

## § 841.204

## 5 CFR Ch. I (1–1–11 Edition)

(under part 581 of this chapter or subpart I of this part) affecting the benefits.

(c) When an “appropriate authority” determines that the separation upon which payment has been based is an “unjustified or unwarranted personnel action” as these terms are defined in § 550.804 of this chapter, an individual may withdraw his/her application for FERS benefits within 60 days of the decision. As provided in § 550.805, any FERS payments must be deducted from any back pay award.

### § 841.204 Deemed application to protect survivors.

(a) A former employee is deemed to have filed an application for annuity if the former employee—

(1) Was not reemployed in a position subject to FERS under subpart A of part 842 of this chapter on the date of death;

(2) Dies after separation from Federal service but before actually filing an application for benefits; and

(3) At the time of separation from Federal service, was eligible for an immediate annuity under § 842.204(a)(1) and was eligible to elect to postpone the commencing date of that annuity under § 842.204(c) of this chapter.

(b) For the purpose of determining entitlement to a survivor annuity, a former employee who is deemed to have filed an application under paragraph (a) of this section is considered to have died as a retiree.

(c) For purposes of determining the amount of a survivor annuity, the annuity of a former employee who, under paragraph (a) of this section, is deemed to have filed an application is computed as though the commencing date were the first day of the month after the former employee’s death.

[55 FR 994, Jan. 11, 1990, as amended at 55 FR 41179, Oct. 10, 1990]

### Subpart C—Claims Processing

SOURCE: 52 FR 19244, May 21, 1987, unless otherwise noted.

#### § 841.301 Purpose.

(a) This subpart explains—

(1) The procedures that employees, separated employees, retirees, and survivors must follow in applying for benefits under FERS;

(2) The procedures that OPM will generally follow in determining eligibility for benefits under FERS;

(3) The appeal rights available to claimants adversely affected by OPM decisions under FERS; and

(4) The special rules for processing competing claimant cases under FERS.

(b) This subpart does not apply to processing—

(1) Forfeiture of annuity for conviction of certain criminal offenses relating to national security under subchapter II of chapter 83 of title 5, United States Code (processed under subpart K of part 831 of this chapter);

(2) Court orders affecting FERS benefits (processed under subpart I of this part); or

(3) Collection of debts due to the United States (processed under part 845 of this chapter).

#### § 841.302 Definitions.

In this subpart—

*Employee* means an employee as defined in section 8401(11) of title 5, United States Code, and a Member as defined in section 8401(20) of title 5, United States Code. *Employee* includes a person who had applied for retirement under FERS but had not been separated from the service prior to his or her death even if the person’s retirement would have been retroactively effective upon separation.

*FERS* means the Federal Employees Retirement System as described in chapter 84 of title 5, United States Code.

*MSPB* means the Merit Systems Protection Board described in chapter 12 of title 5, United States Code.

*Retiree* means a former employee or Member who is receiving recurring payments under FERS based on service by the employee or Member. *Retiree*, as used in this subpart, does not include a current spouse, former spouse, child, or person with an insurable interest receiving a survivor annuity. *Retiree* for purposes of determining a person’s status at the time of death means that the person had been separated from the