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§ 842.505 Reduction in annuity supplement because of excess earnings.

(a)(1) Except as provided in paragraphs (a)(2) and (b) of this section, the annuity supplement payable under § 842.504 is reduced by excess earnings in the test year, divided by twelve.

(2) Any annuity supplement payable during the year in which an individual loses entitlement to the annuity supplement by reason of § 842.503(c) is reduced by excess earnings in the test year divided by the number of months for which the annuity supplement is payable.

(b) Any reduction in the annuity supplement during a month because of excess earnings may not exceed the amount of annuity supplement payable during that month.

(c) Earnings and estimated earnings for each test year will be furnished by retirees in a form prescribed by OPM.

(d) Failure to furnish earnings and estimated earnings in the form or at the times prescribed by OPM is cause to suspend payment of the supplement until the annuitant establishes to the satisfaction of OPM that he/she continues to be eligible for the supplement.

(e) The reductions described in paragraphs (a) and (b) of this section are not subject to the due process procedures described in 5 U.S.C. 8461(e).

Subpart F—Survivor Elections

SOURCE: 52 FR 2061, Jan. 16, 1987, unless otherwise noted.

§ 842.601 Purpose.

This subpart explains the survivor annuity elections available under FERS for retirees, and retiring employees and Members, and the actions that they must take to provide these survivor annuities.

§ 842.602 Definitions.

In this subpart—

Current spouse means a living person who is married to the employee, Member, or retiree at the time of the employee's, Member's, or retiree's death.

Current spouse annuity means a recurring benefit under FERS that is payable (after the employee's, Member's or retiree's death) to a current spouse who meets the requirements of § 843.303 of this chapter.

Deposit means a deposit required to provide a survivor benefit. *Deposit,* as used in this subpart, does not include a service credit deposit or redeposit.

FERS means chapter 84 of title 5, United States Code.

First regular monthly payment means the first annuity check payable on a recurring basis (other than an estimated payment or an adjustment check) after OPM has initially adjudicated the regular rate of annuity payable under FERS and has paid the annuity accrued since the time of retirement. The *first regular monthly payment* is generally preceded by estimated payments before the claim can be adjudicated and by an adjustment check (including the difference between the estimated rate and the initially adjudicated rate).

Former spouse means a living person who was married for at least 9 months to an employee, Member, or retiree who performed at least 18 months of creditable service under FERS. The ''former spouse's'' marriage to the employee must have been terminated prior to the death of the employee, Member, or retiree.

Former spouse annuity means a recurring benefit under FERS that is payable to a former spouse after the employee's, Member's, or retiree's death.

Fully reduced annuity means the recurring payments under FERS received by a retiree who has elected the maximum reduction in his or her annuity to provide a current spouse annuity and/or a former spouse annuity or annuities.

Insurable interest rate means the recurring payments under FERS to a retireee who has elected a reduction in annuity to provide a survivor annuity to a person with an insurable interest in the retiree.

Marriage has the same meaning as in § 843.102 of this chapter.

Member means a Member of Congress.

Net annuity means the net annuity as defined in § 838.103 of this chapter.

One-half reduced annuity means the recurring payments under FERS received by a retiree who has elected one-half of the full reduction in his or

her annuity to provide a partial current spouse annuity or a partial former spouse annuity or annuities.

Present value factor means the amount of money (earning interest at an assumed rate) required at the time of retirement to fund an annuity that starts out at the rate of $1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for non-disability annuitants under the Civil Service Retirement System; and increases each year at an assumed rate of inflation. Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the System, based on dynamic assumptions. The present value factors are unisex factors obtained by averaging six distinct present value factors, weighted by the total dollar value of annuities typically paid to new retirees at each age.

Qualifying court order means a court order that awards a former spouse annuity and that satisfies the requirements of section 8445 of title 5, United States Code, for awarding a former spouse annuity.

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.

Self-only annuity means the recurring unreduced payments under FERS to a retiree with no survivor annuity payable to anyone.

Time of retirement means the effective commencing date for retired employee's or Member's annuity. An employee or Member is unmarried at the time of retirement for all purposes under this subpart only if the employee or Member was unmarried on the date that the annuity begins to accrue.

[52 FR 2061, Jan. 16, 1987, as amended at 56 FR 65419, Dec. 17, 1991; 57 FR 33598, July 29, 1992; 57 FR 54678, Nov. 20, 1992; 58 FR 52883, Oct. 13, 1993]

§ 842.603 Election at time of retirement of a fully reduced annuity to provide a current spouse annuity.

(a) A married employee or Member retiring under FERS will receive a fully reduced annuity to provide a current spouse annuity unless—

(1) The employee or Member, with the consent of the current spouse, elects a self-only annuity, a one-half reduced annuity to provide a current spouse annuity, or a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, in accordance with § 842.604 or § 842.606; or

(2) The employee or Member elects a self-only annuity or a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, and current spousal consent is waived in accordance with § 842.607.

(b) Qualifying court orders that award former spouse annuities prevent payment of current spouse annuities to the extent necessary to comply with the court order and § 842.613.

(c) The amount of the reduction to provide a current spouse annuity under this section is 10 percent of the retiree's annuity.

[52 FR 2061, Jan. 16, 1987, as amended at 57 FR 54678, Nov. 20, 1992]

§ 842.604 Election at time of retirement of a fully reduced annuity or a one–half reduced annuity to provide a former spouse annuity.

(a) An unmarried employee or Member retiring under FERS may elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity or annuities.

(b) A married employee or Member retiring under FERS may elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity or annuities instead of a fully reduced annuity to provide a current spouse annuity, if the current spouse consents to the election in accordance with § 842.606 or spousal consent is waived in accordance with § 842.607.

(c) An election under paragraph (a) or (b) of this section is void to the extent that it—

(1) Conflicts with a qualifying court order; or