AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

PAYMENT PROCEDURES

838.731 Commencing date of payments.
838.732 Termination of entitlement.
838.733 Rights of current and other former spouses after termination of a former spouse's entitlement.
838.734 Payment of lump-sum awards by survivor annuity.
838.735 Cost-of-living adjustments.

Subpart H—Requirements for Court Orders Awarding Former Spouse Survivor Annuities

838.801 Purpose and scope.
838.802 CSRS limitations.
838.803 Language not acceptable for processing.
838.804 Court orders must expressly award a former spouse survivor annuity or expressly direct an employee or retiree to elect to provide a former spouse survivor annuity.
838.805 OPM computation of formulas in computing the designated base.
838.806 Amended court orders.
838.807 Cost must be paid by annuity reduction.

Subpart I—Terminology Used in Court Orders Awarding Former Spouse Survivor Annuities

REGULATORY STRUCTURE

838.901 Purpose and scope.

IDENTIFICATION OF BENEFITS

838.911 Identifying the retirement system.
838.912 Specifying an award of a former spouse survivor annuity.

COMPUTATION OF BENEFIT

838.921 Determining the amount of a former spouse survivor annuity.
838.922 Prorata share defined.
838.923 Cost-of-living adjustment before the death of a retiree.

MISCELLANEOUS PROVISIONS

838.931 Court orders that provide temporary awards of former spouse survivor annuities.
838.932 Court orders that permit the former spouse to elect to receive a former spouse survivor annuity.
838.933 Payment of the cost of a former spouse survivor annuity.

MODEL PARAGRAPHS

APPENDIX A TO SUBPART I OF PART 838—RECOMMENDED LANGUAGE FOR COURT ORDERS AWARDING FORMER SPOUSE SURVIVOR ANNUITIES

Subpart J—Court Orders Affecting Civil Service Retirement Benefits

838.1001 [Reserved]
838.1002 Relation to other regulations.
838.1003 Definitions.
838.1004 Qualifying court orders.
838.1005 Applications by former spouse.
838.1006 Amounts payable.
838.1007 Preliminary review.
838.1008 Notifications.
838.1009 Decisions.
838.1010 Court orders or decrees preventing payment of lump sums.
838.1011 Effective dates.
838.1012 Death of the former spouse.
838.1013 Limitations.
838.1014 Guidelines on interpreting court orders.
838.1015 Liability.
838.1016 Receipt of multiple court orders.
838.1017 Cost–of–living adjustments.
838.1018 Settlements.

APPENDIX A TO SUBPART J OF PART 838—GUIDELINES FOR INTERPRETING STATE COURT ORDERS DIVIDING CIVIL SERVICE RETIREMENT BENEFITS

APPENDIX B TO SUBPART J OF PART 838—GUIDELINES FOR INTERPRETING STATE COURT ORDERS AWARDING SURVIVOR ANNUITY BENEFITS TO FORMER SPOUSES

Subpart K—Court Orders Under the Child Abuse Accountability Act

REGULATORY STRUCTURE

838.1101 Purpose and scope.

AVAILABILITY OF FUNDS

838.1111 Amounts subject to child abuse judgment enforcement orders.

APPLICATION, PROCESSING, AND PAYMENT PROCEDURES AND DOCUMENTATION REQUIREMENTS

838.1121 Procedures and requirements.

AUTHORITY: 5 U.S.C. 8347(a) and 8461(g). Subparts B, C, D, E, J, and K also issued under 5 U.S.C. 8345(j)(2) and 8467(b). Sections 838.221, 838.422, and 838.721 also issued under 5 U.S.C. 8347(b).

SOURCE: 57 FR 33574, July 29, 1992, unless otherwise noted.

Subpart A—Court Orders Generally

ORGANIZATION AND STRUCTURE OF REGULATIONS ON COURT ORDERS

§ 838.101 Purpose and scope.

(a)(1) This part regulates the Office of Personnel Management's handling of

court orders affecting the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), both of which are administered by the Office of Personnel Management (OPM). Generally, OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees, Members, or retirees that award a portion of the former employee's or Member's retirement benefits or a survivor annuity to a former spouse.

(2) In executing court orders under this part, OPM must honor the clear instructions of the court. Instructions must be specific and unambiguous. OPM will not supply missing provisions, interpret ambiguous language, or clarify the court's intent by researching individual State laws. In carrying out the court's instructions, OPM performs purely ministerial actions in accordance with these regulations. Disagreement between the parties concerning the validity or the provisions of any court order must be resolved by the court.

(b) This part prescribes—

(1) The requirements that a court order must meet to be acceptable for processing under this part;

(2) The procedures that a former spouse or child abuse creditor must follow when applying for benefits based on a court order under sections 8341(h), 8345(j), 8445 or 8467 of title 5, United States Code;

(3) The procedures that OPM will follow in honoring court orders and in making payments to the former spouse or child abuse creditor; and

(4) The effect of certain words and phrases commonly used in court orders affecting retirement benefits.

(c)(1) Subparts A through I of this part apply only to court orders received by OPM on or after January 1, 1993.

(2) Subpart J of this part applies only to court orders received by OPM before January 1, 1993.

(3) Subpart K of this part applies only to court orders received by OPM on or after October 14, 1994.

(d) This part has no application to the Thrift Savings Plan described in subchapter III of chapter 84 of title 5, United States Code.

[57 FR 33574, July 29, 1992, as amended at 59 FR 66637, 66638, Dec. 28, 1994]

§ 838.102 Regulatory structure.

(a) This part is organized as follows:

(1) Subpart A contains information and rules of general application to all court orders directed at CSRS or FERS retirement benefits.

(2) Subparts B and C of this part contain information about court orders directed at ongoing employee annuity payments.

(3) Subparts D and E of this part contain information about court orders directed at refunds of employee contributions.

(4) Subpart F of this part contains information about the effect of words and phrases commonly used in court orders affecting ongoing employee annuity payments and refunds of employee contributions.

(5) Subparts G, H, and I of this part contain information about court orders awarding former spouse survivor annuities.

(6) Subpart J of this part contains the rules applicable to court orders filed under procedures in effect prior to the implementation of this part. These rules continue to apply to court orders received by OPM before January 1, 1993.

(7) Subpart K of this part contains rules applicable to court orders for the enforcement of judgments rendered against employees or annuitants for physical, sexual, or emotional abuse of a child.

(b) Part 890 of this chapter contains information about coverage under the Federal Employees Health Benefits Program.

(c) Part 581 of this chapter contains information about garnishment of Government payments including salary and CSRS and FERS retirement benefits.

(d) Parts 294 and 297 of this chapter and §§ 831.106 and 841.108 contain information about disclosure of information from OPM records.

(e) Subpart V of part 831 of this chapter and subpart G of part 842 of this chapter contain information about how court orders affect eligibility to make