

OTHER

Contained within this section is a variety of memoranda, regulations, and information pertinent to the provisions of the Federal Employees' Compensation Act and other Federal benefits programs.

THIRD PARTY CLAIMS

When a party other than the injured employee or another employee of the agency appears to be responsible for an injury or death, OWCP may ask the employee to seek damages from that party, which may be an individual, a company, or a product manufacturer. OWCP encourages supervisors to investigate the third-party aspect of any claim and submit all information gathered. OWCP will contact the employee with specific instructions about this aspect of the claim; he or she should not attempt to settle such a claim without first obtaining advice and approval from the Solicitor of Labor through OWCP. While a claim is pending against the third party, OWCP will pay medical and compensation benefits to which the beneficiary is entitled. If a recovery is made, the beneficiary must first pay outstanding legal fees and costs. He or she is then entitled to retain 20 percent of the remaining amount, plus an amount equivalent to a reasonable attorney's fee in proportion to the sum which will be owed to OWCP. The latter amount generally includes the total medical and compensation payments made by OWCP up to the time of settlement. The beneficiary retains any money remaining, which is credited against future claims for benefits. OWCP will resume payment of compensation benefits and medical bills only after the beneficiary has submitted claims which equal the amount of money remaining.

DUAL BENEFITS

The Federal Employees' Compensation Act prohibits payment of compensation and certain other Federal benefits at the same time. This prohibition does not, however, prevent an individual from filing for benefits from more than one government program at a time. For instance, a claimant for disability benefits may file for a retirement annuity (regular or disability) while his or her claim with OWCP is pending. Similarly, a claimant for death benefits may file for a death annuity while his or her claim with OWCP is pending. Only if both benefits are approved will the rules governing dual benefits be invoked.

Office of Personnel Management (OPM) - Except for schedule awards, a person may not receive disability benefits from OWCP concurrently with a regular or disability annuity (CSRS or FERS). Also, a person may not receive death benefits from OWCP concurrently with a survivor's annuity (CSRS or FERS). Therefore, a beneficiary entitled to both benefits must elect between them. (An individual may, however, receive disability benefits from OWCP or an annuity from OPM on his or her own behalf along with death benefits from the other agency which are payable on account of a spouse's death.) Either OWCP or OPM may offer the election, depending on which agency determined entitlement first. The beneficiary may change his or her election for different periods of time based on the more advantageous benefits.

Department of Veterans Affairs (VA) - Individuals entitled to receive both compensation from OWCP and veterans' benefits may need to elect between the two. Such an election is required when the disability or death resulted from an injury sustained in civilian Federal employment and the VA has held that it was caused by military service, or when the VA increases a service-connected disability award due to an injury sustained in Federal civilian employment. (In the latter case the election involves only the increase in VA benefits due to disability incurred during civilian employment.) No election is required between OWCP benefits and VA benefits for strictly service-related disability. In death claims, OWCP may not duplicate any payment made by the VA for funeral or burial expenses, and the total payable by both agencies may not exceed \$800.

Social Security Administration - An employee may receive Social Security payments and OWCP benefits at the same time, subject to income limitations imposed by the Social Security Administration. OWCP will offset any Social Security old age or death benefits which are attributable to the employee's Federal service and paid to an employee or his or her survivors.

Other Federal Income - An employee may receive compensation concurrently with military retired pay, retirement pay, retainer pay or equivalent pay for service in the armed forces or other uniformed services subject to reduction of such pay in accordance with 5 U.S.C. 5532(b). An employee may receive severance pay concurrently with compensation for a schedule award or for loss of wage-earning capacity, but not with compensation for temporary total disability. Separation pay may constitute a dual benefit, and an agency which is offering such payments should contact OWCP for further guidance. Finally, an employee may receive unemployment compensation benefits concurrently with OWCP benefits.

REPRESENTATION

The Federal Employees' Compensation Act provides that an employee may be represented if he or she so desires, but it is not required. A representative need not be an attorney; a union representative, family member or friend, for example, may act in this capacity. A Federal employee may act as a representative only for an immediate family member or in the capacity of a union representative. The employee must designate any representative in writing before OWCP will recognize him or her, and there can be only one representative at a time. OWCP does not honor contingency fee agreements, and the law contains no provision for OWCP to pay representatives' fees. It does require, however, that OWCP approve such fees before payment. Where the representative and the employee agree on the fee charged, the fee is deemed approved. Where a disagreement exists, OWCP will evaluate the request. In this instance, the employee should not pay any fee prior to approval by OWCP, unless the fee is paid into a true escrow account.

THE PRIVACY ACT OF 1974

5 U.S.C. § 552a

As Amended

§ 552a. Records maintained on individuals

(a) Definitions

For purposes of this section--

(1) the term "agency" means agency as defined in section 552(f) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13;

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(8) the term "matching program"--

(A) means any computerized comparison of--

(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of--

(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(II) recouping payments or delinquent debts under such Federal benefit programs, or

(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

(B) but does not include--

(i) matches performed to produce aggregate statistical data without any personal identifiers;

(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration

as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

(v) matches--

(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986; or

(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. § 402(x)(3), § 1382(e)(1));

(9) the term "recipient agency" means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10) the term "non-Federal agency" means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11) the term "source agency" means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

(12) the term "Federal benefit program" means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13) the term "Federal personnel" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) Conditions of disclosure

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be--

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711 (e) of Title 31.

(c) Accounting of Certain Disclosures

Each agency, with respect to each system of records under its control, shall--

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of--

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to records

Each agency that maintains a system of records shall--

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and--

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either--

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to

request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency requirements

Each agency that maintains a system of records shall--

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by Executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that

can be retained by the individual--

(A) the authority (whether granted by statute, or by Executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include--

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of

records, and how he can contest its content; and

(l) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;

(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and

(12) if such agency is a recipient agency or a source agency in a

matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) Agency rules

In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall--

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) Civil remedies

Whenever any agency

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance

with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of--

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of \$1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of legal guardians

For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) Criminal penalties

Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) Any officer or employee of any agency who willfully maintains a

system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

(j) General exemptions

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is--

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific exemptions

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is--

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(1) Archival records

(1) Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of Title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m) Government contractors

(1) When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under section 3711(e) of Title 31 shall not be considered a contractor for the purposes of this section.

(n) Mailing lists

An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Matching agreements -- (1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying--

(A) the purpose and legal authority for conducting the program;

(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to--

(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) applicants for and holders of positions as Federal personnel, that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E) procedures for verifying information produced in such matching program as required by subsection (p);

(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall--

(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii) be available upon request to the public.

(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data

Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if--

(i) such program will be conducted without any change; and

(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) Verification and Opportunity to Contest Findings

(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until--

(A)(i) the agency has independently verified the information; or

(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that--

(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of--

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) Sanctions

(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

(2) No source agency may renew a matching agreement unless--

(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B) the source agency has no reason to believe that the certification is inaccurate.

(r) Report on new systems and matching programs

Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) [Biennial report] Repealed by the Federal Reports Elimination and Sunset Act of 1995, Pub. L. No. 104-66, § 3003, 109 Stat. 707, 734-36 (1995), amended by Pub. L. No. 106-113, § 236, 113 Stat. 1501, 1501A-302 (1999) (changing effective date to May 15, 2000).

(t) Effect of other laws

(1) No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.

(u) Data Integrity Boards

(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3) Each Data Integrity Board--

(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

(B) shall review all matching programs in which the

agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including--

(i) matching programs in which the agency has participated as a source agency or recipient agency;

(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

(iii) any changes in membership or structure of the Board in the preceding year;

(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F) shall provide interpretation and guidance to agency

components and personnel on the requirements of this section for matching programs;

(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H) may review and report on any agency matching activities that are not matching programs.

(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that--

(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii) there is adequate evidence that the matching agreement will be cost-effective; and

(iii) the matching program is in the public interest.

(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) Office of Management and Budget Responsibilities

The Director of the Office of Management and Budget shall--

(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

(2) provide continuing assistance to and oversight of the implementation of this section by agencies.

The following section originally was part of the Privacy Act but was not codified; it may be found at § 552a (note).

Sec. 7(a) (1) It shall be unlawful for any Federal, State or local

government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to--

(A) any disclosure which is required by Federal statute, or

(B) any disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

The following sections originally were part of P.L. 100-503, the Computer Matching and Privacy Protection Act of 1988; they may be found at § 552a (note).

Sec. 6 Functions of the Director of the Office of Management and Budget.

(b) Implementation Guidance for Amendments -- The Director shall, pursuant to section 552a(v) of Title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

Sec. 9 Rules of Construction.

Nothing in the amendments made by this Act shall be construed to authorize--

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

Sec. 10 Effective Dates.

(a) In General -- Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) Exceptions -- The amendment made by sections 3(b) [Notice of Matching Programs -- Report to Congress and the Office of Management and Budget], 6 [Functions of the Director of the Office of Management and Budget], 7 [Compilation of Rules and Notices], and 8 [Annual Report] of this Act shall take effect upon enactment.

Go to: [DOJ FOIA Page](#) // [Justice Department Home Page](#)

Updated page September 26, 2003
usdoj/oip/pam

ICUC/CPMS/DOD

FACT SHEET

OVERSEAS CASES

- Foreign bills. Foreign nationals and U.S. citizens receiving medical services in a foreign country are entitled to full medical benefits, including a choice of qualified physicians;
- Particular forms are **not** necessary for payment of foreign bills. They also do not require a provider tax identification number or procedure codes;
- When medical bills are received in the Cleveland District Office, the responsible claims staff reviews the bills prior to submission to the National Office in Washington, D.C. for payment;
- The National Office processes payment of all bills for which payment is sent to a foreign address or is billed in a foreign currency;
- Medical Bills will be paid by DOL in the manner it is received. For Example: If the medical bill is received in dollars, the payment will be made in dollars. However, if the payment is received in Euros, DOL will pay the bill in Euros.
- Foreign Nationals are not entitled to Continuation of Pay (COP);
- Medical treatment provided by **ANY** military facility to injured DOD civilians is **NOT** charged to the Department of Labor **or** the Employee;
- Translations of medical reports or bills are not mandatory. However, it is very helpful in speeding up payment of the medical bills and the adjudication of the claim;
- Department of Labor does **NOT** pay for medical translations;
- Medical bills do **NOT** always appear in AQS or DIUCS;
- Specific country codes are needed when entering cases into EDI;
- Mail Delays occur if the Department of Labor does not have the proper Chargeback Codes, CPO Codes and addresses for overseas locations;
- Claim Forms (for most part) for foreign nationals will be the same as other FECA cases, with the exception of cases from Korea. Korean nationals use bilingual forms: 204EK(CA-1), 203EK(CA-16), 205EK(CA-5), and 206EK(CA-6);
- Excessive time for payment of medical bills **SHOULD** no longer occur. If it does, it could lead to late payment fees and court cases. Therefore, advising the employee at the beginning of the case that it is their responsibility to provide medical documentation is vital to the payment of medical bills.
- All overseas claims are initially adjudicated in the Cleveland office;
- Assistance for all overseas claims can be obtained from an Action Officer for Air Force/DOD, Navy and Army by calling (703) 696-1985 or DSN 426-1985.

**MAILING ADDRESS FOR ALL OVERSEAS CASES. THIS INCLUDES
MEDICAL BILLS:**

**DOL/OWCP
1240 E. 9th Street
Room 851**

**Attention: David Woods
Cleveland, OHIO 44199**

**Also, on the envelope, in large letters must be
"DO NOT OPEN IN MAILROOM"**

2 of 2 PAGES



What is the Pipeline Program?

The Defense Safety Oversight Council (DSOC) Workers' Compensation Task Force has endorsed the Pipeline Reemployment Program for Defense Employees (Pipeline) to all Department of Defense (DoD) Components as a tool for carrying out the mandate of the DSOC charter. This program provides DoD organizations with over hire authority and civilian pay authority necessary to reemploy partially recovered employees suffering from job-related injuries and illnesses. Pipeline addresses two basic issues that have historically hindered reemployment efforts by installations: resource allocation and funding.

The Office of the Secretary of Defense (OSD) has authorized the Pipeline Program, and has approved funding and Full Time Equivalent (FTE) positions to support these efforts. Oversight of this program will be under the Deputy Under Secretary for Civilian Personnel Policy (CPP), utilizing the resources of the Civilian Personnel Management Service (CPMS), Injury & Unemployment Compensation (ICUC) Division to implement policy, provide guidance, develop and monitor performance metrics. The CPMS Business Management Division (BMD) is working closely with ICUC to ensure that funds and FTE transactions are processed to and from DoD installations by appropriate accounting methods.

What are the benefits of Pipeline?

The Pipeline Program allows DoD installations to return partially disabled employees to productive duty as soon as they are medically able. The Program removes the barriers of funding and FTE availability by providing both to the DoD installation for a period of up to one year. Returning injured employees to suitable productive duty as soon as they are able, improves that employee's sense of value to the organization while minimizing the cost of workers' compensation disability payments.

Pipeline supports the President's Safety, Health, and Return-to-Employment (SHARE) initiative by assisting each DoD installation *reduce lost days resulting from injuries*. Commanders and program managers no longer have budget and complement constraints that contribute to longer periods of disability for injured workers as they had before the Pipeline Program.

Pipeline is also expected to yield sizeable returns on the Fiscal Year (FY) 2005 and out-year investments. Reemploying approximately 200 injured employees each fiscal year to productive duty will result in a projected Life-time Cost Avoidance (LCA) that could reach \$169 million, which equates to a 1357% Return-on-Investment.

Who is eligible to use the Pipeline?

Any DoD Component is eligible to request Pipeline funding and FTE positions to return injured employees to productive duty once medically able to perform such work. The injured employee must be an appropriated fund civilian employee who has filed a workers' compensation claim. The Office of Workers' Compensation Programs (OWCP) must accept that claim for a period of temporary total disability.

Every organizational level plays a distinct leadership role in promoting the benefits of this Program, and ensuring the success in meeting the challenge of returning injured employees back to some type of productive duty as soon as medically possible.

When participating in the program, it is important to understand the following requirements:

- Return to Work (RTW) efforts will continue as they currently are at the installation level. The only difference is the escalation of the RTW supporting documentation to CPMS so that funding and FTE apportionment can be executed.
- On the earliest date that a recipient of the pipeline funding returns to full duty, utilizes one full year of funding, or becomes totally disabled, the funding and FTE position reverts back to CPMS for use in another installation.

How is this program funded?

FTE allocations are made upon approval of the request for funding by CPMS and continue for the period Pipeline funding is authorized. Funding is disbursed each fiscal quarter, and is given to DoD installations that have returned an injured employee under the Pipeline program.

Disbursements for employees returned to light duty or rehabilitation assignments in a current fiscal quarter are prorated and reimbursed on an individual basis for the remainder of that fiscal quarter.

Disbursements for employees who remain in a productive position for a continuous period of 90 days or more are disbursed at the beginning of each subsequent fiscal quarter, and continue until the earliest return to full duty, or 12 months of supplemental disbursements, whichever occurs first.

Disbursements for employees who do not remain in a productive position for a continuous period of 90 days are prorated and cease upon the date that the employee either stops working, or is removed from the agency rolls.

Adjustments for costs not incurred at the DoD installation because of recurrent disability or removal from the agency rolls are prorated and adjusted in subsequent quarters.

DoD Injury Compensation Liaison Points of Contact for Pipeline

01-Boston Liaison Office

617-565-1363 CT, ME, MA, NH, RI, VT

02-New York Liaison Office

212-337-2277 NJ, NY, PR, VI

03-Philadelphia Liaison Office

215-597-4082 DE, PA, WV, MD (ZIP 21001-21999)

06-Jacksonville Liaison Office

904-232-1473 FL

904-232-2510 AL, KY, SC

904-232-2735 GA

904-232-2734 MS, NC, TN

09-Cleveland Liaison Office

216-522-2786 IL, IN, MI, MN, OH, WI

12-Denver Liaison Office

303-844-1150 CO, MT, ND, SD, UT, WY

13-San Francisco Liaison Office

415-744-2688 North/Central CA

415-744-3122 AZ, Southern CA

415-744-2689 HI, NV, Guam

14-Seattle Liaison Office

206-220-4320 AK, ID, OR, WA

16-Dallas Liaison Office

214-767-3527 OK, NM, W.TX

214-767-6853 AR, LA, N.TX

214-767-3553 IA, KS, MO, NE, S.TX

25-Washington DC Liaison Office

703-696-4551 Army-DC, MD, VA

703-696-1995 Navy-DC, MD, VA

703-696-7204 AF/DoD-DC, MD, VA

Civilian Personnel Management Service

1400 Key Blvd, Ste B200

Arlington, VA 22209

(703) 696-1985

icpa@cpms.osd.mil

www.cpms.osd.mil

Civilian Personnel Management Service



Pipeline Reemployment
Program for Defense
Employees

PIPELINE

SECRETARY OF LABOR
WASHINGTON

OCT - 2 2006

MEMORANDUM FOR: THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS
AND AGENCIES

FROM:

ELAINE L. CHAO



SUBJECT:

Extension of the Safety, Health, and Return-to-Employment
(SHARE) Initiative with Revised Goals 3 & 4

I am pleased that President Bush has announced the extension of the Safety, Health, and Return-to-Employment (SHARE) Initiative for Federal Executive Branch agencies through Fiscal Year 2009. Extending SHARE reaffirms the Administration's commitment to improving workplace safety and health conditions for Federal workers, while also reducing the financial costs to America's taxpayers. As you know SHARE establishes four goals that focus attention on the critical areas of a safety, health, and injury case management program:

- To reduce the total case rates for injuries and illness by at least 3% per year;
- To reduce the case rates for lost time injuries and illnesses by at least 3% per year;
- To increase the timely filing of injury and illness notices by at least 5% per year; and
- To reduce the rates of lost production days due to injuries and illnesses by at least 1% per year.

After struggling during the first year of the Initiative, several departments and agencies have made great strides in reducing their injury and illness case and lost production day rates, and many have substantially improved the timely reporting of incidents as they do occur. At the close of FY 2005, the Initiative's second year, the Federal Government as a whole (less the U.S. Postal Service) had achieved a Total Case Rate of 3.96 injuries and illnesses per 100 employees (*down* 5.5% from the FY 2003 baseline of 4.19), and a Lost Time Case Rate of 1.88 (*down* 2.6% from FY 2003's baseline of 1.93). It also managed to *increase* timely claim submissions to 70.9% from FY 2003's baseline of 49.6%. The government's Lost Production Day Rate *increased* to 56.1 from the FY 2003 Base Year rate of 56.0.

Under the SHARE extension, the goals and the goal setting methodology will essentially remain the same and continue use of FY 2003 agency performance data as the baseline for future goal-setting purposes. However, all agencies are now required to achieve at least a 50% timely filing rate under Goal 3. Agencies for which a 5% per

year improvement from their FY 2003 baseline results in a FY 2007 goal higher than 50%, will have their performance tracked against that formula-driven target, except that no agency's goal is required to exceed 95%. In FY 2008 and FY 2009, the minimum thresholds will rise to 55% and 60%, respectively; for each year all agencies must meet the minimum level or their formula-driven goal, whichever is higher, up to a maximum of 95%.

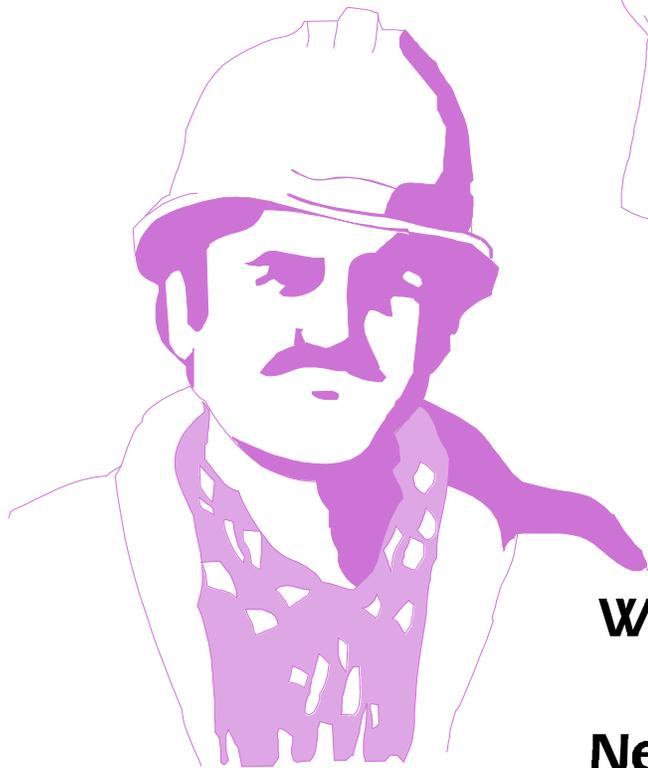
Goal 4 targets also have been slightly modified. Agencies with FY 2003 baseline Lost Production Days (LPDs) at or below 15 days are charged with maintaining an LPD rate of 15 or less. All other agencies will have their progress measured against the formula-driven targets of reducing LPDs by 1% per year, except that no such target is required to be fewer than 15 days.

We believe that these modifications will recognize and reward consistent and superior agency performance and, at the same time, will hold poor or low-end performers to much more significant and progressively challenging performance levels, something that SHARE's original goal-setting construct did not ensure. With these revised goals, we believe agencies will achieve even greater success in the remaining years of the Initiative.

The President has directed all Executive Branch departments and agencies to continue participating in the SHARE Initiative, and has encouraged you to work with the Department of Labor, which will continue leading the Initiative, to identify strategies for improving workplace safety and health. As did the President, I encourage you to consider establishing targets more challenging than the minimum goals. If you should accept this challenge, I ask that you notify Edwin G. Foulke, Jr., Assistant Secretary for the Occupational Safety and Health Administration (OSHA), by **December 1, 2006** of your agency's planned improvements for the three years of the Initiative in each of the four measures.

The Department of Labor will continue to measure and report agencies' progress in these four areas of emphasis. We look forward to fulfilling our continued leadership role in administering the SHARE Initiative by assisting you in building on your already impressive achievements, and helping to facilitate the accomplishment of an even healthier and more safety conscious Federal workforce.

Work-Related Injuries and Fatalities --



What You and Your Family Need to Know About Your Benefits



**United States
Office of
Personnel
Management**

**Retirement &
Insurance
Service**

RI 84-2
Revised November 1997
Previous edition is usable

Additional retirement information and all publications of the U.S. Office of Personnel Management listed in this pamphlet are available on the Internet.

OPM Website *<http://www.opm.gov/asd>*

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Introduction

This booklet summarizes the types of payments that Federal employees who are injured, or survivors of employees who die because of job-related illness or injury, may be eligible to receive because of the Federal employment. The information that follows is an overview prepared by the U.S. Office of Personnel Management. More detailed information on each type of payment is available from the agency that administers that program. Employees and their survivors should seek more detailed information from their employing agency, since the employing agency has the employees' records. Employing agencies also have any needed forms and can provide assistance in completing them.

Workers' Compensation Benefits

Workers' compensation benefits are available to you or your family, if you are injured or killed on the job. Compensation benefits are administered by the Department of Labor's Office of Workers' Compensation Programs. All related medical costs are covered in full. Wage loss benefits are paid if the injury results in disability. If the disability is total, compensation is paid at two-thirds of your monthly pay. If you are married or have one or more dependents, compensation is paid at three-fourths of the pay rate. Dependents may include a spouse, children, and parents.

The Department of Labor also may pay you a scheduled award for a permanent impairment to certain members or functions of the body (such as loss of use of an eye or arm, or loss of function or removal of a kidney due to injury). The amounts payable are specified by the Federal Employees Compensation Act. There is an additional award for serious disfigurement of the head, face, or neck.

If you were to die, your surviving spouse and dependents may qualify for monthly compensation benefits. (However, your surviving spouse must be living with or dependent for support on you at the time of your death or living apart for reasonable cause or because of your desertion.) If no children are eligible, your surviving spouse would receive 50 percent of your salary. If there are children, your surviving spouse would receive 45 percent of your salary plus an additional 15 percent for each child up to a total of 75 percent of your salary. The compensation benefits will be reduced if you were covered under the Federal Employees Retirement System and your survivors are eligible for Social Security benefits based on your Federal employment.

Funeral and burial expenses up to a maximum of \$800 may be paid. In addition, a sum of \$200 may be paid to a personal representative of yours for reimbursement of the costs of termination of your status as a Federal employee.

Retirement Benefits

Retirement benefits are also available to you or your survivors if you are disabled or lose your life because of job-related reasons. Generally, compensation benefits and Federal retirement benefits are not payable for the same period of time; therefore, you or your survivors must choose between the two benefits. In most cases, the primary benefits will be paid by the Department of Labor. The U.S. Office of Personnel Management (OPM), which administers both the Civil Service Retirement System and the Federal Employees Retirement System, would coordinate with Department of Labor.

Civil Service Retirement System (CSRS)

Disability Benefits

Disability retirement benefits are payable to you if you are unable to perform useful and efficient service in your position because of disease or injury. However, you would not be considered disabled if you decline your agency's offer of a position which accommodates your disability and is at the same grade or pay level and is within your commuting area. To qualify, the disabling condition must be expected to last at least 1 year, and you must have completed 5 years of Federal civilian service and have been covered under CSRS when disabled. The amount of annuity payable depends on the amount of Federal service you have and your salary level. There is also a guaranteed minimum benefit. If you qualify for both disability retirement and regular compensation benefits, generally you will be allowed to choose the higher compensation benefit over disability retirement. If your agency separates you, you should apply for disability retirement to protect your and your survivor's future annuity rights. Disability retirement benefits are suspended while you are receiving compensation benefits but can be activated should the compensation benefit stop or drop below the amount of the annuity benefit. The exception is if you are entitled to a scheduled award, which may be paid at the same time disability benefits are paid.

If you are also covered by Social Security as a Civil Service Retirement System (CSRS) Offset employee, your disability benefit would be offset by the part of your Social Security benefit that is based on your CSRS Offset service. You must apply for Social Security disability benefits if you are a CSRS Offset employee.

Death Benefits

Your surviving spouse and dependent children would qualify for compensation death benefits from the Department of Labor if you die because of a job-related injury or disease. Although they may also be eligible for survivor annuity benefits from CSRS, the two benefits are not payable for the same period of time. Like you, your survivor must elect which of the two benefits he or she wishes to receive. Most survivors will choose compensation benefits instead of a survivor annuity because compensation normally pays a higher amount. If they elect compensation benefits, they may also elect to receive a lump sum payment of your contributions to the retirement fund. The lump sum is paid under a statutory order of precedence: first, to the designated beneficiary; if none designated, to the surviving spouse; if none, to the child or children and descendants of deceased children, by representation; if none, to any surviving parents; if none, to the duly appointed executor or administrator of the estate; if none, to the next of kin.

Retirement benefits are payable under certain circumstances where compensation benefits are not payable. For instance, retirement benefits may be payable to a former spouse if a court order awarded them, but compensation benefits are not payable to a former spouse. In addition, if a widow or widower remarries before age 55 and that marriage ends, the retirement benefit may be reinstated (provided the survivor has not received a refund of your retirement contributions). In contrast, the compensation benefit may not be reinstated. Also, if you become disabled because of a job-related illness or injury, but die of unrelated causes, your survivors would not be eligible for compensation benefits, but may be eligible for CSRS survivor benefits.

If you are single and have no dependent children or former spouse eligible for benefits, there would be no monthly survivor annuity benefit payable. In this case, a lump sum of your retirement contributions would be paid to your survivors under the order of precedence described above.

Survivor benefits of CSRS Offset employees may be subject to an offset equal to the value of the offset service in the Social Security survivor benefit. The offset only applies if the survivor is eligible for Social Security benefits based on your employment.

For more information about CSRS disability and survivor benefits, read *Disability Retirement Under the Civil Service Retirement System* (RI 83-4) and *Survivor Benefits Under the Civil Service Retirement System* (RI 83-5). Information about how to obtain these pamphlets is at the end of this booklet.

Federal Employees Retirement System (FERS)

Disability Benefits

The eligibility requirements for FERS Disability Benefits are similar to those under the Civil Service Retirement System (CSRS) except that you would need only 18 months of Federal civilian service instead of 5 years. FERS disabled employees may also qualify for Social Security Disability Benefits if they are unable to work in any substantial gainful activity. FERS Disability Benefits are offset if you are also eligible for Social Security Disability Benefits. Therefore, you must apply for Social Security benefits at the same time you file an application for FERS Disability Benefits. The rules concerning the concurrent receipt of compensation benefits and disability retirement benefits are the same as the rules for CSRS employees.

Death Benefits

If you were married and worked for the Federal Government for at least 18 months, your surviving spouse may receive a lump sum payment. The lump sum payment (which is called the Basic Employee Death Benefit) is an amount equal to one half of your annual pay rate at death or one half of your high-3 average pay, plus \$21,335.30 in 1997. If you had 10 years of Federal service, your surviving spouse may also qualify for a monthly survivor benefit.

If you die after completing 18 months of civil service, your dependent children may also receive a survivor annuity benefit if they are not receiving Social Security benefits.

Like you, survivors must choose between death compensation benefits from the Department of Labor and FERS survivor benefits. If they elect workers compensation death benefits, they may also elect to receive a lump sum of your retirement contributions plus interest. The same order of precedence that applies under the CSRS applies under FERS. The FERS monthly survivor annuity and the basic employee death benefit are not payable if compensation is elected.

For more information about FERS read the pamphlet RI 90-1, *FERS (An Overview of Your Benefits)*.

Insurance Benefits

Insurance benefits may be available to you or your survivors if you are injured or killed. Generally you will receive medical benefits through the Office of Workers Compensation Programs. Dependents enrolled under your Health Benefits plan will be covered by that insurance plan. Life insurance coverage and coverage for other losses are also available to enrollees and their survivors. Both the Federal Employees Health Benefits Program and the Federal Employees Group Life Insurance Program are administered by the U.S. Office of Personnel Management.

Federal Employees Group Life Insurance (FEGLI)

Most Federal employees, unless they waive coverage, have Basic Life Insurance under the Federal Employees Group Life Insurance Program. Basic Life Insurance is equal to your actual rate of annual basic pay (rounded to the next \$1,000) plus \$2,000, or \$10,000, whichever is greater. In addition, there is an Extra Benefit for employees under age 45: Double life insurance benefits until age 36, decreasing at 10 percent per year until age 45, at which time the extra coverage will end. Basic Life Insurance also includes Accidental Death and Dismemberment coverage. Accidental death benefits are equal to the amount of the Basic Insurance Amount but without the Extra Benefit. Some employees may also have optional insurance coverage. Optional coverage for employees may be \$10,000 (Option A Standard, which doubles in case of accidental death), and/or one to five multiples of pay (Option B Additional). Option C Family insures the employee's family members and pays the employee \$5,000 upon the death of a spouse and \$2,500 upon the death of a child.

Life insurance benefits are paid under a statutory order of precedence: first, to the designated beneficiary; if none designated, to the surviving spouse; if none, to the child or children and descendants of deceased children, by representation; if none, to any surviving parents; if none, to the duly appointed executor or administrator of the estate; if none, to the next of kin.

Accidental Dismemberment

If you are covered by Federal life insurance and you were to lose a limb or your eyesight, in one or both eyes, you may be eligible for Accidental Dismemberment benefits. These benefits are available under Basic Insurance and Option A.

Life insurance would be paid in addition to any workers' compensation, Social Security, Civil Service Retirement System or Federal Employees Retirement System survivor benefit, or savings plan payment. For more information about life insurance, read the *Federal Employees Group Life Insurance Booklet*, RI 76-21.

Thrift Savings Plan

If you die as an employee and had a Thrift Savings Plan (TSP) account, your beneficiaries would be entitled to your entire account balance. The balance will be distributed according to your Designation of Beneficiary if you had completed one. If you did not complete a Designation of Beneficiary, your account will be distributed according to the statutory order of precedence: to your surviving spouse; if none, to your child or children and descendants of deceased children, by representation; if none, to any surviving parents; if none, to the duly appointed executor or administrator of the estate; if none, to the next of kin.

To postpone paying Federal income tax, your surviving spouse may have the TSP transfer or roll over all or any part of the payment to an Individual Retirement Arrangement. If your surviving spouse does so, no Federal income tax would be paid on the funds until withdrawal from the Individual Retirement Arrangement. A surviving spouse who receives the payment directly may roll all or any part of the payment over into an Individual Retirement Arrangement within 60 days. However, if the payment is made directly to your spouse, the TSP must withhold 20% for Federal income tax. If the TSP transfers the payment directly to the Individual Retirement Arrangement, there is no Federal income tax withholding.

The Thrift Savings Plan is administered by the Federal Retirement Thrift Investment Board (Board). For more information about death benefit payments and tax consequences, ask your employing agency representative or the Board for the notice, [Important Tax Information About Thrift Savings Plan Death Benefit Payments](#). The tax advantages of a rollover are not available to your children, your parents, or your estate.

Unpaid Compensation

If you die in service, your survivors will receive a lump sum payment covering your final pay and unused annual leave. The lump sum is paid by your agency under the same order of precedence as the other payments described.

Social Security Benefits

Disability Benefits

If you worked under Social Security, you may be entitled to disability benefits from Social Security, provided you have worked long enough under Social Security to qualify for benefits. The amount of covered employment needed depends upon your age. Also, some of the covered employment must be recent, although there are exceptions. Disability under Social Security means that you are so severely disabled that you cannot perform any substantial gainful work, and the disability is expected to last at least 1 year or to result in death. Benefits do not begin until after a 5-month waiting period. If you qualify for disability benefits, the amount of the benefit is computed based on your earnings under Social Security with no reduction for early retirement. The Social Security benefit may be reduced if you are also receiving a benefit based on employment covered by the Civil Service Retirement System.

If you are also receiving workers' compensation, the disability benefit may be reduced. The total of all disability benefits (Social Security, workers' compensation, and benefits under the Civil Service Retirement System or Federal Employees Retirement System) may not exceed 80 percent of your earnings before the disability began.

Survivor Benefits

Social Security will pay survivor benefits to your surviving spouse and dependent children. For your spouse to qualify for benefits, he or she must be age 60, or between the ages of 50 and 59 and disabled, or any age and caring for a child under age 16 or a disabled child. Children may qualify for benefits if they are under age 18 (or under age 19, if in high school) or disabled. Dependent parents and former spouses may also qualify for survivor benefits. The amount of the benefit depends upon your Social Security earnings and the number of survivors eligible for benefits. The Social Security spousal benefit may be reduced if the survivor is eligible for benefits based on his or her own employment and that employment was not covered by Social Security, such as employment under the Civil Service Retirement System.

Lump-Sum Death Payment

A lump sum of \$255 is payable to your surviving spouse provided the two of you were living together at time of your death or he/she is entitled to survivor benefits. If there is no surviving spouse, the lump sum is paid to children who are eligible for benefits. Otherwise, the lump sum is not payable.

Social Security benefits are administered by the Social Security Administration. To file a claim for Social Security benefits, you or your survivors should visit a Social Security District Office, and that office will initiate the claims. For answers

to questions and to set up appointments with a District Office, call 800-772-1213 between 7:00 AM and 7:00 PM, Eastern Time.

Death Gratuity Payment Under Public Law 104-208

At the discretion of the head of the department or agency, the personal representative of any Federal employee who dies from an injury sustained in the line of duty may be paid a death gratuity of up to \$10,000. While the payment is discretionary, the U.S. Office of the Personnel Management encourages all department and agency heads to make full use of this authority. The payment may be made in cases in which the injury occurred on or after August 2, 1990.

The gratuity, when combined with certain other payments, may not exceed \$10,000. The other payments that must be considered are: 1) the up to \$800 payable by the Department of Labor to a surviving spouse or children for funeral expenses of a Federal employee who died as a result of injuries sustained in the line of duty; 2) the \$200 payable by the Department of Labor for reimbursement of the costs of termination of the deceased employee's status as a Federal employee; and 3) any amount paid under Public Law 103-332 to the representative of any employee of any department or agency with appropriations from a Department of the Interior and Related Agencies Appropriations Act who is killed in the line of duty.

Public Safety Officers Benefits

The Public Safety Officers Benefits Act of 1976, as amended, authorizes the Bureau of Justice Assistance, Office of Justice Programs, to pay a benefit to specified survivors of public safety officers found to have died as the direct and proximate result of a personal injury, traumatic injury involving external force sustained in the line of duty, and to claimant public safety officers found to have been permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty. As of 1997, the amount of the benefit for a qualified survivor, or a qualified disabled public safety officer, is \$138,461.00. This amount is increased by annual cost of living adjustments.

A public safety officer is defined to be any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, police, corrections, probation, parole and judicial officer, firefighter, rescue squad member or ambulance crew member. A public agency means an agency of the

United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of State or local government.

The death benefit is payable in a lump sum to the spouse and eligible children of a deceased public safety officer. One-half of the benefit would be paid to the spouse, and one-half of the benefit would be paid, in equal amounts, to the eligible children. Eligible children are defined as children 18 years of age or younger, children 19 through 22 years of age who are full-time students, and children 19 years of age or over and incapable of self support because of a physical or mental disability.

The death benefit will be paid to the deceased public safety officer's parents if no surviving spouse or children are eligible for the benefit. If the public safety officer is not survived by any eligible spouse, children, or parents, no benefit will be paid.

The death benefit is payable to a qualified survivor of a Federal employee in addition to death benefits payable to the survivor from the Civil Service Retirement System, the Federal Employees Retirement System, and Department of Labor's Office of Workers' Compensation Program under subchapter I of chapter 81 of title 5, United States Code.

Public safety officers found to have been permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty are also entitled to the payment if they are permanently unable to perform **any** gainful employment.

More information concerning the Public Safety Officers' Benefits Program can be obtained by contacting the Bureau of Justice Assistance at the following address:

Public Safety Officers' Benefits Program
Bureau of Justice Assistance
633 Indiana Avenue, NW
Washington, DC 20531-0001

Additional Information

You may obtain copies of the pamphlets listed below from your personnel office, from OPM's Website (<http://www.opm.gov/asd>), or from OPM ONLINE (OPM's electronic bulletin board) at (202) 606-4800. To access OPM ONLINE, your communications software should be set to the following:

Baud: Up to 28,800
Parity: None
Data bits: 8
Stop bit: 1

Pamphlets applicable to employees in both the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) are:

Court-Ordered Benefits for Former Spouses (RI 84-1)

Work-Related Injuries and Fatalities What You and Your Family Need to Know About Your Benefits (RI 84-2)

Life Events and Your Retirement and Insurance Benefits (*For Employees*) (RI 84-3)

Thinking About Retirement? (RI 83-11)

The pamphlets in the CSRS Retirement Facts Series:

Retirement Facts #1 - The Civil Service Retirement System (RI 83-1)

Retirement Facts #2 - Military Service Credit Under the Civil Service Retirement System (RI 83-2)

Retirement Facts #3 - Deposits and Redeposits Under the Civil Service Retirement System (RI 83-3)

Retirement Facts #4 - Disability Retirement Under the Civil Service Retirement System (RI 83-4)

Retirement Facts #5 - Survivor Benefits Under the Civil Service Retirement System (RI 83-5)

Retirement Facts #6 - Early Retirement Under the Civil Service Retirement System (RI 83-6)

Retirement Facts #7 - Computing Retirement Benefits Under the Civil Service Retirement System (RI 83-7)

Retirement Facts #8 - Credit for Unused Sick Leave Under the Civil Service Retirement System (RI 83-8)

Retirement Facts #9 - Refunds Under the Civil Service Retirement System (RI 83-9)

Retirement Facts #10 - Voluntary Contributions Under the Civil Service Retirement System (RI 83-10)

Retirement Facts #11 - Information for Separating Civil Service Retirement System Employees Who Are Not Eligible for an Immediate Annuity (RI 83-11)

Retirement Facts #12 - Information About Reemployment for Civil Service Retirement System Annuitants (RI 83-18)

Retirement Facts #13 - Civil Service Retirement System Offset Retirement Provisions (RI 83-19)

Retirement Facts #14 - Law Enforcement and Firefighter Civil Service Retirement System Retirement (RI 83-20)

Publications for employees who are under the Federal Employees Retirement System (FERS) are:

FERS Brochure (*An Overview of Your Benefits*) (RI 90-1)

FERS Facts #1 - Information for Separating FERS Employees Who Are Not Eligible for an Immediate Annuity (RI 90-11)

FERS Facts #2 - Information About Reemployment for FERS Annuitants (RI 90-18)

For employees who are eligible to transfer to the Federal Employees Retirement System

FERS Transfer Handbook (*A Guide to Making Your Decision*) (RI 90-3)

Pamphlets on the Federal Health and Life Insurance Programs are:

Federal Employees Health Benefits Guide (RI 70-1)

Temporary Continuation of Coverage (TCC) under the Federal Employees Health Benefits Program (RI 79-27)

Federal Employees Group Life Insurance Booklet (RI 76-21)

Retirement & Insurance Service



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Subchapter 102A CSRS and FERS

Part 102A1 General Information

Section 102A1.1-1 Overview

A. Introduction An employee who is disabled or injured in the line of duty may be eligible for workers' compensation benefits from the Department of Labor. This subchapter explains how the employee's entitlement to workers' compensation benefits affects present and future retirement and survivor annuity rights under CSRS and FERS.

B. Topics Covered This subchapter covers:

- General information about workers' compensation benefits;
- The rules regarding the receipt of dual compensation;
- The effect of making an election between an annuity and workers' compensation benefits;
- The termination of workers' compensation benefits;
- A surviving spouse's election between a survivor annuity and workers' compensation death benefits;
- When time spent in receipt of workers' compensation benefits is creditable for retirement purposes; and
- The effect an election of workers' compensation benefits has on the alternative annuity and other retirement considerations.

C. Organization of Subchapter This subchapter has four parts.

Part	Name of Part	Page
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102A3	Credit for Service for Time Spent in Receipt of Workers' Compensation Benefits	9
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2 **CSRS** **Relationship Between Retirement Annuity and Compensation** **FERS**
for Work-Related Injuries and Diseases
Chapter 102

Section 102A1.1-1 Overview (Cont.)

D. Statement of Authority

This subchapter is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8116, 8332, 8337, 8344, 8411, 8464a, and 8468
 - Code of Federal Regulations: 5 CFR Parts 831 and 842
-

Section 102A.1-2 Workers' Compensation Benefits--General

A. General

Workers' compensation benefits are paid under the Federal Employees' Compensation Act (FECA) to employees of the United States who become disabled due to an employment-related disease or injury sustained in the performance of duty. This law also provides for the payment of compensation benefits to dependents, if the disease or injury causes the employee's death. FECA is administered by the Office of Workers' Compensation Programs (OWCP) of the U.S. Department of Labor.

NOTE: See title 5 U.S.C. chapter 81 for a discussion of the rules and procedures that govern the payment of workers' compensation benefits.

B. Benefits Payable

FECA provides for both scheduled and nonscheduled lump-sum benefits and payments based upon permanent, total, or partial disabilities.

1. Scheduled Awards

Scheduled awards are benefits paid for a specified period in the event of permanent impairment of certain members or functions of the body, including certain internal and external organs (such as loss of use of an eye, arm, or loss of function or removal of kidney due to injury); or for serious disfigurement of the head, face, or neck.

2. Compensation for Loss of Wages (Nonscheduled Awards)

Compensation for loss of wage-earning capacity (that is, a nonscheduled award) may be payable for the period an employee is unable to resume regular work because of injury or disease-related (total or partial) disability. This compensation is paid on the basis of the difference between the employee's capacity to earn wages and the wages of the job he or she held when injured.

See 5 U.S.C. chapter 81 for basic information about OWCP benefits.

C. Survivor Benefits

The survivor of a Federal employee whose death is caused by work-related injury or disease may be entitled to benefits under FECA. See 5 U.S.C. chapter 81 for information about the payment of survivor benefits.

Section 102A1.1-3 Bar Against Dual Compensation

A. General Rule An individual who is eligible for an annuity under CSRS or FERS and compensation benefits under FECA may not receive both benefits concurrently. The bar includes nonscheduled compensation that has been commuted to a lump-sum payment under 5 U.S.C. 8135.

NOTE: Individuals who have received a lump-sum payment in commutation of a nonscheduled compensation award may elect to receive a CSRS or FERS annuity. However, they must refund to the Office of Workers' Compensation Programs, Department of Labor, any portion of the lump sum that is based on any period extending beyond the effective date of election to receive an annuity. (The Department of Labor determines the applicable amount.)

B. Exceptions The general bar against the receipt of concurrent annuity and compensation benefits is subject to the following exceptions.

1. An individual receiving an annuity may also receive a scheduled award.
2. An individual receiving an annuity may be furnished medical services under FECA.
3. An individual receiving compensation benefits on account of the death of another person may also receive an annuity on the basis of his or her own service.
4. A person eligible for both a disability retirement annuity and compensation for work injuries, whose compensation is suspended because he or she has received financial settlement from a third party directly responsible for the injury, may, since he or she is not in receipt of compensation, be paid an annuity during the suspension period.

Part 102A2 Electing Between Workers' Compensation Benefits and Annuity**Section 102A2.1-1 Electing Between Workers' Compensation Benefits and Annuity**

A. Employees Must Apply for Both OWCP and Disability Annuity to Preserve Rights

Separated employees who have applied for workers' compensation must also apply for retirement benefits to preserve their rights under CSRS or FERS. If the employee is eligible for both benefits, he or she must then choose between them. Applying for retirement benefits is the only way in which the employee's (and his or her survivor's) future annuity rights will be protected.

NOTE 1: If an employee applies for both benefits, OPM will begin annuity payments if OWCP has not awarded benefits by the time the retirement claim has been adjudicated. If OWCP subsequently awards benefits, the annuitant must reimburse OPM for annuity that has been paid. Normally, OWCP withholds the amount of annuity paid from benefits payable to reimburse OPM.

NOTE 2: If a separated employee is eligible for an annuity based on age and service, filing an application for annuity is not necessary to protect the employee's right to an annuity, but is necessary to preserve survivors' rights to survivor annuity benefits and continued health insurance coverage in the event the employee dies and workers' compensation benefits are not payable to the survivor on a continuing basis.

B. Election of OWCP Benefits Over an Annuity

If an annuitant elects to receive workers' compensation benefits, OPM suspends payment of his or her annuity during the period that compensation benefits are paid. However, if the compensation benefits end for any reason, OPM will reinstate the annuity, if the individual remains entitled.

NOTE: An election between workers' compensation benefits and annuity is not irrevocable. The individual may switch between the two benefits whenever it is to his or her advantage to do so.

C. Disadvantage of Applying for Annuity

An individual who files an application for retirement with OPM and who is entitled to an annuity, but who elects to receive OWCP benefits for loss of wage-earning capacity in lieu of annuity, is considered an annuitant. Unless the person's entitlement to an annuity ends (for example, because of recovery from the disabling condition), upon reemployment he or she is subject to the rules governing reemployed annuitants. Being subject to these rules may be disadvantageous if the individual is reemployed at a

Section 102A2.1-1 Electing Between Workers' Compensation Benefits and Annuity (Cont.)

- C. Disadvantage of Applying for Annuity (Cont.)** lower grade, on a part-time basis, or does not work long enough to be eligible for a supplemental annuity. For further information, see section 102A3.1-2. Reemployed Annuitants.
- D. Time Limit for Applying for Disability Retirement** Except in the case of mental incompetency, the disability retirement application of a separated employee **must** be received by OPM within 1 year of the date of separation from Federal service.
- If the former employee does not file a timely application, he or she will not be eligible for disability retirement benefits if and when compensation payments stop. (The former employee also will not be eligible to temporarily continue health benefits coverage under 5 U.S.C. 8905a.) In addition, the rights of survivors to death benefits would not be established.
- NOTE: The 1-year limit does not apply to applications for nondisability benefits.
- E. Payment of a Refund** A separated employee who is not entitled to receive an annuity, including an individual who had elected to receive workers' compensation benefits in lieu of a disability annuity, may receive a refund of his or her retirement contributions. However, before applying for the refund, the employee should be aware of the following:
1. If a separated CSRS employee receives a refund, he or she forfeits all annuity rights based on the service covered by the refund (including survivor benefits) unless the individual is later reemployed in a position subject to CSRS.
 2. Payment of a refund under FERS permanently voids any retirement rights based on the period of FERS service that the refund covers. Thus, the employee cannot repay the money in the future to recredit the refunded service.
 3. While an employee may believe that his or her compensable injury is permanent, and that OWCP benefits will continue for his or her lifetime, frequently OWCP benefits are interrupted or terminated because of (1) a change in the employee's medical condition, (2) the availability of work, or (3) rehabilitation.
- F. Agency Responsibility** Because of the importance of a decision whether or not to apply for retirement, the employing agency needs to inform separating employees of the rules governing receipt of OWCP benefits and annuity so that employees can make decisions based on what they expect their future employability to be.
-

Section 102A2.1-2 When OWCP Benefits Terminate

A. General

Many former employees who are eligible for both workers' compensation and retirement benefits initially elect to receive workers' compensation because it generally is the higher benefit. If workers' compensation benefits later terminate or are reduced, the former employee may then elect to receive the annuity (unless entitlement has terminated).

B. Reverting to Annuity

If workers' compensation benefits terminate, or the former employee elects to receive an annuity in lieu of compensation, the time spent in receipt of workers' compensation after the date of retirement is not counted in computing the disability annuity or, if eligible, an annuity based on age and service. Instead, the annuity computed based on the individual's service and high-3 average salary as of the date of separation, plus all applicable cost-of-living adjustments, may be reinstated.

NOTE: A disability annuity may terminate if the former employee is found medically or administratively recovered or restored to earning capacity. (See Chapter 60.)

Section 102A2.1-3 Survivor Benefits

A. General Rule The surviving spouse and/or children of an individual who died as a result of a job-related disease or injury may be eligible for both death compensation benefits from OWCP and CSRS or FERS survivor benefits. However, the law prohibits concurrent payment of workers' compensation death benefits and a survivor annuity. Like the employee, the survivor must elect which of the two benefits he or she wishes to receive.

NOTE: If the surviving spouse elects workers' compensation death benefits, he or she is not eligible for the FERS basic employee death benefit. (See Chapter 70.)

Part 102A3 Credit for Service for Time Spent in Receipt of Workers' Compensation Benefits**Section 102A3.1-1 General Rules**

- A. When Employee is in a LWOP Status** An employee who is in a leave-without-pay (LWOP) status while in receipt of FECA benefits will receive full credit for the LWOP period in the computation of annuity and for high-3 average salary purposes. LWOP while in receipt of FECA benefits is not subject to the limitation of 6 months credit in each calendar year, as is other LWOP.
-
- B. When a Separated Employee Returns to Federal Service** When a separated employee (not annuitant) returns to Federal service, that portion of the period of separation during which the employee received FECA benefits is deemed to be a period of LWOP during which the employee is receiving FECA benefits, and is fully creditable for computation and high-3 average salary purposes.

NOTE: No period of separation, even one in which the employee received FECA benefits, may be credited in meeting the requirement that a CSRS employee complete 1 year of covered service in the 2-year period immediately preceding a non-disability retirement.

Section 102A3.1-2 Reemployed Annuitants

A. General

An individual who files an application for retirement with OPM and who is entitled to an annuity, but who elects to receive OWCP benefits for loss of wage-earning capacity in lieu of annuity, is considered an annuitant. This is because he or she may, at any time, reverse his or her election and choose to receive an annuity in lieu of OWCP benefits. Thus, in the case of reemployment, the individual's future benefits must be computed on the basis of statutory provisions governing reemployed annuitants.

B. Non-Disability Annuitant

The reemployment status of a non-disability annuitant is determined by the provisions of 5 U.S.C. 8344 or 8468. (See Chapter 100.)

1. If the individual's right to annuity continues during reemployment, the individual will not be able to credit a period of separation during which he or she received OWCP unless he or she is reemployed for 5 continuous full-time years (or the part-time equivalent) and elects a redetermined annuity.
2. If the individual's right to annuity ceases upon reemployment in a covered position, the period of separation during which he or she received OWCP benefits is not creditable unless he or she establishes a new annuity right based on reemployment service. (Under CSRS, this would require that the employee meet the "1-out-of-2 requirement.")

EXAMPLE: A voluntary nondisability retiree who has elected to receive compensation in lieu of annuity is reemployed several years later in a part-time position (20 hours per week) at the same grade. After working in that position for 5 years and 6 months, the employee separates.

Is the reemployed annuitant entitled to a recomputed annuity?

No. Because the previous retirement was voluntary and nondisability, the right to receive annuity continues during the period of reemployment, and the individual is a reemployed annuitant. Also, because the part-time reemployment service is not equivalent to 5 years of full-time reemployment service (5 years and 6 months at 20 hours per week is equivalent to 2 years and 9 months of full-time service), the employee is not entitled to a redetermined annuity. Consequently, the reemployed annuitant cannot receive credit for a recomputed annuity for the period of separation during which he or she received OWCP benefits.

Section 102A3.1-2 Reemployed Annuitants (Cont.)**B. Nondisability
Annuitant (Cont.)****To what annuity benefit is the reemployed annuitant entitled?**

The reemployed annuitant is entitled only to a supplemental annuity added to the previous annuity. The supplemental annuity would be based only on the actual period of reemployment. No credit would be given for the period of separation during which the annuitant received OWCP benefits.

See Chapter 100, Reemployed Annuitants, for additional information.

**C. Disability
Annuitant**

The reemployment status of a disability annuitant is determined by the continuing nature of his or her disability annuity. A reemployed disability annuitant can receive service credit for the time spent on OWCP's rolls if he or she:

1. Subsequently returns to work in a position with retirement coverage;
2. Is found by OPM to be either:
 - Recovered from disability; or
 - Restored to earning capacity; and
3. Establishes new title to annuity.

EXAMPLE: A disability annuitant who retired from a GS-9 full-time position is awarded OWCP benefits. Later, the annuitant is reemployed in a permanent, full-time GS-9 position, and the OWCP benefits are terminated. OPM finds the reemployed annuitant recovered from his or her disability 3 months after reemployment. Ten months later (sufficient time for a CSRS employee to meet the 1-year-out-of-2 requirement) the employee resigns.

To what annuity benefits is the employee entitled?

Immediate Annuity - If the employee meets the age and service requirements for an immediate voluntary annuity [30 years of service at age 55, 20 at 60, or 5 at 62, and, in addition, for FERS, 10 at the minimum retirement age (MRA)], he or she is entitled to that benefit.

Deferred Annuity - If there is no immediate entitlement, the employee would be entitled to a deferred annuity at age 62, or, at the MRA, with 10 years of service under FERS.

Section 102A3.1-2 Reemployed Annuitants (Cont.)

C. Disability Annuitant (Cont.)

Disability Annuity - Because the employee has title to annuity (either immediate or deferred) based on the new separation, he or she would not be entitled to have the prior disability retirement reinstated. However, if the employee is once again found disabled by OPM at the time of separation, a new disability retirement may be awarded.

Service Credit - In all three situations, the period of separation spent in receipt of OWCP benefits is creditable in determining entitlement to, and the amount of, the benefit.

If the disability annuitant/OWCP recipient is not found by OPM to be recovered or restored, he or she is treated differently when reemployed. In these instances, the reemployment service is governed by the provisions of law covering reemployed annuitants. Thus, the period of separation during which the individual was in receipt of OWCP (in lieu of a disability annuity) is not creditable unless he or she is reemployed for 5 continuous full-time years (or the part-time equivalent) and elects a redetermined annuity.

NOTE: Upon receipt of verification of an annuitant's reemployment, OPM reviews the records to determine the effect, if any, on the individual's continuing eligibility for benefits based on disability. However, continued payment from OWCP for loss of wage-earning capacity is prima facie evidence that the person is not recovered. In such cases, OPM will not make a finding of recovery unless there is contravening medical evidence.

EXAMPLE: A disability annuitant who retired from a GS-9 full-time position is awarded OWCP benefits. Later, the annuitant is reemployed in a GS-9 position on a part-time basis, with a tour of duty of 20 hours per week. The annuitant continues to receive partial OWCP payments for loss of wage-earning capacity. The reemployed annuitant resigns after 13 months and elects to receive retirement benefits in lieu of OWCP benefits.

May the disability annuitant be found recovered from his or her disability?

Generally not. Reemployment in a position of the same grade, but with a lesser tour of duty, is not considered equivalent employment for recovery purposes. Also, continued receipt of OWCP benefits

Section 102A3.1-2 Reemployed Annuitants (Cont.)

- C. Disability Annuitant (Cont.)** for loss of wage-earning capacity is prima facie evidence of nonrecovery. Either of these two factors would generally prevent OPM from making a recovery finding. OPM would only make a finding of recovery in this case if recovery was demonstrated by medical evidence.

To what annuity benefit is the annuitant entitled?

The annuitant is only entitled to have the original disability annuity reinstated, with the cost-of-living adjustments that had accrued since the original separation. No supplemental annuity is payable, because the 13 months of part-time reemployment service is not equivalent to 1 year of actual, continuous, full-time service, and the period of separation spent in receipt of OWCP benefits cannot be credited in computing a supplemental annuity.

- D. Supplemental Annuity** Service performed prior to the individual's reemployment as an annuitant does not enter into the supplemental annuity computation. Therefore, time spent in receipt of OWCP benefits prior to the employment as an annuitant also has no effect on the supplemental annuity computation. Like a non-disability annuitant, a non-recovered disability annuitant must earn a redetermined annuity to credit post-retirement time spent on the rolls of OWCP.
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Section 102A3.1-3 Miscellaneous

A. Alternative Annuity and Workers' Compensation

1. The Department of Labor has ruled that an employee who elects to receive nonscheduled workers' compensation is not entitled to the lump-sum payment under the alternative annuity provisions (see Chapter 53). Receipt of both benefits is considered prohibited dual compensation under the Federal Employees' Compensation Act.
2. If an eligible employee retires, elects the alternative annuity and later becomes eligible for and elects workers' compensation benefits, the Department of Labor will require that all retirement payments, including the alternative annuity lump-sum, be returned to OPM, either by direct repayment, or withholding from compensation.

EXAMPLE: William retires and may elect the alternative annuity. He receives a reduced annuity of \$1,500 per month and a lump-sum payment of \$30,000. One year later, William is awarded and elects workers' compensation benefits that total \$2,000 per month.

During a 1-year period of retirement, William would have received \$48,000 (\$1,500 x 12 months + \$30,000 lump sum) in retirement benefits. Workers' compensation benefits for the same period of time would be \$24,000 (\$2,000 x 12 months). Consequently, William has been overpaid \$24,000 (\$48,000 - \$24,000).

B. Salary Supplemented by Workers' Compensation

When computing the high-3 average salary for an employee whose salary is being supplemented by workers' compensation benefits, use only the basic salary rate of the position. Do not include any payments from OWCP. See Chapter 50, Computation of Annuity, for guidance in computing basic rates; see Chapter 55, Computation for Part-Time Employees, for guidance in computing the average salary for part-time employees; and, see Chapter 100, Reemployed Annuitants, section 100A4.1-1, for computing the basic rate when an offset is involved.

EXAMPLE: Dick retires on disability from a GS-13 position. His high-3 average salary was \$37,000.00. He receives OWCP benefits for 3 years. He is then reemployed in a GS-5 position. OWCP pays benefits equal to the difference between the GS-5 pay and 75 percent of the GS-13 pay. Because the GS-5 position is not equivalent to the GS-13 position, OPM does not find Dick recovered from his disability. Therefore, his reemployment falls under reemployed annuitant rules. Also, because the

Section 102A3.1-3 Miscellaneous (Cont.)**B. Salary
Supplemented by
Workers'
Compensation
(Cont.)**

GS-5 pay does not equal or exceed 80 percent of the GS-13 pay, Dick is not found restored to earning capacity during the period of reemployment.

Dick works full-time for 5 continuous years, and then separates. He is entitled to either a supplemental annuity or a redetermined annuity. The supplemental annuity would be based on the 5 years of reemployment service, and the average salary for those 5 years, and will be added to the disability annuity he was previously awarded. The redetermined annuity would be based on all of Dick's service, including the period of separation during which he received OWCP benefits, and would replace the disability annuity he was previously awarded.

However, because Dick's GS-5 salary for the last 5 years was significantly below the GS-13 salary he was previously paid (the OWCP payments that supplemented the salary cannot be counted as salary), his high-3 period would be from a period prior to the date of reemployment. Therefore, the disability annuity plus supplemental annuity may be the greater benefit.

Section 102A4.1-1 Job Aids

A. Chart -- Reemployment Status and Future Annuity Rights of Annuitants Reemployed After Receiving OWCP Benefits

TYPE OF ANNUITY	ANNUITY STATUS	BENEFITS ON SEPARATION	SERVICE CREDITED
Voluntary Non-Disability; disability <u>not</u> recovered or restored to earning capacity.	Right to annuity continues. Any annuity paid during the period of reemployment must be deducted from salary.	Original Annuity	No Additional Service Credited
		Plus, a supplemental annuity, if reemployment equals or exceeds 1 year of actual full-time continuous service, or its part-time equivalent.	Only the actual period of reemployment is credited in the computation of the supplemental annuity.
Involuntary CSRS annuity (non-covered appointment).	Right to annuity ceases on reemployment.	If reemployment equals or exceeds 5 years of actual full-time continuous service, or its part-time equivalent, then the annuitant may elect a redetermined annuity in lieu of the original annuity plus the supplemental annuity.	All prior creditable service, plus periods of separation during which the annuitant was in receipt of OWCP benefits, may be credited in the computation of the redetermined or new annuity.
Involuntary FERS annuity.		A new annuity is payable if the latest separation is qualifying (CSRS employees must meet the 1-year out of 2 rule for nondisability annuity).	Only service associated with the prior annuity is credited when that annuity is reinstated.
FERS MRA + 10 or early deferred ¹			
Mandatory			
Involuntary CSRS annuity (covered appointment).			
Disability annuity - Annuitant found recovered or restored to earning capacity.			

¹ When the individual is reemployed before the commencing date of annuity, the right to annuity terminates.

Chart displaying the rules governing the reemployment of an annuitant who has received OWCP benefits, and the computation of future benefits based on that reemployment.

Section 102A4.1-1 Job Aids (Cont.)**B. Commonly Asked Questions and Answers on Retirement Credit for Time Spent in Receipt of OWCP Benefits:****I. Service Credit Generally****Q-1. Do retiring employees receive full credit in their retirement computation for periods of LWOP and separation during which they received OWCP benefits?**

A-1. Yes. So long as the period(s) involved occurred prior to the separation on which title to annuity is based, this service is available as service credit for title, average salary, and length of service purposes.

Q-2. Is there any purpose for which a period of separation during which the employee received OWCP benefits cannot be credited?

A-2. Yes. A period of separation cannot be credited in meeting the 1-year-out-of-2 provision of 5 U.S.C. 8333(b), irrespective of the separated employee's entitlement to OWCP benefits.

Q-3. What is the 1-year-out-of-2 provision?

A-3. Under the 1-year-out-of-2 provision, a CSRS employee must complete 1 year of creditable service subject to retirement deductions in the 2 years immediately preceding his or her separation before being eligible for a nondisability retirement based on that separation. FERS does not have the same requirement.

II. Employees and Annuitants**Q-4. What is the difference between a separated employee and an annuitant?**

A-4. A separated employee is a former Federal employee who was covered by either CSRS or FERS. An annuitant is a separated employee whose application for either a CSRS or FERS annuity has been received by OPM (or, when appropriate, the employing agency) and who meets the requirements for that benefit. For individuals who are applying for a regular benefit based on age and service, "meeting all the requirements" means the person 1) has separated from his or her employing agency; 2) meets the appropriate age and service requirements; and 3) has filed an application for annuity with OPM (or, when appropriate, the employing agency). For an applicant for disability annuity, however, OPM must make a finding of disability before annuitant status can be established.

Q-5. Is an annuitant who elects to receive OWCP benefits for loss of wage-earning capacity in lieu of annuity still considered an annuitant?

A-5. Yes. This is because he or she may, at any time, reverse his or her election and choose to receive annuity in lieu of OWCP benefits.

Section 102A4.1-1 Job Aids (Cont.)

Q-6. How can annuitants receive retirement credit for periods of separation after retirement during which they received OWCP benefits in lieu of civil service annuity?

A-6. An annuitant can credit periods of separation during which they received OWCP benefits in lieu of annuity by earning new title to annuity based on a separation which occurs after the period of receipt of OWCP benefits.

III. Reemployed Annuitants

Q-7. How does an annuitant earn a new title to annuity?

A-7. A new title to annuity can only be earned through reemployment. When the right to annuity ceases on or during reemployment, a new right to an immediate or deferred annuity will accrue on the next separation, presuming that title to annuity is not barred by the 1-year-out-of-2 provision under CSRS. When the right to annuity continues during reemployment, a new title to annuity is earned only when the reemployed annuitant completes 5 years of actual, continuous, full-time service, or the part-time equivalent, and earns a right to a redetermined annuity.

Q-8. What kinds of annuities terminate on or during reemployment?

A-8. Under CSRS, a discontinued-service annuity terminates when the employee is reemployed in a position which would be covered by CSRS. Other CSRS annuities terminate when the annuitant is reemployed under special circumstances, such as a Member of Congress or a Presidential appointee. All other annuities, and the right to receive annuity, are not directly affected by reemployment. However, special rules apply to disability annuities which terminate during reemployment.

Q-9. What are the special rules which apply to disability annuities that terminate during reemployment?

A-9. When a CSRS or FERS disability annuitant is found recovered or restored to earning capacity by OPM, the normal termination date can be affected by reemployment. A disability annuity usually terminates 1 year after the date of a finding of recovery, or 6 months after the end of the calendar year for which the disability annuitant was found restored to earning capacity. When a disability annuitant who has been found recovered or restored to earning capacity is reemployed in any Federal position prior to the ordinary termination date of annuity, the annuity terminates on the later of (1) the date of reemployment or (2) the date of OPM's finding.

Q-10. On what basis can a disability annuitant be found recovered?

A-10. OPM will find a disability annuitant recovered from his or her disability if (1) medical evidence shows that the medical condition that initially caused the disability has ameliorated to the point that the annuitant is no longer disabled for the position from which he or she retired, or (2) the annuitant is permanently reemployed, under CSRS or FERS, in a position of the same, or higher, grade or pay level as the position from which he or she retired. For this purpose, pay level means current basic pay, and is the hourly rate times the number of hours in the tour of duty.

Section 102A4.1-1 Job Aids (Cont.)**Q-11. What circumstances will prevent OPM from making a recovery finding on the basis of reemployment?**

If the disability annuitant is age 60 or over, he or she may only be found recovered at his or her own request. Also, if the reemployed disability annuitant continues to receive OWCP benefits on the basis of loss of earning capacity, a recovery finding on the basis of reemployment normally is inappropriate.

Q-12. May a reemployed disability annuitant request OPM to make a finding of recovery from disability, and what effect does the request have?

A-12. Yes. A reemployed disability annuitant may request to be found recovered from his or her disability. A disability annuitant age 60 or over may only be found recovered on his or her own request.

Q-13. On what basis may a disability annuitant be found restored to earning capacity?

Q-13. A disability annuitant is deemed restored to earning capacity when, in any calendar year in which the annuitant is under age 60 (on December 31), the annuitant's earnings equal or exceed 80 percent of the current pay of the position from which the annuitant retired.

Q-14. Are OWCP benefits counted as part of a disability annuitant's earnings for restoration to earning capacity purposes, or as part of his or her salary for average salary purposes?

A-14. No.

Q-15. How is average salary computed, especially when the employee is working a part-time schedule?

A-15. Average salary is computed on the rate of basic pay of the position, not on how much the employee is actually paid. For part-time service prior to April 7, 1986, the full-time annual rate of the position is prorated by the employee's part-time work schedule. Part-time service on or after that date is credited at the full-time salary rate, but the amount of service is prorated.

Q-16. What CSRS or FERS benefits are payable if the reemployed annuitant (whose annuity terminated on or during reemployment) separates without new title to either immediate or deferred annuity?

A-16. If a nondisability annuity terminated on or during reemployment, it may be reinstated as of the date of separation. If a disability annuity terminated on or during reemployment, and the employee is (1) still, or once again, disabled by the same medical condition, and (2) under age 62, the disability annuity may be reinstated. If a disability annuity terminated on or during reemployment, but the employee does not meet the above, he or she may be entitled to discontinued-service annuity based on the termination of the disability annuity. To meet this requirement, he or she would need to have had

Section 102A4.1-1 Job Aids (Cont.)

25 years of service when he or she initially retired, or 20 years of service, and be age 50 or over when the disability annuity terminated. If none of the above circumstances apply to the employee, he or she will be entitled to a deferred annuity based on a prior separation.

Q-17. What benefits would be payable to a reemployed annuitant (whose annuity did not terminate during reemployment) if he or she is not entitled to a redetermined annuity?

A-17. If the annuitant completed at least 1 year of actual, continuous full-time reemployment service, or its part-time equivalent, he or she would be entitled to a supplemental annuity. A supplemental annuity is added onto the regular annuity.

Q-18. Can periods of separation during which the annuitant received OWCP benefits be included in the computation of the supplemental annuity?

A-18. No. Only actual reemployment service may be used in the computation of a supplemental annuity.