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(i) The agency is submitting a disability retirement application on the employee's behalf to OPM;

(ii) The employee may review any medical information in accordance with §294.106(d) of this chapter; and

(iii) The action does not affect the employee's right to submit a voluntary application for disability retirement or any other retirement benefit to which the employee is entitled under FERS.

(3) When an agency submits an application for disability retirement to OPM on behalf of an employee, it must provide OPM with copies of the decision to remove the employee, the medical documentation, and any other documents needed to show that the cause for removal results from a medical condition. Following separation, the agency must provide OPM with a copy of the documentation of the separation.

(c) *OPM procedures.* (1) OPM will not act on any application for disability retirement filed by an agency on behalf of an employee until it receives the appropriate documentation of the separation. When OPM receives a complete application for disability retirement under this section, it will notify the former employee that it has received the application and that he or she may submit medical documentation. OPM will determine entitlement to disability benefits under §844.203.

(2) OPM will cancel any disability retirement when a final decision of an administrative authority or court reverses the removal action and orders the reinstatement of an employee to the agency rolls.

### §844.203 Supporting documentation.

(a) An individual or agency filing an application for disability retirement is responsible for providing OPM with the evidence described in §844.201(b)(1), as well as whatever documentation OPM requires in order to determine whether the individual meets the eligibility requirements set forth in §844.103. The documentation must be provided in a form prescribed by OPM. Failure to sumbit the documentation required is grounds for dismissing the application. It is also the responsibility of the disability annuitant to obtain and submit evidence OPM requires to show continuing entitlement to disability benefits. Unless OPM orders an examination by a physician of its choice under paragraph (b) of this section, the cost of providing medical documentation rests with the applicant or disability annuitant.

(b) OPM may offer the applicant a medical examination when it determines that an independent evaluation of medical evidence is needed in order to make a decision regarding an application for a disability annuity or a disability annuitant's entitlement to continuing benefits. The medical examination will be conducted by a medical officer of the United States or a qualified physician or board of physicians designated by OPM. The applicant's refusal to submit to an examination is grounds for dismissal of the application or termination of payments to an annuitant.

(c)(1) OPM will review the documentation submitted under paragraph (a) of this section to determine whether the individual has met the eligibility requirements set forth in §844.103. OPM will issue its decision in writing to the individual and to the employing agency. The decision will include a statement of OPM's findings and conclusions and an explanation of the applicant's right to request reconsideration or MSPB review under §844.104.

(2) OPM may rescind a decision to allow an application for disability retirement at any time if OPM determines that the original decision was erroneous due to fraud, misstatement of fact, or upon the acquisition of additional medical or other documentation. OPM will provide the individual and the employing agency with written notification of the rescission, including a statement of OPM's findings and conclusions and an explanation of the individual's right to request reconsideration or MSPB review under §844.104.

(d) Subject to 5 U.S.C. 552a, any supporting documentation provided to OPM under this section may be shared with the Social Security Administration and the Office of Workers' Compensation Programs of the U.S. Department of Labor.

## Subpart C—Computation of Disability Annuity

### § 844.301 Commencing date of disability annuity.

A disability annuity under this part commences on the day after the employee separates or the day after pay ceases and the employee meets the requirements for title to an annuity.

### § 844.302 Computation of disability annuity before age 62.

(a) For the purposes of this subpart, the ''adjusted social security disability benefit'' is the benefit to which an annuitant is entitled under section 223 of the Social Security Act:

(1) For the month in which the annuity under this part commences, or is reinstated under § 844.405, or, if later, the first month for which the annuitant is entitled to both an annuity under this part and a social security disability benefit;

(2) Including, where appropriate, a reduction under section 224 of the Social Security Act, based on the amount of the disability annuity under this subpart without regard to paragraphs (b)(2) and (c)(2) of this section; and

(3) Adjusted by each cost-of-living increase effective under 5 U.S.C. 8462(b) beginning with the later of the month after the 12-month period referred to in paragraph (b)(1) of this section, or the first month for which the annuitant is entitled to both an annuity under this part and a social security disability benefit.

(b)(1) Except as otherwise provided in this part, the annuity payable under this subpart until the end of the 12th month beginning after the annuity commences (or is reinstated under § 844.405) is equal to 60 percent of the annuitant's average pay.

(2) For months for which the annuitant is also entitled to a social security disability benefit, the amount computed under paragraph (b)(1) of this section is reduced by 100 percent of the annuitant's adjusted social security disability benefit.

(c)(1) Except as otherwise provided in this part, the annuity under this subpart after the period described in paragraph (b)(1) of this section is equal to 40 percent of the annuitant's average pay.

(2) For months after the period described in paragraph (b)(1) of this section for which the annuitant is also entitled to a social security disability benefit, the amount computed under paragraph (c)(1) of this section is reduced by 60 percent of the annuitant's adjusted social security disability benefit.

(d) For months in which an annuity is reduced under paragraph (b) or (c) of this section, any reduction for survivor benefits is made after the reduction for social security benefits.

### § 844.303 Minimum disability annuity.

Notwithstanding any other provision of this part, an annuity payable under this part cannot be less than the amount of an annuity computed under 5 U.S.C. 8415 (excluding subsection (f) of that section) based on the annuitant's service.

### § 844.304 Computation of disability annuity for those otherwise eligible to retire.

(a) An individual retiring under this part is not entitled to elect to receive an alternative form of annuity under 5 U.S.C. 8420a, even if the individual meets the requirements for retirement under another part and would be entitled to elect an alternative form of annuity in connection therewith.

(b) Notwithstanding any other provision of this part, an annuity payable under this part will be computed under 5 U.S.C. 8415 if it commences or is reinstated under § 844.405 (b) or (c) of this part on or after:

(1) The annuitant has satisfied the age and service requirements for retirement under 5 U.S.C. 8412 (a) through (f); or

(2) The annuitant has reached age 62.

### § 844.305 Redetermination of disability annuity at age 62.

Effective on and after the annuitant's 62nd birthday, the rate of annuity payable to a disability annuitant will be the amount of an annuity computed with respect to the annuitant under 5 U.S.C. 8415 (including subsection (g) of that section), including