May 22, 1995, through July 21, 1995, Open Season, that an employee was unable, for cause beyond his/her control, to cancel his/her then existing waiver of coverage by affirmatively electing

to be insured during the 1995 Open Season. The employee will be permitted to submit an affirmative election of coverage within 31 days after he/she is advised of that determination. Basic life insurance coverage in that case is retroactive to the 1st day of the first pay period beginning on or after July 21, 1995.

[49 FR 3034, Jan. 25, 1984, as amended at 50 FR 26688, June 28, 1985; 51 FR 21497, June 13, 1986; 58 FR 11954, Mar. 2, 1993; 60 FR 31372, June 15, 1995]

Subpart C—Amount of Insurance

§ 870.301 Basic insurance amount (BIA).

(a) An employee's basic insurance amount (BIA) is the greater of (1) his/her annual rate of basic pay, rounded to the next higher multiple of $1,000, plus $2,000, or (2) $10,000. However, in no event may the BIA be more than the annual rate of pay for positions at Level II of the Executive Schedule under section 5313 of title 5, U.S.C., rounded to the next higher thousand, plus $2,000. The BIA of an individual who is entitled to continue basic life insurance coverage as an annuitant or compensationer is the BIA in effect at the time the insurance to which he/she is entitled as an employee would stop under § 870.501.

(b) Effective on the first day of the first pay period beginning on or after October 1, 1981, the amount of an employee's basic life insurance coverage is equal to his/her BIA multiplied by the appropriate factor determined on the basis of the age of the insured individual, as follows:

Age	Factor
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0

(c) The post-election BIA of an employee who elected a partial Living Benefit is the BIA as of the date OFEGLI received the completed Living Benefit application reduced by the percentage which the partial lump-sum payment represents of the pre-election BIA multiplied by the age factor as stated in § 870.301(b)(rounded up or down to the nearest multiple of $1,000 or, if midway between multiples, to the next higher multiple of $1,000). The post-election BIA will not change after the effective date of the partial Living Benefit election. For purposes of computing the payment of benefits upon the death of the insured individual who elected a partial Living Benefit, the BIA will be multiplied by the age factor in effect as of the date OFEGLI received the completed Living Benefit application.

[49 FR 3034, Jan. 25, 1984, as amended at 60 FR 31373, June 15, 1995]

§ 870.302 Annual rates of pay.

(a) An insured employee's annual pay is his/her annual rate of basic pay as fixed by law or regulation, except that annual pay for this purpose shall include—

(1) Standby duty premium pay under 5 U.S.C. 5545(c)(1);

(2) For a law enforcement officer as defined in §§ 831.902 or 842.802, administratively uncontrollable overtime pay under 5 U.S.C. 5545(c)(2); and

(3) Availability pay under 5 U.S.C. 5545a.

(b) A pay rate of other than annual salary is converted to an annual rate by multiplying the prescribed rate by the number of pay units in a 52-week work year.

(c) The annual pay for a part-time employee is his/her basic pay applicable to his/her tour of duty in a 52-week work year.

(d) The annual pay for an employee who legally and concurrently serves in more than one position, other than as a part-time flexible schedule employee in the Postal Service, is the sum of the annual basic pay fixed by law or regulation for each position.

[49 FR 3034, Jan. 25, 1984, as amended at 59 FR 66154, Dec. 23, 1994]

Subpart D—Withholdings and Contributions

§ 870.401 Withholdings and contributions.

(a) During each pay period in which an insured employee is in pay status for any part of the period, $0.165 for each $1,000 of the employee's BIA shall be withheld from the biweekly pay of the employee. The amount withheld from the pay of an employee who is paid on other than a biweekly basis is determined at a proportionate rate, adjusted to the nearest one-tenth of one cent.

(b) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the sum obtained by converting the biweekly rate of $0.165 for each $1,000 of the employee's BIA to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(c) The amount withheld from the pay of an insured employee whose BIA changes during a pay period is based on the last BIA in force during the pay period.

(d) For each period in which an employee is insured there shall be contributed from the respective appropriation or fund which is used for the payment of his/her pay (or, in the case of an elected official, from such appropriation or fund as may be available for payment of other pay of the same office or establishment) an amount equal to one-half the amount withheld from the employee's pay.

(e) Notwithstanding the preceding paragraphs of this section, the United States Postal Service contributes the full cost of basic insurance, that is, the sum of the amounts otherwise to be withheld and contributed under paragraphs (a), (b), (c), and (d) of this section, for each period in which an employee of the United States Postal Service is insured.

(f)(1) Except as provided under paragraph (g) of this section, an insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §870.601(c)(2) or §870.701(c)(2) (maximum reduction of 75 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.3575 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.0825 for each $1,000 of the BIA.

(2) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§870.601(c)(3) or 870.701(c)(3) (maximum reduction of 50 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.52 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.12 for each $1,000 of the BIA.

(3) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§870.601(c)(4) or 870.701(c)(4) (no reductions) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $1.69 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.39 for each $1,000 of the BIA.

(g)(1) Basic life insurance withholdings required under paragraph (f)(1) of this section shall not be made for any month after the calendar month in which the individual becomes 65 years of age and shall not apply for an individual who retires or commences compensation payments before January 1, 1990. For purposes of this paragraph, an individual who separates from service after meeting the requirements for an immediate annuity under 5 U.S.C. 8412(g) is deemed to retire on the day before the annuity commences.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the beginning of the annuity or compensation payments, if later.

(h) When an agency withholds less than or none of the proper amount of basic life insurance deductions from an individual's pay, annuity, or compensation, the agency must submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under

section 8708 of title 5, United States Code, to OPM for deposit to the Employee's Life Insurance Fund.

(i) The deposit to OPM as described in paragraph (h) of this section must be made as soon as possible but no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the underdeduction is recovered by the agency. A subsequent agency determination whether to waive collection of an overpayment of pay caused by failure to properly withhold life insurance deductions shall be made in accordance with 5 U.S.C. 5584 as implemented by 4 CFR chapter I, subchapter G, unless the agency involved is excluded from application of 5 U.S.C. 5584, in which case any applicable authority to waive the collection may be used.

(j) *Direct premium payments under 5 U.S.C. chapter 84.* (1) If the annuity received under 5 U.S.C. chapter 84 (Federal Employees' Retirement System), excluding subchapter III of chapter 84 (Thrift Savings Plan), is too low to cover the basic life insurance premium, the retirement system will notify the annuitant of the opportunity to pay the annuitant's share of the premium directly to the retirement system.

(2) The retirement system shall establish a method for accepting direct payment for basic life insurance premiums from annuitants retiring under 5 U.S.C. chapter 84 whose annuities are too low to cover their premiums. The retirement system will provide the annuitant with a premium payment schedule and statement of the requirements for continued enrollment. The annuitant must continue to make direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant must remit to the retirement system his or her share of the premium for basic life insurance for every pay period during which the coverage continues, exclusive of the 31-day temporary extension of coverage for conversion provided in §870.501. Payment must be made after the pay period in which the individual is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system will notify the annuitant by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days after receipt of the notice. The basic insurance coverage of an annuitant who fails to remit payment within the specified time frame will be terminated. An individual whose coverage is terminated because of nonpayment of premium may not re-elect or reinstate coverage, except as provided in paragraph (j)(4).

(4) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his or her control from paying within the time limit. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from OPM.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with subparagraph (j)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular life insurance premiums to OPM in accordance with procedures established by that Office.

[49 FR 3034, Jan. 25, 1984, as amended at 50 FR 26688, June 28, 1985; 51 FR 25849, July 17, 1986; 51 FR 43337, Dec. 2, 1986; 52 FR 3398, Feb. 4, 1987; 52 FR 39494, Oct. 22, 1987, and 53 FR 32368, Aug. 25, 1988; 53 FR 40715, Oct. 18, 1988; 55 FR 994, Jan. 11, 1990; 58 FR 11954, Mar. 2, 1993]

§ 870.402 Withholdings and contributions following a Living Benefits election.

(a) The basic insurance withholding for an insured individual who has elected a total payment of basic insurance for a Living Benefit will cease the end of the pay period in which the election of Living Benefits is effective.

(b) The amount withheld for basic insurance from the pay of an insured employee who has elected a partial Living Benefit will be based on the amount of BIA remaining after the partial Living Benefit election is effective.

(c) The amount withheld for basic insurance from the annuity of an annuitant who elected a partial Living Benefit as an employee will be based on the amount of BIA remaining after the partial Living Benefit election is effective.

(d) The amount withheld for basic insurance from the compensation of a compensationer who elected a partial Living Benefit as an employee will be based on the amount of BIA remaining after the partial Living Benefit election is effective.

[60 FR 31373, June 15, 1995]

Subpart E—Termination and Conversion

§ 870.501 Termination and conversion of insurance coverage.

(a) Except as provided in §§ 870.601 and 870.701, the basic insurance of an insured employee stops on the date of his/her separation from the service, subject to a 31-day extension of basic life insurance coverage, or on the effective date of a full Living Benefits election.

(b) The basic insurance of an employee who separates from service upon meeting the requirements for an immediate annuity under § 842.204(a)(1) of this chapter and who postpones receipt of annuity as provided by § 842.204(c) of this chapter, stops on the date of separation from the service, subject to a 31-day extension of basic life insurance coverage.

(c) The basic insurance of an insured employee who moves without a break in service to a position in which he/she is excluded from basic insurance stops on his/her last day on the roll in the former position, subject to a 31-day extension of basic life insurance coverage.

(d) Except as provided in paragraph (e) of this section and in §§ 870.601 and 870.701, the basic insurance of an insured employee continues without cost to the employee while he/she is in nonpay status for up to 12 months, at which time it stops, subject to a 31-day extension of basic life insurance coverage. The 12 months' nonpay status may be continuous or broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he/she is entitled to begin the 12 months' continuation of basic insurance anew. If after a return to duty he/she is not entitled to any further continuation of basic insurance in nonpay status because he/she has not had 4 consecutive months of pay status since exhausting his/her 12 months' continuation in nonpay status, his/her basic insurance stops the last day of his/her last pay period in pay status. For the purposes of this paragraph, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period. For the purpose of this paragraph, an individual who is entitled to benefits under part 353 of this chapter is considered to be an employee in nonpay status.

(e)(1) After termination of group coverage for any reason other than voluntary cancellation, an employee may, upon application and without medical examination, convert all or any part of his/her basic life insurance to an individual policy. The rates of the individual policy are the rates applicable to the employee's attained age and class of risk. An employee is eligible to convert the policy only if he/she does not return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of group coverage and the right to convert to an individual policy either prior to or immediately following the event causing the loss of coverage.

(3) The employee's request for conversion information must be submitted

to the Office of Federal Employees' Group Life Insurance and postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received notice of loss of the group coverage and right to convert, whichever is later.

(4) When an agency fails to provide the notification described in paragraph (d)(2) of this section, or the employee fails for other reasons beyond his/her control to request conversion as described in paragraph (d)(3) of this section, he/she may request conversion to an individual policy by writing to the Office of Federal Employees' Group Life Insurance. Such a request must be filed within six months after an employee becomes eligible to convert basic life insurance. The employee must show that he/she was not notified of the loss of coverage and the right to convert, and was not otherwise aware of it, or that he/she was unable, for cause beyond his/her control, to convert the basic life insurance. The Office of Federal Employees' Group Life Insurance will determine if the employee is eligible to convert, and when the determination is affirmative, the employee may convert within 31 days of that determination.

(5) When an employee converts his/her basic life insurance coverage anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the group coverage ended. The employee must pay the premiums due for the retroactive period.

(6) An employee who fails to exercise his/her right to convert to an individual policy within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is deemed as having declined coverage unless OFEGLI determines the failure was for cause beyond his/her control as described in paragraph (d)(4) of this section.

(f) The 31-day extension coverage provided under this subpart cannot be extended beyond 31 days, nor is it contingent upon timely issuance of notice of the right of conversion to an individual policy.

[49 FR 3034, Jan. 25, 1984, as amended at 50 FR 7903, Feb. 27, 1985; 52 FR 12134, Apr. 15, 1987; 53 FR 19743, May 31, 1988; 55 FR 994, Jan. 11, 1990; 60 FR 31373, June 15, 1995; 60 FR 45657, Sept. 1, 1995]

Subpart F—Annuitants

§ 870.601 Eligibility for life insurance.

(a) The basic life insurance of an insured individual who is separated from service is continued or reinstated if he/she:

(1) Is entitled to retirement on an immediate annuity under a retirement system for civilian employees, including the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard.

(2) Has been enrolled for basic life insurance for the five years of service immediately preceding the commencing date of annuity payments or for the full period(s) of service during which he/she was entitled to be insured.

(3) Has met all requirements for an immediate annuity (including filing of application where necessary), whether or not final administrative action has been taken; and

(4) Has not exercised his/her right to convert to an individual life insurance policy under §870.501(d). If, after an individual has exercised the conversion right, it is determined that he/she is eligible to continue the group coverage as an annuitant and the group enrollment is reinstated in accordance with this subpart, the conversion policy shall be voided and the premiums already paid on such policy shall be refunded to the insured. If an individual whose basic life insurance coverage terminated as provided by §870.501(b) has exercised the conversion right, and his or her terminated group coverage resumes as provided by §870.604, the conversion policy must be terminated and the premiums paid for coverage under the conversion policy after the date coverage resumed must be refunded to the insured.

(b) An individual who meets the requirements under paragraphs (a) or (g)

of this section for continuation or reinstatement of life insurance shall execute a written election on a form furnished by OPM at the time entitlement to continuation or reinstatement of the insured arises. To be considered valid, the election form must be received in OPM before final adjudication of the individual's application for annuity or supplemental annuity. In the absence of a valid election, OPM shall deem the insured to have filed a valid election under paragraph (c)(2) of this section.

(c) An individual who makes an election under paragraph (b) of this section must select one of the following options, except that those individuals who have elected a partial Living Benefit must select the option under paragraphs (c)(1) or (c)(4) of this section:

(1) Termination of the insurance, in which case the individual's insurance shall stop upon conversion to an individual policy as provided under § 870.501, or, if the individual does not convert to an individual policy, at the end of the month in which OPM receives the election;

(2) Continuation or reinstatement of life insurance coverage with a maximum reduction of 75 percent during retirement, and with premiums withheld from annuity, except as provided under § 870.401(g)(1) of this chapter. The amount of basic life insurance in force shall reduce by two percent a month effective at the beginning of the second month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(3) Continuation or reinstatement of life insurance coverage with a maximum reduction of 50 percent during retirement, and with continuous premiums withheld from annuity. The amount of basic life insurance in force shall reduce by one percent a month effective at the beginning of the second month after the date of insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(4) Continuation or reinstatement of basic life insurance coverage with no reduction after age 65, and with continuous premiums withheld from annuity. An insured individual may cancel an election under paragraphs (c)(3) or (c)(4) of this section at any time, except for those individuals who have elected a partial Living Benefit as an employee. An insured individual who has elected a partial Living Benefit may only cancel an election under paragraph (c)(4) of this section if he/she is electing to terminate the insurance under paragraph (c)(1) of this section.

(d) If the insured's annuity is terminated under any applicable law or regulation, his/her basic life insurance as an annuitant stops on the date of termination of annuity.

(e)(1) If an insured annuitant is appointed to a position in which he/she is not excluded from insurance by law or regulation, the amount of his/her basic life insurance as an annuitant, and any annuity withholdings applicable thereto, are suspended on the day preceding the first day in a pay status under the appointment unless he/she waives all insurance coverage. The benefit payable upon the death of a reemployed annuitant who has basic insurance in force as an employee shall not be less than the benefit which would have been payable had the person not been reemployed.

(2) Except as provided in paragraph (g) of this section, the basic insurance acquired as an employee stops, with no 31-day extension of coverage or right of conversion, on the date reemployment terminates and any suspended basic life insurance, and any annuity withholdings applicable thereto, are reinstated on the day following termination of the reemployment.

(f) Basic life insurance acquired during reemployment may be continued after termination of the reemployment if:

(1) The annuitant qualifies for a supplemental annuity or acquires a new retirement right,

(2) He/she has had basic insurance as an employee for at least five years of service immediately preceding separation from reemployment or for the full period(s) during which such coverage was available to him/her, whichever is less, and

(3) He/she does not convert to nongroup insurance when his/her basic

insurance as an employee would otherwise terminate.

If the basic life insurance acquired during reemployment is so continued, any suspended basic life insurance stops with no 31-day extension of coverage or right to convert.

(g) Judges retiring under 28 U.S.C. 371 (a) and (b), 28 U.S.C. 372(a), and 26 U.S.C. 7447 are considered employees under the Federal Employees' Group Life Insurance law. Insurance for these judges continues without interruption or diminution upon retirement.

[49 FR 3034, Jan. 25, 1984, as amended at 53 FR 19743, May 31, 1988; 53 FR 32368, Aug. 25, 1988; 53 FR 40716, Oct. 18, 1988; 55 FR 995, Jan. 11, 1990; 56 FR 55051, Oct. 24, 1991; 60 FR 31373, June 15, 1995; 60 FR 51883, Oct. 4, 1995]

§ 870.602 Amount of life insurance.

(a) The amount of an annuitant's basic life insurance is his/her BIA at the date insurance would otherwise have stopped because of his/her separation from service or completion of 12 months of nonpay status, less the reductions, if any, applicable under § 870.601(c). For the purpose of the payment of benefits upon the death of an insured annuitant under age 45, effective October 1, 1981, the BIA shall be multiplied by the age factor under § 870.301(b) corresponding to the insured's age on the date of death, provided that his/her basic insurance as an employee terminated on or after October 10, 1980.

(b) The post-election BIA of an annuitant who elected a partial Living Benefit as an employee is the BIA as of the date OFEGLI received the completed Living Benefit application reduced by the percentage which the partial lumpsum payment represents of the preelection BIA multiplied by the age factor as stated in § 870.301(b) (rounded up or down to the nearest multiple of $1,000 or, if midway between multiples, to the next higher multiple of $1,000). For the purpose of computing the payment of benefits upon the death of an insured annuitant who elected a partial Living Benefit as an employee, the BIA will be multiplied by the age factor in effect as of the date OFEGLI received the completed Living Benefit application.

[49 FR 3034, Jan. 25, 1984, as amended at 60 FR 31373, June 15, 1995]

§ 870.603 Reinstatement of life insurance.

(a) An annuitant whose disability annuity was terminated because of restoration to earning capacity or recovery from disability and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may elect to resume basic life insurance held immediately before his or her disability annuity was terminated. The election must be received by OPM within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) The basic life insurance of an annuitant who meets the requirements of paragraph (a) of this section is effective on the first day of the month after the date OPM receives the election form. Any annuity withholdings applicable thereto are also reinstated on the first day of the month after the date OPM receives the election form.

(c) The amount of basic life insurance reinstated under paragraph (a) of this section is the amount that would have been in force had the individual's annuity not been terminated.

[50 FR 42005, Oct. 17, 1985, and 51 FR 15744, Apr. 28, 1986]

§ 870.604 MRA-plus-10 annuitants.

The basic life insurance of an individual whose coverage terminated under § 870.501(b), and who meets the requirements for continuing basic life insurance after retirement as stated in § 870.601(a), resumes on the commencing date of annuity or on the date the application for annuity is received by OPM, whichever is later. The individual must file an election as provided in § 870.601 (b) and (c) to be received by OPM within 60 days after OPM mails a notice of insurance eligibility and election form.

[55 FR 995, Jan. 11, 1990]

Subpart G—Employees' Compensation

§870.701 Eligibility for life insurance.

(a) A compensationer's basic life insurance shall be continued or reinstated if he/she:

(1) Has been insured for the five years of service immediately preceding the date of entitlement to compensation, or for the full period(s) of service during which he/she was entitled to be insured, and

(2) Has not exercised the right to convert as described in §870.501(d). If, after an individual has exercised the conversion right, it is determined that he/she is eligible to continue the group coverage as a compensationer and the group enrollment is reinstated in accordance with this subpart, the conversion policy shall be voided and the premiums already paid on such policy shall be refunded to the insured.

(b) A compensationer who meets the requirements under paragraph (a) of this section for continuation or reinstatement of life insurance shall execute a written election on a form furnished by OPM at the time entitlement to continuation or reinstatement of the insurance arises. To be considered valid, the election form must be received in OPM before OPM has finally approved an individual's request to continue life insurance as a compensationer. In the absence of a valid election, OPM shall deem the insured to have filed a valid election under paragraph (c)(2) of this section.

(c) An individual who makes an election under paragraph (b) of this section must select one of the following options, except that those individuals who have elected a partial Living Benefit must select the option under paragraphs (c)(1) or (c)(4) of this section:

(1) Termination of the insurance, in which case the individual's insurance shall stop upon conversion to an individual policy as provided under §870.501, or, if the individual does not convert to an individual policy, at the end of the month in which OPM or the employing office receives the election;

(2) Continuation or reinstatement of life insurance coverage with a maximum reduction of 75 percent after age 65 and with premiums withheld from compensation, except as provided under §870.401(g)(1) of this chapter. The amount of basic life insurance in force shall reduce by two percent a month effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(3) Continuation or reinstatement of basic life insurance coverage with a maximum reduction of 50 percent after age 65, and with continuous premiums withheld from compensation. The amount of basic life insurance in force shall reduce by one percent a month, effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(4) Continuation or reinstatement of basic life insurance coverage with no reduction after age 65, and with continuous premiums withheld from compensation. An insured individual may cancel an election under paragraphs (c)(3) or (c)(4) of this section at any time, except for those individuals who have elected a partial Living Benefit as an employee. An insured individual who has elected a partial Living Benefit may only cancel an election under paragraph (c)(4) of this section if he/she is electing to terminate the insurance under paragraph (c)(1) of this section.

(d) Basic life insurance which is continued as provided under this section during receipt of compensation shall stop with no 31-day extension of coverage and no right of conversion, upon termination of compensation under subchapter I of chapter 81 of title 5, United States Code, or upon a finding by the Department of Labor that the insured is able to return to duty.

(e) Judges retiring under 28 U.S.C. 371 (a) and (b), 28 U.S.C. 372(a), and 26 U.S.C. 7447 are considered employees under the Federal Employees' Group Life Insurance law. Insurance for these judges continues without interruption or diminution upon retirement. The amount of basic insurance for a judge who elects to receive compensation in

lieu of annuity is computed in accordance with § 870.702 of this part.

[49 FR 3034, Jan. 25, 1984, as amended at 53 FR 19743, May 31, 1988; 60 FR 31373, June 15, 1995; 60 FR 51883, Oct. 4, 1995]

§ 870.702 Amount of life insurance.

(a) The amount of basic life insurance of a compensationer whose insurance is continued while he/she is receiving compensation is his/her BIA at the date insurance would otherwise have stopped because of his/her separation from service or completion of 12 months of nonpay status, less the reductions, if any, applicable under § 870.701(c). For the purpose of the payment of benefits upon the death of an insured individual under age 45, effective October 1, 1981, the BIA shall be mulitplied by the age factor under § 870.301(b) corresponding to the insured's age on the date of death, provided that his/her basic insurance as an employee terminated on or after October 10, 1980.

(b) The post-election BIA of a compensationer who elected a partial Living Benefit as an employee is the BIA as of the date OFEGLI received the completed Living Benefit application reduced by the percentage which the partial lump-sum payment represents of the pre-election BIA multiplied by the age factor as stated in § 870.301(b) (rounded up or down to the nearest multiple of $1,000 or, if midway between multiples, to the next higher multiple of $1,000). For the purpose of computing the payment of benefits upon the death of an insured compensationer who elected a partial Living Benefit as an employee, the BIA will be multiplied by the age factor in effect as of the date OFEGLI received the completed Living Benefit application.

[49 FR 3034, Jan. 25, 1984, as amended at 60 FR 31373, June 15, 1995]

Subpart H—Assignments of Life Insurance

§ 870.801 Assignments.

(a) An insured individual may irrevocably assign ownership of his or her life insurance coverage to one or more individuals, corporations, or trustees. Part 874 of this chapter describes how an insured individual may assign all incidents of ownership (except family optional insurance and accidental dismemberment insurance) to another person, corporation, or trustee. Part 874 also describes the effects of such assignment, procedures for making an assignment, and related matters.

(b) If an individual has assigned his/her insurance, he/she may not elect a Living Benefit and if an individual has elected a Living Benefit, he/she may not assign his/her insurance.

[51 FR 39363, Oct. 28, 1986, as amended at 60 FR 31374, June 15, 1995; 60 FR 51883, Oct. 4, 1995]

Subpart I—Order of Precedence and Designation of Beneficiary

§ 870.901 Order of precedence.

(a) *Definitions.* For the purposes of this part, the following terms are defined as follows:

(1) *Child* means a legitimate child, an adopted child, or a recognized natural child but does not include a stillborn child, a stepchild, or a foster child. An individual who has attained age 18 is considered to be an adult. However, if the age of majority in the jurisdiction in which that individual is domiciled is set at a lower age, he or she is considered to be an adult upon attaining the age designated in that jurisdiction. An adopted child does not inherit under the order of precedence specified in 5 U.S.C. 8705, other than as a designated beneficiary, from his/her natural parents but inherits from and through his or her adoptive parents. However, a child who is adopted by the spouse of his or her natural parent does inherit from that natural parent.

(2)(i) A *recognized natural child,* with respect to paternity, is one for whom the father meets one of the following:

(A) Has acknowledged paternity in writing;

(B) Has been judicially ordered to provide support;

(C) Has, before his death, been judicially decreed to be the father;

(D) Has been established as the father by a certified copy of the public record of birth or church record of baptism if the insured was the informant and so

named himself as the father of the child; or

(E) Has established paternity on public records, such as school or social welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(ii) Secondary evidence to support the alleged paternity, such as evidence of eligibility as a recognized natural child under other State or Federal programs or proof of inclusion of the child as a recognized natural child on the insured's income tax returns, may also be considered in the determination process.

(3) *Parent* means the mother or father of a legitimate child or an adopted child. The term *parent* includes the mother of a recognized natural child and the father of a recognized natural child but only if the recognized natural child meets the definition provided in paragraph (a)(2) of this section. An individual can not inherit from a child who has been adopted by someone else. However, an individual whose spouse adopted his or her child can inherit from that child.

(4) *Duly appointed representative of the insured's estate* means an individual named in an order of a court having jurisdiction over the estate of the insured which grants the individual the authority to receive, or the right to possess, the property of the insured; and also means, where the law of the domicile of the insured has provided for the administration of estates through alternative procedures which dispense with the need for a court order, an individual who demonstrates that he or she is entitled to receive, or possess, the property of the insured under the terms of those alternative procedures.

(b) If an insured provided in a valid designation of beneficiary that the proceeds of the insurance shall be payable to the insured's estate, or to the Executor, Administrator, or other representative of the insured's estate, or if the proceeds would otherwise be properly payable to the duly appointed representative of the insured's estate under the order of precedence specified in 5 U.S.C. 8705(a), payment of the proceeds to the duly appointed representative of the insured's estate will bar recovery by any other person.

[52 FR 46343, Dec. 7, 1987, as amended at 57 FR 29784, July 7, 1992]

§ 870.902 Designation of beneficiary.

(a) A designation of beneficiary shall be in writing, signed, and witnessed by two people, and received in the employing office (or in OPM, in the case of: (1) An annuitant or (2) a compensationer whose basic life insurance is continued) before the death of the insured.

(b) A change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by this part, shall not have any force or effect.

(c) A witness to a designation of beneficiary is ineligible to receive payment as a beneficiary.

(d) Any person, firm, corporation, or legal entity (except an agency of the Federal or District of Columbia governments) may be named as beneficiary.

(e) A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary. This right cannot be waived or restricted.

(f) A designation of beneficiary is automatically canceled 31 days after the employee stops being insured.

(g) If an insured person provides in a valid designation of beneficiary that a designated beneficiary shall be entitled to the proceeds of the insurance only if the beneficiary survives him/her for a period of time (not more than 30 days) as specified by the designator, no right to the insurance shall vest as to such beneficiary during that period. In the event such beneficiary does not survive the specified period, payment of the proceeds of the insurance will be made as if the beneficiary had predeceased the insured.

[49 FR 3034, Jan. 25, 1984, as amended at 51 FR 36796, Oct. 16, 1986. Redesignated and amended at 52 FR 46343, 46344, Dec. 7, 1987]

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

SOURCE: 55 FR 50536, Dec. 7, 1990, unless otherwise noted.

§ 870.1001 Purpose.

This subpart sets forth the circumstances under which individuals are covered under this part in accordance with the provisions of section 599C of Public Law 101–513.

§ 870.1002 Definitions.

In this subpart—

Hostage and *hostage status* have the meaning set forth in section 599C of Public Law 101–513.

Pay period for individuals covered under this subpart means the pay period established by the U.S. Department of State for paying individuals covered under Public Law 101–513.

Period of eligibility means the period beginning on the effective date set forth in §870.1004 and ending 60 months after hostage status ended for hostages in Lebanon and 12 months after hostage status ended for hostages in Iraq and Kuwait.

[55 FR 50536, Dec. 7, 1990, as amended at 57 FR 43132, Sept. 18, 1992]

§ 870.1003 Coverage and amount of insurance.

(a) An individual is covered under this subpart when the U.S. Department of State determines that the individual is eligible for coverage under section 599C of Public Law 101–513.

(b) Subject to the applicable conditions prescribed in this part, an individual who is covered under this subpart is insured for the amount of basic life insurance specified in §870.301 of this part.

(c) The basic insurance amount under §870.301 is deemed to be the amount of the payment specified in section 599C(b)(2) of Public Law 101–513, rounded to the next higher multiple of $1,000, plus $2,000.

(d) An individual who is insured under paragraph (b) of this section is also insured for group accidental death and dismemberment insurance in accordance with 5 U.S.C. 8704(b).

(e) An individual covered by this subpart is not considered an employee for the purpose of this part.

(f) Eligibility for coverage under this subpart shall be subject to the availability of unds under section 599C(e) of Public Law 101–513.

§ 870.1004 Effective date of coverage.

Unless the U.S. Department of State determines that a later date is appropriate, coverage under this subpart was effective on August 2, 1990, for hostages in Iraq and Kuwait and on the later of the date hostage status began or June 1, 1982, for hostages in Lebanon.

[57 FR 43132, Sept. 18, 1992]

§ 870.1005 Cancellation of coverage.

(a) An individual who is covered under this subpart may cancel his or her coverage at any time by written request. The cancellation is effective on the 1st day of the pay period after the pay period in which it is received by the U.S. Department of State.

(b) An individual who cancels his or her coverage under this section cannot reacquire coverage unless the U.S. Department of State determines that it would be against equity and good conscience not to allow the individual to be covered.

(c) A cancellation of coverage must be made by the covered individual and cannot be made by a representative acting on the individual's behalf.

§ 870.1006 Termination of coverage.

(a) Coverage of an individual under §870.1003(a) terminates 60 months after hostage status ended for hostages in Lebanon and 12 months after hostage status ended for hostages in Iraq and Kuwait, unless the individual cancels the coverage earlier.

(b) Covered individuals whose coverage terminates are eligible for temporary extension of coverage and conversion as set forth in subpart E of this part unless coverage is terminated by cancellation.

[55 FR 50536, Dec. 7, 1990, as amended at 57 FR 43132, Sept. 18, 1992]

§870.1007 Premiums.

(a) Government contributions and employee withholdings (premiums) required under subpart D of this part are paid from the appropriation provided under section 599C(e) of Public Law 101–513.

(b) If the individual is not covered under this subpart for the full pay period, premiums are paid only for the days he or she is actually covered. The daily premium rate is an amount equal to the monthly premium rate multiplied by 12 and divided by 365.

(c) The payments required by this section may be accepted by OPM in advance from a State Department appropriation if necessary to fund the 12-month period of coverage beginning the earlier of:

(1) The day after sanctions or hostilities end; or

(2) The day after the individual's hostage status ends.

(d) OPM will place any funds received under paragraph (c) of this section in an account established for that purpose. OPM will make the disbursement required under 5 U.S.C. 8714 from the account when the appropriate pay period occurs.

§870.1008 Order of precedence and designation of beneficiary.

Payment of insurance benefits is made under the order of precedence set forth in 5 U.S.C. 8705 and under the provisions of subpart I of this part.

§870.1009 Responsibilities of the U.S. Department of State.

(a) The U.S. Department of State functions as the ''employing office'' for individuals covered under this subpart.

(b) The U.S. Department of State must determine the eligibility of individuals who qualify under Public Law 101–513 for coverage under this part. This determination includes the determination as to whether the individual is barred from coverage under chapter 87 of title 5 U.S. Code by reason of other life insurance coverage as provided in section 599C of Public Law 101–513.

§870.1010 Reconsideration and appeal rights.

(a) Under procedures set forth by the U.S. Department of State, an individual may request the U.S. Department of State to reconsider an initial decision it has made denying coverage under this subpart.

(b) Neither the initial decision nor the reconsideration decision of the U.S. Department of State is subject to reconsideration by OPM.

Subpart K—FEGLI Living Benefits

SOURCE: 60 FR 31374, June 15, 1995, unless otherwise noted.

§870.1101 Purpose.

This subpart sets forth the circumstances under which employees may enroll in basic insurance during the 1995 Open Season and terminally ill individuals enrolled in basic insurance may elect to receive a payment of their basic insurance as a Living Benefit on or after July 25, 1995.

§870.1102 Definitions.

In this subpart—

Effective date of Living Benefits election means the date on which the Living Benefits payment is cashed or deposited.

Terminally ill means the individual has a medical prognosis of a life expectancy of 9 months or less.

§870.1103 Open season.

(a) An Open Season will be held from May 22, 1995, through July 21, 1995, during which time an employee who has waived or cancelled basic insurance and is not excluded from eligibility by law or under §870.202 of subpart B, may enroll in basic insurance only. Optional insurance may not be elected or increased during this Open Season. Employees who have been on Leave Without Pay for 12 or more months, compensationers who have been on Leave Without Pay for 12 or more months, and annuitants, may not participate in this Open Season.

(b) The effective date of basic insurance elected during this Open Season is

the 1st day of the first pay period beginning on or after the date the employing office received the enrollment form. There is no requirement to be in a pay and duty status for the enrollments elected during this Open Season to become effective.

§ 870.1104 Living benefits.

(a) An individual who is covered by basic insurance and who is certified as terminally ill, as defined in § 870.1102, may elect to receive a lump-sum payment of basic insurance on or after July 25, 1995. Only the insured individual may make a Living Benefits election.

(b)(1) An employee may elect to receive the basic insurance in total or in part, in a multiple of $1,000.

(2) A compensationer or an annuitant may only elect to receive a lump-sum payment of the total amount of basic insurance.

(c) If the employee elects to receive a partial payment of basic insurance, the remaining BIA, the post-election BIA, will be reduced in proportion to the amount of basic insurance elected as a Living Benefit, as prescribed by Pub. L. 103–409. The post-election BIA will not change after the effective date of the partial Living Benefit election. Only the basic benefits remaining will be payable at death.

(d)(1) If the employee receives the total amount of basic insurance as a Living Benefit, accidental death and dismemberment coverage will terminate as of the effective date of election.

(2) If the employee receives a partial payment of basic insurance as a Living Benefit, accidental death and dismemberment coverage will be reduced to equal the post-election BIA.

(e) Once an election of Living Benefits has become effective, the election may not be revoked and no further election of Living Benefits may be made.

(f) If an individual has assigned his/her insurance, he/she may not elect a Living Benefit and if an individual has elected a Living Benefit, he/she may not assign his/her insurance.

§ 870.1105 Actuarial reduction.

The amount of basic insurance elected as a Living Benefit will be reduced in order to produce a basic insurance benefit that is actuarially equivalent, to the extent practicable, to the basic insurance benefit of those who do not elect to receive a Living Benefit. The actuarial reduction will be based on assumptions of the amount of interest lost to the Fund because of the early payment and the time difference between when the Living Benefit payment is made and when the death benefits would have been paid in the absence of a Living Benefits election.

§ 870.1106 Withholdings and contributions for basic insurance.

(a) Withholdings and contributions for basic insurance for those individuals who receive a lump-sum payment of their total basic insurance as a Living Benefit will terminate at the end of the pay period in which the Living Benefit election is effective.

(b) Withholdings and contributions for basic insurance for those employees who receive a lump-sum payment of a partial amount of their basic insurance as a Living Benefit will be reduced in proportion to the amount of benefit elected and will be based on the post-election BIA in effect at the end of the pay period in which the Living Benefit election is effective.

§ 870.1107 Application procedures.

(a) The insured individual must request information on Living Benefits and an application form directly from OFEGLI.

(b) The insured individual must complete the first part of the application (General Information) and have his/her physician complete the second part of the application (Physician's Statement). The insured then submits the completed application directly to OFEGLI.

(c)(1) OFEGLI will review the application and the certification by the physician of the nature of the illness and that the insured is terminally ill, with a life expectancy of 9 months or less.

(2) If additional information is needed, OFEGLI will contact the insured or the insured's physician.

(3) Under certain circumstances, OFEGLI may require a medical examination prior to making an approval decision. In these cases, OFEGLI will

be financially responsible for the cost of the medical examination.

(d)(1) If the application is approved, OFEGLI will send the insured a check for the Living Benefit payment and an explanation of benefits. In addition, once the payment has been cashed or deposited, OFEGLI will send explanations of benefits to the insured's employing office and payroll office so that they will change basic insurance withholdings and contributions in accordance with § 870.1106.

(2) If the application is not approved, OFEGLI will notify the insured individual and the employing office. The decision will not be subject to administrative review. However, the insured individual may reapply at a later date if future circumstances warrant.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

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AUTHORITY: 5 U.S.C. 8716; § 871.201(b) also issued under sec. 153 of Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 49 FR 3039, Jan. 25, 1984, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 871.101 Actions on the policy.

Optional life and accidental death and dismemberment benefits (referred to in this part as ''standard optional insurance'') shall be payable in accordance with an amendment to the policy purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, pursuant to section 8709 of title 5, United States Code, to provide group insurance coverage (referred to in this part as ''basic insurance''). Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligations undertaken by the United States, shall be brought against the insurance company.

§ 871.102 Payment of benefits; designations of beneficiary.

Standard optional insurance in force on a person at the date of his/her death shall be paid, on receipt of a valid claim, in the same order of precedence and under the same conditions as are applicable to basic insurance. A designation of beneficiary for basic insurance is also a designation of beneficiary for standard optional insurance unless the insured person specifies otherwise in his/her designation.

§ 871.103 Correction of errors; initial decision and reconsideration.

The rules and procedures under §§ 870.102 and 870.103 are applicable in this part, subject to the provisions of § 871.401(g).

[59 FR 66437, Dec. 27, 1994]