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(ii) The existence of one of the following medical conditions is *prima facie* evidence of a life-threatening affliction or other critical medical condition:

(A) Metastatic and/or inoperable neoplasms.

(B) Aortic stenosis (severe).

(C) Class IV cardiac disease with congestive heart failure.

(D) Respiratory failure.

(E) Cor pulmonale with respiratory failure.

(F) Emphysema with respiratory failure.

(G) [Reserved].

(H) Severe cardiomyopathy—Class IV.

(I) Aplastic anemia.

(J) Uncontrolled hypertension with hypertensive encephalopathy.

(K) Cardiac aneurysm not amenable to surgical treatment.

(L) Agranulocytosis.

(M) Severe hepatic failure.

(N) Severe hypoxic brain damage.

(O) Severe portal hypertension with esophageal varices.

(P) AIDS (Active—Not AIDS Related Complex or only seropositivity).

(Q) Life-threatening infections (encephalitis, meningitis, rabies, etc.).

(R) Scleroderma with severe esophageal involvement.

(S) Amyotrophic lateral sclerosis (rapidly progressive).

(T) Hemiplegia with life threatening complications.

(U) Quadriplegia with life threatening complications.

(iii) Evidence of the existence of a life-threatening affliction or other critical medical condition must be certified by a physician and sent to OPM on or before the date the annuitant elects to receive an alternative form of annuity. For the purpose of this section, ''physician'' has the same meaning given that term in §339.102 of this chapter.

(iv) If a medical condition other than those listed in paragraph (c)(3)(ii) of this section is claimed as a basis for exemption from the deferred payment schedule, OPM will review the physician's certification to determine whether the cited condition is life-threatening or critical.

(v) The cost of providing medical documentation under this paragraph rests with the employee or Member, unless OPM exercises its choice of physician.

[53 FR 11635, Apr. 8, 1988, as amended at 60 FR 54587, Oct. 25, 1995]

§842.708 Partial deferred payment of the lump-sum credit if annuity commences after December 2, 1989, and before October 1, 1995.

(a) Except as provided in paragraph (c) of this section, if the annuity of a retiree commences after December 2, 1989, and before October 1, 1994, the lump-sum credit payable under §842.705 is payable to the individual, or his or her survivors, according to the following schedule:

(1) Fifty percent of the lump-sum credit is payable at the time of retirement, and

(2) Fifty percent is payable, with interest determined under section 8334(e)(3) of title 5, United States Code, one year after the time of retirement, except if the payment date of the amount specified in paragraph (a)(1) of this section was after December 4, 1989, payment with interest will be made in the calendar year following the calendar year in which the payment specified in paragraph (a)(1) of this section was made.

(b) If a retiree whose annuity commences after December 2, 1989, and before October 1, 1994, dies before the time limit prescribed in §842.704(b)(2), that individual is subject to §842.704 (c) or (d), but the lump-sum credit will be paid in accordance with the schedule in paragraph (a) of this section.

(c)(1) A retiree is exempt from the deferred payment schedule under paragraph (a) of this section if the individual meets the conditions, and fulfills the requirements, described in §842.707(c).

(2)(i) A retiree who is exempt from the deferred payment schedule may waive that exemption by notifying OPM, in writing, on or before the date he or she elects to receive the alternative form of annuity.

(ii) Paragraph (c)(2)(i) of this section does not apply to an individual whose annuity commences after December 1, 1990, if that individual's eligibility to elect an alternative form of annuity is pursuant to §842.703(d)(1)(i)(A).

(iii) A waiver under paragraph (c)(2)(i) of this section cannot be revoked.

[56 FR 6552, Feb. 19, 1991, as amended at 60 FR 54587, Oct. 25, 1995]

Subpart H—Law Enforcement Officers, Firefighters, and Air Traffic Controllers

SOURCE: 52 FR 2069, Jan. 16, 1987, unless otherwise noted.

§ 842.801 Applicability and purpose.

(a) This subpart contains regulations of the Office of Personnel Management (OPM) to supplement—

(1) 5 U.S.C. 8412 (d) and (e), which establish special retirement eligibility for law enforcement officers, firefighters, and air traffic controllers employed under the Federal Employees Retirement System (FERS);

(2) 5 U.S.C. 8422(a)(2)(B), pertaining to deductions;

(3) 5 U.S.C. 8423(a), pertaining to Government contributions; and

(4) 5 U.S.C. 8425, pertaining to mandatory retirement.

(b) The regulations in this subpart are issued pursuant to the authority given to OPM in 5 U.S.C. 8461(g) to prescribe regulations to carry out the provisions of chapter 84 of title 5 of the United States Code, and in 5 U.S.C. 1104 to delegate authority for personnel management to the heads of agencies.

[52 FR 2069, Jan. 16, 1987, as amended at 57 FR 32689, July 23, 1992]

§ 842.802 Definitions.

In this subpart—

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. § 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For purposes of this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. § 101, except that, for provisions dealing with law enforcement officers and firefighters, the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department.

Air traffic controller means a civilian employee of the Department of Transportation or the Department of Defense in an air traffic control facility or flight service station facility who is actively engaged in the separation and control of air traffic or in providing preflight, inflight, or airport advisory service to aircraft operators, as provided in 5 U.S.C. 2109. Also included in this definition is an employee who is the first-level supervisor of any air traffic controller as described above.

Detention duties means duties that require frequent direct contact in the detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation of individuals suspected or convicted of offenses against the criminal laws of the United States or the District of Columbia or offenses against the punitive articles of the Uniform Code of Military Justice (chapter 47 of title 10, United States Code). (See 5 U.S.C. 8401(17).)

Employee means an employee as defined by 5 U.S.C. 8401(11).

Firefighter means an employee occupying a rigorous position, whose primary duties are to perform work directly connected with the control and extinguishment of fires, as provided in 5 U.S.C. 8401(14). Also included in this definition is an employee occupying a rigorous firefighter position who moves to a supervisory or administrative position and meets the conditions of § 842.803(b).

First-level supervisors are employees classified as supervisors who have direct and regular contact with the employees they supervise. First-level supervisors do *not* have subordinate supervisors. A first-level supervisor may occupy a rigorous position or a secondary position if the appropriate definition is met.