

## § 841.308

Such a decision must be in writing and state the right to appeal under § 841.308.

### § 841.308 Appeals to MSPB.

Except as noted in this paragraph, an individual whose rights or interests under FERS are affected by a final decision of OPM may request MSPB to review the decision in accord with procedures prescribed by MSPB. Decisions made in accord with the procedures referenced in § 841.306(b)(1) are made under subchapter II of chapter 83, title 5, United States Code. Such decisions are not appealable to MSPB under section 8461(e) of title 5, United States Code.

### § 841.309 Competing claimants.

(a) Competing claimants are applicants for survivor benefits based on the service of an employee, separated employee, or retiree when—

(1) A benefit is payable based on the service of the employee, separated employee, or retiree; and

(2) Two or more claimants have applied for benefits based on the service of the employee, separated employee, or retiree; and

(3) An OPM decision in favor of one claimant will adversely affect another claimant(s).

(b) In cases involving competing claimants, the Associate Director or his or her designee will issue a final decision that will be in writing, will fully set forth findings and conclusions, and will contain notice of the right to appeal provided in § 841.308. Copies of the final decision will be sent to all competing claimants.

(c)(1) When OPM receives applications from competing claimants before any payments are made based on the service of the employee or Member, OPM will begin payments to the claimant(s) found entitled in the decision issued under paragraph (b) of this section.

(2) When OPM does not receive an application from a competing claimant(s) until after another person has begun to receive payments based on the service of the employee or Member, the payments will continue until a decision is issued under paragraph (b) of this section. When a decision is issued under paragraph (b) of this section, OPM will—

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(i) If OPM affirms its earlier decision, continue payments to the claimant(s) OPM originally determined to be entitled; or

(ii) If OPM reverses its earlier decision, suspend payment to the claimant(s) OPM originally determined to be entitled and immediately begin payment to the claimant(s) OPM determines to be entitled in its decision under paragraph (b) of this section. OPM will not take action to collect the overpayment until the time limit for filing an appeal has expired or the MSPB has issued a final decision on a timely appeal, whichever comes later.

### Subpart D—Government Costs

SOURCE: 51 FR 47187, Dec. 31, 1986, unless otherwise noted.

#### § 841.401 Purpose and scope.

(a) The purpose of this subpart is to regulate the Government contributions to the Civil Service Retirement Fund under FERS.

(b) This subpart covers—

(1) Factors considered in the computation of agency contributions under FERS;

(2) Publication of notice of the normal cost rates for each category of employees;

(3) Agency appeals of rate determinations; and

(4) Methodology for determining the amount due from each agency.

#### § 841.402 Definitions.

In this subpart—

*Actuary* means an associate or fellow in the Society of Actuaries and one who is enrolled under section 3042 of Pub. L. 93–406, the “Employee Retirement Income Security Act of 1974.”

*Administrative expenses* means the normal cost loading applicable to the administration of FERS.

*Age* means age, as of the beginning of the fiscal year, rounded to the nearest birthday.

*Agency head* means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency;