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§841.105 Administration of FERS.

(a) OPM has charge of the adjudication of all claims for basic benefits arising under FERS and of all matters directly or indirectly concerned with these adjudications.

(b) In the adjudication of claims arising under FERS, OPM will consider and take appropriate action on counterclaims filed by the Government as set-offs against amounts payable from the Civil Service Retirement Fund.

§841.106 Basic records.

(a) Agencies having employees or Members subject to FERS must establish and maintain retirement accounts for those employees and Members.

(b)(1) The individual retirement record required by §841.504(c) is the basic record for action on all claims for annuity or refund, and those pertaining to deceased employees, deceased Members, or deceased annuitants.

(2) When the official records repository for the records in question certifies that the records in question are lost, destroyed, or incomplete, OPM will accept such inferior or secondary evidence that it considers appropriate under the circumstances, and such inferior or secondary evidence is then admissible.

(3) Except as provided in paragraph (b)(2) of this section, inferior or secondary evidence will not be considered.

[52 FR 19242, May 21, 1987, as amended at 57 FR 32154, July 21, 1992]

§841.107 Computation of interest.

Interest, when applicable, will be computed under subpart F of this part.

§841.108 Disclosure of information.

(a)(1) Except as provided in section 8461 of title 5, United States Code, OPM has in its possession or under its control records containing the following types of information:

(i) Documentation of Federal service subject to FERS.

(ii) Documentation of service credit and refund claims made under FERS.

(iii) Retirement and death claims files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims, and designations of beneficiaries.

(iv) Claims review and correspondence files pertaining to benefits under the Federal Employees Health Benefits Program.

(v) Documentation of claims made for life insurance and health benefits by annuitants under a Federal Government retirement system other than FERS.

(2) These records may be disclosed to the individual to whom the information pertains, or, with prior written consent of the individual, to any agency or other person, except that medical evidence about which a prudent physician would hesitate to inform the individual, will be disclosed only to a licensed physician designated in writing for that purpose by the individual or by his or her representative.

(3) Federal employee retirement records will be disclosed consistent with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), including, but not limited to, disclosures pursuant to a routine use promulgated for such records and printed in OPM's periodic publication of notices of systems of records. However, a beneficiary designated in accordance with FERS (5 U.S.C. 8424(c)) will, during the lifetime of the designator, be disclosed to the designator only, at his or her signed written request. Such beneficiary designations that may appear in records being disclosed to other than the designator must be removed before the record is disclosed. If information pertaining to a designation of beneficiary is specifically asked for by a court of competent jurisdiction, it may be released to the court, but with a written notice that it is released under protest.

(4) Except as provided in paragraphs (a)(2) and (a)(3) of this section, OPM will not disclose information from the files, records, reports, or other papers and documents pertaining to a claim filed with OPM, whether potential, pending, or adjudicated. This information is privileged and confidential.

(b) On written request OPM will return, to the person entitled to them, certificates of discharge, adoption papers, marriage certificates, decrees of divorce, letters testamentary or of administration, when they are no longer

needed in the settlement of the claim. If papers returned constitute part of the material and essential evidence in a claim, OPM will retain copies of them or of the parts of them that appear to be of evidentiary value.

§ 841.109 Computation of time.

In computing a period of time for filing documents, the day of the action or event after which the designated period of time begins to run is not included. The last day of the period is included unless it is a Saturday, a Sunday, or a legal holiday; in this event, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

§ 841.110 [Reserved]

Subpart B—Applications for Benefits

SOURCE: 52 FR 19244, May 21, 1987, unless otherwise noted.

§ 841.201 Purpose.

This subpart states the general application requirement applicable under the Federal Employees Retirement System (FERS). Specific application requirements for particular benefits are contained with the regulations concerning those benefits.

§ 841.202 Applications required.

(a) No benefit is payable under FERS, until after the claimant has applied for the benefit in the form prescribed by OPM.

(b) An employee, Member, or survivor may exercise any option or make any election authorized by FERS only in the form prescribed by OPM.

§ 841.203 Withdrawal of applications.

(a) Except as provided in paragraphs (b) and (c) of this section, an applicant for benefits under FERS may withdraw his or her application for benefits until a payment based on that application has been authorized, but not thereafter.

(b) An applicant for benefits under FERS may not withdraw his or her application for benefits after OPM has received a certified copy of a court order (under part 581 of this chapter or subpart I of this part) affecting the benefits.

(c) When an ''appropriate authority'' determines that the separation upon which payment has been based is an ''unjustified or unwarranted personnel action'' as these terms are defined in § 550.804 of this chapter, an individual may withdraw his/her application for FERS benefits within 60 days of the decision. As provided in § 550.805, any FERS payments must be deducted from any back pay award.

§ 841.204 Deemed application to protect survivors.

(a) A former employee is deemed to have filed an application for annuity if the former employee—

(1) Was not reemployed in a position subject to FERS under subpart A of part 842 of this chapter on the date of death;

(2) Dies after separation from Federal service but before actually filing an application for benefits; and

(3) At the time of separation from Federal service, was eligible for an immediate annuity under § 842.204(a)(1) and was eligible to elect to postpone the commencing date of that annuity under § 842.204(c) of this chapter.

(b) For the purpose of determining entitlement to a survivor annuity, a former employee who is deemed to have filed an application under paragraph (a) of this section is considered to have died as a retiree.

(c) For purposes of determining the amount of a survivor annuity, the annuity of a former employee who, under paragraph (a) of this section, is deemed to have filed an application is computed as though the commencing date were the first day of the month after the former employee's death.

[55 FR 994, Jan. 11, 1990, as amended at 55 FR 41179, Oct. 10, 1990]

Subpart C—Claims Processing

SOURCE: 52 FR 19244, May 21, 1987, unless otherwise noted.

§ 841.301 Purpose.

(a) This subpart explains—