

the Living Benefit payment and an explanation of benefits.

(i) Until the check has been cashed or deposited, the individual may change his/her mind about electing a Living Benefit; if this happens, the individual must mark the check “void” and return it to OFEGLI.

(ii) Once the insured individual has cashed or deposited the payment, the Living Benefit election becomes effective and cannot be revoked; OFEGLI then sends explanations of benefits to the insured’s employing office, so it can make the necessary changes in withholdings and deductions.

(2) If the application is not approved, OFEGLI will notify the insured individual and the employing office. The decision is not subject to administrative review; however, the individual can submit additional medical information or reapply at a later date if future circumstances warrant.

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PART 880—RETIREMENT AND INSURANCE BENEFITS DURING PERIODS OF UNEXPLAINED ABSENCE

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Subpart A—General

§ 880.101 Purpose and scope.

(a) The purpose of this part is to establish a uniform standard that OPM will use in its administration of benefits for CSRS, FERS, FEHBP and FEGLI in cases in which an annuitant becomes a missing annuitant.

(b) This part establishes the procedures that OPM will follow to—

(1) Determine—

(i) Who is a missing annuitant,

(ii) When a missing annuitant has died,

(iii) When benefits will be paid in missing annuitant cases, and

(iv) FEHBP coverage for family members of a missing annuitant; and

(2) Make adjustments to CSRS and FERS benefit payments, FEHBP coverage and premiums, and FEGLI benefit payments and premiums after a determination that a missing annuitant is dead.

(c) This part applies only to situations in which an individual who satisfies the statutory definition of an annuitant under section 8331(9) or section 8401(2) of title 5, United States Code, disappears and has not been determined to be dead by an authorized institution. This part does not apply to—

(1) An employee, regardless of whether the absence is covered by subchapter VII of chapter 55 of title 5, United States Code; or

(2) A separated employee who either—

(i) Does not meet the age and service requirements for an annuity, or

(ii) Has not filed an application for annuity.

§ 880.102 Regulatory structure.

(a) This part contains the following subparts:

(1) Subpart A contains general information about this part and related subjects.

(2) Subpart B establishes the procedures that OPM will follow in missing annuitant cases.

(3) Subpart C establishes the methodologies that OPM will apply in determining continuations of coverage and amounts of payments in missing annuitant cases.

(b) Part 831 of this chapter contains information about benefits under CSRS.

(c) Part 838 of this chapter contains information about benefits available to former spouses under court orders.

(d) Parts 841 through 844 of this chapter contain information about benefits under FERS.

(e) Part 870 of this chapter contains information about benefits under FEGLI.

(f) Part 890 of this chapter contains information about benefits under FEHBP.

(g) Part 1200 of this title contains information about Merit Systems Protection Board review of OPM decisions affecting interests in CSRS or FERS benefits.

(h) Part 1600 of this title contains information about benefits under the Thrift Savings Plan.

§ 880.103 Definitions.

For purposes of this part—

Annuitant means an individual who has separated from the Federal service with, and has retained, title to a CSRS or FERS annuity, has satisfied the age and service requirements for commencement of that annuity, and has filed an application for that annuity;

Associate Director means OPM's Associate Director for Retirement and Insurance or his or her designee;

Authorized institution means a government organization or official legally charged with making determinations of death in the State or country of the missing annuitant's domicile, citizenship, or disappearance;

CSRS means the Civil Service Retirement System established in subchapter III of chapter 83 of title 5, United States Code;

FEGLI means the Federal Employees Group Life Insurance program established in chapter 87 of title 5, United States Code;

FEHBP means the Federal Employees Health Benefits Program established in chapter 89 of title 5, United States Code;

FERS means the basic benefit portion of the Federal Employees Retirement System established in subchapters I, II, IV, V, and VI of chapter 84 of title 5, United States Code; *FERS* does not in-

clude benefits under the Thrift Savings Plan established under subchapters III and VII of chapter 84 of title 5, United States Code;

Missing annuitant means an individual who has acquired the status of missing annuitant under § 880.203(b).

Subpart B—Procedures

§ 880.201 Purpose and scope.

This subpart establishes the procedures that OPM will use to—

(a) Determine that an individual is a missing annuitant;

(b) Suspend payment of annuity to a missing annuitant;

(c) Notify individuals affected by such a suspension of payments; and

(d) Determine that a missing annuitant has died.

§ 880.202 Referral to Associate Director.

Any OPM office that receives information concerning the possibility that an annuitant might have disappeared will notify the Associate Director.

§ 880.203 Missing annuitant status and suspension of annuity.

(a) Upon receipt of information concerning the possibility that an annuitant has disappeared, the Associate Director will conduct such inquiry as he or she determines to be necessary to determine whether the annuitant is alive and whether the annuitant's whereabouts can be determined.

(b) If during an inquiry under paragraph (a) of this section, or upon subsequent receipt of additional information, the Associate Director finds substantial evidence (as defined in § 1201.56(c)(1) of this title) to believe that an annuitant is either not alive or that the annuitant's whereabouts cannot be determined, the annuitant acquires the status of missing annuitant. The Associate Director will then—

(1) Suspend payments to the missing annuitant; and

(2) Notify individuals who may be able to qualify for payments under § 880.302 that—

(i) OPM has suspended the annuity payments to the missing annuitant;

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(ii) Payment may be made under § 880.302, including the amount available for payment, how that amount was determined, and the documentation required (if any) to qualify for such payments; and

(iii) In response to an inquiry from any person seeking CSRS, FERS, FEHBP, or FEGLI benefits, OPM will provide information about documentation necessary to establish a claim for such benefits.

§ 880.204 Restoration of annuity.

(a) If the missing annuitant's whereabouts are determined, and he or she is alive and—

(1) Competent, OPM will resume payments to the annuitant and pay retroactive annuity for the period in missing status less any payment made to the family during that period; or

(2) Incompetent, OPM will resume payments to a representative payee under section 8345(e) or section 8466(c) of title 5, United States Code, and pay retroactive annuity for the period in missing status less any payment made to the family during that period.

(b) If the missing annuitant's whereabouts cannot be determined, missing annuitant status continues until an authorized institution determines that the missing annuitant is dead. (See § 880.205.)

§ 880.205 Determinations of death.

OPM does not make findings of presumed death. A claimant for CSRS, FERS, or FEGLI death benefits (other than payments under § 880.302) or an individual seeking an adjustment of accounts under § 880.207 must submit a death certificate or other legal certification of death issued by an authorized institution.

§ 880.206 Date of death.

(a) Except as provided in paragraph (b) of this section, for the purpose of benefits administered by OPM, the date of death of a missing annuitant who has been determined to be dead by an authorized institution is the date of disappearance as determined by the Associate Director.

(b) For the purpose of determining whether a claim is untimely under any statute of limitations applicable to

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CSRS, FERS or FEGLI benefits (section 8345(i)(2), section 8466(b), or section 8705(b) through (d) of title 5, United States Code), the time between the date of disappearance and the date on which the authorized institution issues its decision that the missing annuitant is dead is excluded.

§ 880.207 Adjustment of accounts after finding of death.

After a missing annuitant is determined to be dead under § 880.205, OPM will review the case to determine whether additional benefits are payable or excess insurance premiums have been withheld.

Subpart C—Continuation of Benefits

§ 880.301 Purpose.

This subpart establishes OPM's policy concerning the availability and amount of CSRS and FERS annuity payments and the continuation of FEHBP and FEGLI coverage and premiums while an annuitant is classified as a missing annuitant.

§ 880.302 Payments of CSRS or FERS benefits.

(a) OPM will pay an amount equal to the survivor annuity that would be payable as CSRS or FERS survivor annuity to an account in a financial institution designated (under electronic funds transfer regulations in part 209 or part 210 of Title 31, Code of Federal Regulations) by an individual who, if the missing annuitant were dead, would be entitled to receive payment of a survivor annuity.

(b) If more than one individual would qualify for survivor annuity payments in the event of the missing annuitant's death, OPM will make separate payments in the same manner as if the missing annuitant were dead.

§ 880.303 FEHBP coverage.

(a) If the missing annuitant had a family enrollment, the enrollment will be transferred to the eligible family members under § 890.303(c) of this chapter. If there is only one eligible family member, the enrollment will be changed to a self-only enrollment under § 890.306(r) of this chapter. The

changes will be effective the first day of the pay period following the date of disappearance.

(b) If the missing annuitant was covered by a self only enrollment or if there is no eligible family member remaining, the enrollment terminates at midnight of the last day of the pay period in which he or she disappeared, subject to the temporary extension of coverage for conversion.

(c) If the missing annuitant is found to be alive, the coverage held before the disappearance is reinstated effective with the pay period during which the annuitant is found, unless the annuitant, or the annuitant's representative, requests that the enrollment be restored retroactively to the pay period in which the disappearance occurred.

§ 880.304 FEGLI coverage.

(a) FEGLI premiums will not be collected during periods when an annuitant is a missing annuitant.

(b)(1) If the annuity of a missing annuitant is restored under § 880.204(a), OPM will deduct the amount of FEGLI premiums attributable to the period when the annuitant was a missing annuitant from any adjustment payment due the annuitant under § 880.204(a).

(2) If a missing annuitant is determined to be dead under § 880.205, FEGLI premiums and benefits will be computed using the date of death established under § 880.206(a).

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

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