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### Subpart G—Definition of Family Member

873.701 Definition of family member.
873.702 Proof of dependency.
873.703 Child incapable of self-support.

AUTHORITY: 5 U.S.C. 8716; §873.201(b) also issued under sec. 153 of Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 49 FR 3045, Jan. 25, 1984, unless otherwise noted.

## Subpart A—Administration and General Provisions

### §873.101 Actions on the policy.

Optional life insurance on family members (referred to in this part as ''family optional insurance'') shall be payable in accordance with an amendment to the policy purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, pursuant to section 8709 of title 5, United States Code, to provide group insurance coverage (referred to in this part as ''basic insurance''). Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligations undertaken by the United States, shall be brought against the insurance company.

### §873.102 Payment of benefits.

(a) Upon the death of an insured family member, family optional insurance benefits will be paid to the employee, annuitant, or compensationer responsible for withholdings under §873.401, except as provided in paragraph (b) of this section.

(b) Notwithstanding an assignment of life insurance under part 874, if the employee, annuitant, or compensationer dies before benefits are paid under this part, family optional insurance will be paid to the person(s) eligible for basic insurance benefits under 5 U.S.C. 8705(a).

[51 FR 39363, Oct. 28, 1986, as amended at 54 FR 13666, Apr. 5, 1989, and 54 FR 37093, Sept. 7, 1989]

### §873.103 Correction of errors; initial decision and reconsideration.

The rules and procedures under §§870.102 and 870.103 are applicable in this part, subject to the provisions of §873.401(e).

[59 FR 66437, Dec. 27, 1994]

### §873.104 Definitions.

The terms defined under §870.104 of this chapter have the same meanings in this part.

[49 FR 3045, Jan. 25, 1984, as amended at 59 FR 66437, Dec. 27, 1994]

## Subpart B—Coverage

### §873.201 Eligibility

(a) Each employee who is insured for basic insurance and for whom uncanceled declination of family optional insurance is not in effect is eligible to elect the family optional insurance, if his/her periodic pay, after all other deductions, is sufficient to cover its full cost.

(b) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) who makes an election under the Technical Corrections to Financial Responsibility and Management Assistance Act (section 153 of Public Law 104–134, 110 Stat. 1321) to be considered a Federal employee for life insurance and other benefit purposes is subject to this part. If the employee is eligible to make an election under §873.202, such election must be made within 31 days after the later of either the date employment with the Authority begins or the date the Authority receives his or her election to be considered a Federal employee. Employees of the Authority who are former Federal employees are subject to the provisions of §873.205 and §873.604.

[49 FR 3045, Jan. 25, 1984, as amended at 61 FR 58460, Nov. 15, 1996]

### §873.202 Election or declination.

(a) Except as otherwise provided in paragraph (b) of this section, each employee shall, on the form entitled Life Insurance Election, elect or decline the family optional insurance within 31 days after becoming eligible, unless

during earlier employment he/she filed an election or declination which remains in effect. The 31-day time limit begins to run on the first day after February 28, 1981, on which an individual meets the definition of an employee.

(b) On a determination by an employing office, within six months after an employee becomes eligible, that he/she was unable, for cause beyond his/her control to elect or decline the family optional insurance within the prescribed time limit, the employee shall elect or decline the family optional insurance within 31 days after he/she is advised of that determination. Family optional insurance in that case is retroactive to the first day of the first pay period beginning after the date the person became eligible, or after April 1, 1981, whichever is later, and the person shall pay the full cost of the insurance from that date for the time that he/she is in a pay status or retired or in receipt of compensation and under age 65.

(c) A person who does not file with his/her employing office an election of family optional insurance on the Life Insurance Election form does not have the family optional insurance.

### §873.203 Effective date of insurance.

(a) The effective date of an election of family optional insurance is the first day on or after April 1, 1981, that an employee actually enters on duty in a pay status on or after the day the election is received in his/her employing office.

(b) An election of family optional insurance remains in effect until canceled as provided in §873.204. For an employee whose family optional insurance has stopped for a reason other than a declination or waiver, family optional insurance is reinstated on the first day he/she actually enters on duty in a pay status in a position in which he/she again becomes eligible.

(c) An open enrollment election of family optional insurance filed during the period from March 29 through April 30, 1993, is effective on the first day of the first pay period beginning on or after May 30, 1993, which immediately follows a pay period during which the employee was in a pay and duty status for at least 32 hours. A part-time employee will need to have been in a pay and duty status for one-half of the regularly-scheduled tour of duty indicated on his or her current Standard Form 50 for newly-elected coverage to become effective. An employee who has no regularly-scheduled tour of duty or who is employed on an intermittent basis will have to have been in a pay and duty status for one-half of the hours customarily worked before newly-elected coverage can become effective. For the purpose of this subsection, employing offices can determine the number of hours customarily worked by averaging the number of hours worked in the calendar year quarter ending March 30, 1993.

[49 FR 3045, Jan. 25, 1984, as amended at 50 FR 26689, June 28, 1985; 58 FR 11954, Mar. 2, 1993]

### §873.204 Declination.

(a) An insured person may cancel his/her family optional insurance at any time by filing a declination of family optional insurance or a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office which administers his/her retirement system. If still employed, a compensationer files with the employing office, and, if not still employed, with OWCP.

(b) A cancellation of family optional insurance becomes effective and family optional insurance stops at the end of the pay period in which the declination of waiver is properly filed, except that at the request of the employee or annuitant and upon proof satisfactory to the employing office that there was no family member eligible for coverage, the effective date of the cancellation may be made retroactive to the end of the pay period in which there ceased to be eligible family members.

(c) A declination of family optional insurance remains in effect until it is canceled as provided in §873.205.

[49 FR 3045, Jan. 25, 1984, as amended at 51 FR 36796, Oct. 16, 1986]

### §873.205 Cancellation of declination.

(a) An employee who has declined the family optional insurance may elect it upon his or her marriage or divorce, or