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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—

(1) The procedures that employees. separated employees, retirees, and survivors must follow in applying for benefits under FERS;

(2) The procedures that OPM will generally follow in determining eligibility for benefits under FERS;

(3) The appeal rights available to claimants adversely affected by OPM decisions under FERS; and

(4) The special rules for processing competing claimant cases under FERS.

(b) This subpart does not apply to processing—

(1) Forfeiture of annuity for conviction of certain criminal offenses relating to national security under subchapter II of chapter 83 of title 5, United States Code (processed under subpart K of part 831 of this chapter);

(2) Court orders affecting FERS benefits (processed under subpart I of this part); or

(3) Collection of debts due to the United States (processed under part 845 of this chapter).

§ 841.302 Definitions.

In this subpart—

Employee means an employee as defined in section 8401(11) of title 5, United States Code, and a Member as defined in section 8401(20) of title 5, United States Code. *Employee* includes a person who had applied for retirement under FERS but had not been separated from the service prior to his or her death even if the person's retirement would have been retroactively effective upon separation.

FERS means the Federal Employees Retirement System as described in chapter 84 of title 5, United States Code.

MSPB means the Merit Systems Protection Board described in chapter 12 of title 5, United States Code.

Retiree means a former employee or Member who is receiving recurring payments under FERS based on service by the employee or Member. *Retiree,* as used in this subpart, does not include a current spouse, former spouse, child, or person with an insurable interest receiving a survivor annuity. *Retiree* for purposes of determining a person's status at the time of death means that the person had been separated from the service and had met all the requirements to receive an annuity including having filed an application for the annuity prior to his or her death.

Separated employee means a former employee or Member who has been separated from the service but who has not met all the requirements for retirement under FERS or who has not filed an application for retirement under FERS.

Survivor means a person entitled to benefits under part 843 or 846 of this chapter based on the death of an employee, separated employee, retiree, or survivor.

§ 841.303 Applications filed with agencies.

(a) Employees filing applications for retirement or to make deposits or redeposits under FERS (including applications for disability retirement) and separating employees filing applications for refunds of contributions must file their applications with their employing agencies.

(b) Survivors filing applications for death benefits based on the death of an employee may file their applications with the employee's employing agency.

§ 841.304 Applications filed with OPM.

(a) Separated employees filing applications for retirement or refunds of contributions; survivors filing applications for death benefits based on the deaths of separated employees, retirees, or survivors; and retirees making elections or seeking to change information in their retirement records must file their applications with OPM.

(b) Survivors filing applications for death benefits based on the death of an employee may file their applications with OPM.

§ 841.305 Decisions subject to reconsideration.

(a) A OPM decision under FERS is subject to reconsideration by OPM, whenever the decision is in writing and states the right to reconsideration.

(b) OPM will reconsider a decision subject to reconsideration under §841.306. A decision subject to reconsideration is not subject to appeal under §841.308.