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under title II of the Social Security Act subsequently becomes entitled to old-age benefits under the Social Security Act, a reduction under §831.1005 will begin on the 1st day of the month during which the annuitant becomes entitled, or on proper application would be entitled, to Social Security old-age insurance benefits.

Subpart K—Prohibition on Payments of Annuities

§831.1101 Scope.

This subpart prescribes the procedures to be followed in determining whether payment of an annuity under subchapter III of chapter 83 of title 5, United States Code, is prohibited by subchapter II of that chapter.

§831.1102 Definitions.

As used in this subpart, ''annuitant'' means an individual who, on the basis of his service, or as a survivor annuitant, has met all the requirements of subchapter III of chapter 83 of title 5, United States Code, for title to an annuity and has filed claim therefor.

§831.1104 Notice.

When the Associate Director determines that subchapter II of chapter 83 of title 5, United States Code, appears to prohibit payment of annuity, he shall notify the annuitant in writing of his intention to withhold payment of the annuity. The notice shall set forth the reasons for this determination. The notice may be served by registered or certified mail and shall inform the annuitant that he is entitled to submit an answer and request a hearing.

[34 FR 17618, Oct. 31, 1969]

§831.1105 Answer; request for hearing.

(a) The annuitant has 30 calendar days from the day he receives the notice within which to submit an answer and to request a hearing. The Associate Director may extend this time limit for good cause shown. If the annuitant answers, he shall specifically admit, deny, or explain each fact alleged in the notice, unless he states that he is without knowledge. If a hearing is desired, the annuitant must file a specific request therefor with or as a part of his answer.

(b) An annuitant who fails to answer or to request a hearing within the time permitted under paragraph (a) of this section is considered to have waived his right to answer or to a hearing. If an annuitant neither answers nor requests a hearing within the time permitted, or answers but fails to request a hearing, the Associate Director shall decide the case on the basis of the administrative record, including the notice and any documents, affidavits, or other relevant evidence. The decision of the Associate Director shall (1) be served on the annuitant or his counsel by certified or registered mail; (2) include a statement of findings and conclusions with the reasons therefor; and (3) become the final decision of OPM unless the case is appealed or reviewed pursuant to §831.1111.

[34 FR 17618, Oct. 31, 1969]

§831.1106 Hearing.

(a) OPM's hearing examiner shall preside at any hearing held pursuant to this subpart, unless OPM designates another presiding officer. The presiding officer shall fix the time and place of the hearing after giving due consideration to the convenience of the annuitant. The hearing is open to the public unless otherwise ordered by OPM or the presiding officer.

(b) The hearing shall be recorded by an official reporter designated by OPM. OPM shall furnish to the annuitant, without charge, a copy of the transcript of the hearing.

§831.1107 Powers of presiding officers.

The presiding officer may:

(a) Administer oaths and affirmations;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Fix the time and place of hearing;

(d) Regulate the course of the hearing;

(e) Exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing;

(f) Hold conferences for simplification of the issues, or for any other purpose;

(g) Dispose of procedural requests or similar matters;