

the 18 months preceding the date of the dissolution of marriage; and

(3)(i) The former spouse currently receives, or has future title to receive (A) a portion of annuity payable to the employee upon retirement based on a qualifying court order for purposes of 5 U.S.C. 8345(j) or 5 U.S.C. 8467; (B) survivor annuity benefits based on a qualifying court order for purposes of 5 U.S.C. 8341(h) or 5 U.S.C. 8445; or (C) a survivor annuity elected by the employee under 5 U.S.C. 8339(j)(3) or 5 U.S.C. 8417(b), including a former spouse who is designated as an insurable interest pursuant to §§ 831.613(a) and (b) and 842.605(a) and (b) of this chapter (or benefits similar to those under this paragraph under another retirement system for Government employees); *or*

(ii) The former spouse was married to an employee who retired before May 7, 1985, and (A) the employee annuitant elects to provide a survivor annuity to the former spouse under procedures prescribed in § 831.682 of this title; or (B) the former spouse satisfies all of the conditions for a survivor annuity in § 831.683 of this title; *or*

(iii) The former spouse was married to an employee who died before May 7, 1985, and the employee was eligible for an immediate annuity on or before the date of death, *and* the former spouse satisfies all of the conditions for a survivor annuity in § 831.683 of this title, *or*

(iv) The former spouse was married to an employee or former employee of the Central Intelligence Agency (CIA) for at least 10 years during the employee's CIA service, at least 5 years of which both the employee and the former spouse spent outside the United States, and the marriage was dissolved before May 7, 1985; *or*,

(v) The former spouse was married to an employee or former employee of the Foreign Service for at least 10 years during the employee's government service, and the marriage was dissolved before May 7, 1985.

(b) Except as contained in paragraphs (a)(3) (iv) and (v) of this section, a former spouse of an employee who separates from Federal service before becoming eligible for immediate annuity is eligible to enroll only if the former

spouse's marriage to the employee was dissolved before the employee left Federal service.

(c) If a former spouse cannot apply for benefits on his or her own behalf because of a mental or physical disability, application may be filed by a court-appointed guardian.

[51 FR 15748, Apr. 28, 1986, as amended at 52 FR 39497, Oct. 22, 1987, and 53 FR 32368, Aug. 25, 1988; 53 FR 45070, Nov. 8, 1988; 57 FR 21192, May 19, 1992; 58 FR 52882, Oct. 13, 1993; 62 FR 38440, July 18, 1997]

§ 890.804 Coverage.

(a) *Type of enrollment.* A former spouse who meets the requirements of § 890.803 may elect coverage for self only, self plus one, or self and family. A self and family enrollment covers only the former spouse and all eligible children of both the former spouse and the employee, former employee, or employee annuitant, provided such children are not otherwise covered by a health plan under this part. A self plus one enrollment covers only the former spouse and one eligible child of both the former spouse and the employee, former employee, or employee annuitant, provided the child is not otherwise covered by a health plan under this part. A child must be under age 26 or incapable of self-support because of a mental or physical disability existing before age 26. No person may be covered by two enrollments.

(b) A child is considered to be the child of the former spouse or the employee, former employee, or employee annuitant if he or she is—

- (1) A natural child; or
- (2) An adopted child.

(c) *Child incapable of self-support.* When a former spouse enrolls for a family enrollment which includes a child who has become 26 years of age and is incapable of self-support, the employing office shall determine such child's eligibility in accordance with § 890.302(c), (d), and (e).

[78 FR 64877, Oct. 30, 2013, as amended at 80 FR 55737, Sept. 17, 2015]

§ 890.805 Application time limitations.

(a) Except for former spouses meeting the requirements in § 890.803(a)(3) (iv) and (v) of this part, former spouses

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must apply for health benefits coverage—

(1) Within 60 days after dissolution of the marriage to the Federal employee; or

(2) Within 60 days after the date of OPM's notice of eligibility to enroll based on entitlement to one of the following:

(i) A former spouse annuity elected under 5 U.S.C. 8339(j)(3), 5 U.S.C. 8417(b), or 5 CFR 831.682;

(ii) A former spouse annuity under § 831.683;

(iii) A former spouse insurable interest annuity under 5 U.S.C. 8339(k)(1) or 8420(a);

(iv) A former spouse annuity under 5 U.S.C. 8341(h) or 8445(f);

(v) An apportionment under 5 U.S.C. 8345(j) or 8467; or

(3) Within 60 days after the date of the notice of eligibility to enroll based on entitlement to a former spouse annuity under another retirement system for Government employees.

(b) Former spouses who meet the requirements in § 890.803(a)(3)(iv) of this part must apply for health benefits coverage by April 1, 1987. Where circumstances warrant, the former spouse may request that the filing date be waived. The authority of the Director of Central Intelligence to direct OPM to waive the filing date has been delegated to CIA's Office of Personnel. Requests for waiver should be addressed to the Office of Personnel, Retirement Division, Central Intelligence Agency, Washington, DC 20505. OPM will waive the April 1, 1987, filing date upon notification to do so from the Director of Central Intelligence.

(c) Former spouses who meet the requirements in § 890.803(a)(3)(v) of this part must apply for health benefits coverage by October 7, 1988. Where circumstances warrant, the former spouse may request the Secretary of State to waive the filing date. The authority of the Secretary of State to waive the filing date has been delegated to the Department of State's Retirement Division. Requests for waiver should be addressed to the Department of State, Retirement Division, Washington, DC 20520. OPM will accept the waiver upon

notification to do so from the Department of State.

[51 FR 15748, Apr. 28, 1986, as amended at 53 FR 45071, Nov. 8, 1988; 57 FR 21192, May 19, 1992; 58 FR 52882, Oct. 13, 1993; 62 FR 38440, July 18, 1997]

§ 890.806 When can former spouses change enrollment or reenroll and what are the effective dates?

(a) *Initial opportunity to enroll.* A former spouse who has met the eligibility requirements of § 890.803 and the application time limitation requirements of § 890.805 may enroll at any time after the employing office establishes that these requirements have been met.

(b) *Effective date—generally.* (1) Except as otherwise provided, an enrollment takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request and satisfactory proof of eligibility as required by paragraph (a) of this section. If a former spouse requests immediate coverage, and the employing office receives an appropriate request and satisfactory proof of eligibility within 60 days after the date of divorce, the enrollment may be made effective on the same day that temporary continuation of coverage under subpart K of this part would otherwise take effect.

(2) A change of enrollment takes effect on the first day of the first pay period that begins after the date the employing office receives the appropriate request.

(c) *Belated enrollment.* When an employing office determines that a former spouse was unable, for cause beyond his or her control, to enroll or change the enrollment within the time limits prescribed by this section, the former spouse may do so within 60 days after the employing office advises the former spouse of its determination.

(d) *Enrollment by proxy.* Subject to the discretion of the employing office, a former spouse's representative, having written authorization to do so, may enroll or change the enrollment for the former spouse.

(e) *Decreasing enrollment type.* (1) A former spouse may decrease enrollment type at any time.