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than the beginning of the first pay period immediately following the date the reemployed annuitant files the election with the employing agency. When the annuitant elects to have deductions made, he or she may not change the election during continuous service with that agency.

(3) The amount of basic pay prior to offset of annuity under § 837.303 of this part is used in computing the amount of deductions. The rate of retirement deductions is that which attaches to the position under the provisions of sections 8334(a), 8334(k), or 8422(a) of title 5, United States Code, as is applicable.

§ 837.302 Agency contributions.

(a) *FERS annuitants.* An agency that reemploys a FERS annuitant subject to retirement deductions under § 837.301(b)(1) of this part shall make contributions, as specified in 5 U.S.C. 8423, to the Fund, based on the reemployed annuitant's pay prior to offset of annuity under the provisions of § 837.303 of this part.

(b) *CSRS annuitants.* An agency that reemploys a CSRS annuitant is required to make an agency contribution when—

(1) The annuity is suspended or terminated under the provisions of subpart B of this part; and

(2) The appointment is subject to CSRS deductions under the provisions of subpart B of part 831 of this chapter.

§ 837.303 Annuity offset.

(a) *Applicability.* When the right to receive annuity continues during reemployment (even though actual receipt of annuity may have been waived under 5 U.S.C. 8345(d) or 8465(a)), the pay of the reemployed annuitant shall be offset by the amount of annuity allocable to the period of reemployment, except that—

(1) No amount shall be offset from pay in accordance with this section for a period for which the annuitant has elected to receive FEC benefits in lieu of annuity; and

(2) No amount shall be offset from a lump-sum payment of annual leave, made on or after termination of the reemployment period.

(b) *Payment.* The employing agency shall pay to the Fund the full amount required to be offset from a reemployed annuitant's salary under this section in accordance with instructions issued by OPM. Payment in full to the Fund is not contingent on actual offset from the reemployed annuitant's salary.

(c) *Computation.* To compute the amount of the annuity offset for any particular pay period, divide the amount of annuity for the calendar days included in the pay period by the number of hours that would constitute a full-time tour of duty for that pay period, then multiply the result by the number of hours actually paid for the pay period, not to exceed the number of hours that constitutes a full-time tour of duty.

§ 837.304 Agency liability for payments.

(a) The agency will remit funds properly withheld from the pay of a reemployed annuitant in accordance with this subpart to OPM in the manner prescribed for the transmission of withholdings and contributions as soon as possible, but not later than provided by standards established by OPM in the Federal Personnel Manual.

(b) When the employing agency fails to withhold from the pay of the reemployed annuitant some or all of the amounts required to be withheld from that pay by this subpart, the employee has received an overpayment of pay. The employing agency must collect the overpayment of pay (unless it is waived under 5 U.S.C. 5584 or some other applicable statute) and remit the proper funds to OPM in the manner prescribed for the transmission of withholdings and contributions as soon as possible, but not later than provided by standards established by OPM in the Federal Personnel Manual.

(c) If the employing agency waives the annuitant's repayment of the salary overpayment, it must submit—on behalf of the reemployed annuitant—an amount equal to the correct deduction from pay (or the balance due in the case of a partial deduction) to OPM in the manner prescribed for the transmission of withholdings and contributions as soon as possible, but not later than provided by standards established

by OPM in the Federal Personnel Manual.

§ 837.305 Lump-sum credit not reduced.

When annuity continues during the period of reemployment, and the reemployment is subject to annuity offset under the provisions of § 837.303 of this subpart, or any similar provision of law or regulation, the amount of an annuitant's lump-sum credit to the Fund shall not be reduced by the amount of annuity allocable to the period of reemployment.

§ 837.306 Refund of lump-sum credit.

An annuitant serving as a justice or judge of the United States, as defined by section 451 of title 28, United States Code, may apply for and receive payment of the annuitant's lumpsum credit, less the amount of annuity or other benefits previously paid on that account. Receipt of a refund under this section will irrevocably terminate the right to annuity, and the annuitant status, of the recipient, based on any prior separations from employment covered by CSRS or FERS.

Subpart D—Reemployment of Disability Annuitants

§ 837.401 Generally.

A disability annuitant may be reemployed in any position for which he or she is qualified.

§ 837.402 Special notice.

(a) *To annuitant.* In addition to the advice described in paragraph 837.103(b) of this part, the agency should generally also advise a disability annuitant, in writing, prior to reemployment, that—

(1) Reemployment on a permanent basis in a position equivalent in grade and pay to the position from which the annuitant retired may constitute the basis for an OPM finding of recovery from disability;

(2) Reemployment subject to medical and physical qualification standards equivalent to those of the position from which the annuitant retired may constitute the basis for an OPM finding of recovery from disability;

(3) The pay of the position in which the annuitant is reemployed, prior to the offset of annuity, or the pay of an interim appointment under § 772.102 of this chapter, as may be applicable, will be included as earnings in determining whether the disability annuity will be terminated due to restoration to earning capacity;

(4) Receipt of, or continued entitlement to receive, full or partial FEC benefits during reemployment, when those benefits are based on the same injury or medical condition that is the basis for OPM's award of disability retirement, is conclusive evidence (unless there is contravening medical evidence) that the annuitant has not recovered from the disability; and

(5) A disability annuitant age 60 or over cannot be found by OPM to be restored to earning capacity, and can only be found recovered at the annuitant's request.

(b) *To OPM.* On reemployment of a disability annuitant, the employing agency shall, in addition to the notice required by § 837.103(a) of this part, notify OPM in writing of—

(1) The physical and medical requirements of the position (providing a copy of the employee's position description);

(2) The position's grade level and/or rate of pay;

(3) Whether the employment is full-time, part-time, or intermittent;

(4) Whether, to the best of the agency's knowledge, the reemployed annuitant is receiving, or entitled to receive, FEC benefits; and

(5) Whether any medical evidence was used in making the employment decision, and if so, provide OPM with a copy of the medical information.

§ 837.403 Termination of annuity during reemployment.

(a) *Agency action.* When a reemployed disability annuitant is found recovered from disability or restored to earning capacity by OPM, OPM shall terminate the annuity as of the date of the finding, and the employing agency shall cease reducing pay by the amount of annuity allocable to the period of reemployment effective that same date.