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§844.404 Reinstatement of disability annuity.

(a) When a disability annuity stops, the individual must again prove that he or she meets the eligibility requirements in order to have the annuity reinstated.

(b) *Reinstatement of annuity terminated based on recovery.* (1) When a recovered disability annuitant under age 62 whose annuity was terminated because he or she was found recovered on the basis of medical evidence (§844.401) is not reemployed in a position subject to FERS, and, based on the results of a current medical examination, OPM finds that the disability has recurred, OPM will reinstate the disability annuity as provided in paragraph (d) of this section. The right to the reinstated annuity begins on the date of the medical documentation showing that the disability has recurred, or if the medical documentation clearly shows that the disability recurred on an earlier date, the annuity will be reinstated on that earlier date.

(2) Except in the case of an individual receiving an annuity under §844.404(b), OPM will, as provided in paragraph (d) of this section, reinstate the disability annuity of a former annuitant whose annuity was terminated because he or she was found recovered on the basis of Federal reemployment when:

(i) The results of a current medical examination show that the individual's medical condition has worsened since the finding of recovery and that the original disability on which retirement was based has recurred; and

(ii) As a result, he or she has been:

(A) Separated and not reemployed in a position subject to FERS; or

(B) Placed in a position that results in a reduction in grade or pay below that from which the individual retired, or in a change to a temporary or intermittent appointment. The right to the reinstated annuity begins on the date the reemployment ends or the effective date of the placement in the position that results in a reduction in grade or pay or change in appointment.

(c) *Reinstatement of annuity terminated because earning capacity was restored.* (1) OPM will reinstate the disability annuity as provided in paragraph (d) of this section when a disability annuitant whose annuity was terminated under §844.402(a):

(i) Is not reemployed in a position subject to FERS;

(ii) Has not recovered from the disability for which the individual retired (except in the case of a military reserve technician whose annuity was awarded under 5 U.S.C. 8456); and

(iii) Again loses earning capacity, as determined by OPM.

(2) The reinstated annuity is payable from January 1 of the year following the calendar year in which earning capacity was lost. Earning capacity is lost if, during any calendar year, the individual's income from wages or self-employment or both is less than 80 percent of the current rate of basic pay of the position held at retirement.

(d) Except as provided in §§844.303 and 844.304, a disability annuity reinstated under the preceding paragraphs of this section is paid at the rate provided under §844.302(b) until the end of the 12th month beginning after the annuity is reinstated. Thereafter, the rate determined under §844.302(c) is payable until age 62.

(e) Notwithstanding the preceding paragraphs, an annuity may not be reinstated under this section if the individual is receiving an annuity under part 842 of this chapter.

[55 FR 6598, Feb. 26, 1990. Redesignated and amended at 58 FR 48273, Sept. 15, 1993]

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