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agency. The vacant position must be full time, unless the employee's current position is less than full time, in which case the vacant position must have a work schedule of no less time than that of the current position. In the case of an employee of the United States Postal Service, a vacant position does not include a position in a different craft or a position to which reassignment would be inconsistent with the terms of a collective bargaining agreement covering the employee.

§844.103 Eligibility.

(a) Except as provided in paragraph (c) of this section, an individual must meet the following requirements in order to receive a disability annuity:

(1) The individual must have completed at least 18 months of civilian service that is creditable under FERS, as defined in §842.304 of this chapter;

(2) The individual must, while employed in a position subject to FERS, have become disabled because of a medical condition, resulting in a deficiency in performance, conduct, or attendance, or if there is no such deficiency, the disabling medical condition must be incompatible with either useful and efficient service or retention in the position;

(3) The disabing medical condition must be expected to continue for at least 1 year from the date the application for disability retirement is filed;

(4) Accommodation of the disabling medical condition in the position held must be unreasonable; and

(5) The individual must not have declined an offer of reassignment to a vacant position.

(b) The employing agency must consider a disability applicant for reassignment to any vacant position. The agency must certify to the Office of Personnel Management (OPM) either that there is no vacant position or that, although it made no offer of reassignment, it considered the individual for a vacant position. If an agency offers a reassignment and the individual declines the offer, the individual may appeal the agency's determination that the individual is not disabled for the position in question to the Merit Systems Protection Board under 5 U.S.C. 7701.

(c)(1) Paragraphs (a)(2) through (a)(4) of this section do not apply to a military reserve technician who retires under 5 U.S.C. 8456.

(2) An individual who separates from employment as a military reserve technician under circumstances set forth in 5 U.S.C. 8456(a)(1) after reaching age 50 and completing 25 years of service is not entitled to a disability annuity under this part, but is entitled to an annuity under §842.210 of this chapter.

(3) A former military reserve technician is not entitled to an annuity under 5 U.S.C. 8456 based on service as a technician if the technician is subsequently appointed to another position in the Federal Government.

§844.104 Administrative review of OPM decisions.

Any individual whose rights or interests under FERS are affected by an initial decision of OPM may request OPM to review its decision under §841.306.

§844.105 Relationship to workers' compensation.

(a) Except as provided in paragraph (b) of this section, an individual who is eligible for both an annuity under part 842 or 844 of this chapter and compensation for injury or disability under subchapter I of chapter 81 of title 5, United States Code (other than a scheduled award under 5 U.S.C. 8107(c)), covering the same period of time must elect to receive either the annuity or compensation.

(b) Notwithstanding the provisions of paragraph (a) of this section, an individual may concurrently receive an annuity based on the individual's service under part 842 or 844 of this chapter and a benefit under subchapter I of chapter 81 of title 5, United States Code, on account of the death of another individual. An individual may also receive an annuity under part 843 of this chapter and compensation for injury or disability to himself or herself under such subchapter I covering the same period of time.

(c) An individual who elects to receive compensation payments under paragraph (a) of this section and who has not received a refund of contributions under §843.202 retains the right to elect to receive an annuity under part