

Office of Personnel Management

§ 870.101

Subpart H—Order of Precedence and Designation of Beneficiary

- 870.801 Order of precedence and payment of benefits.
- 870.802 Designation of beneficiary.
- 870.803 Child incapable of self-support.

Subpart I—Assignments of Life Insurance

- 870.901 Assignments permitted.
- 870.902 Making an assignment.
- 870.903 Effective date of assignment.
- 870.904 Amount of insurance.
- 870.905 Withholdings.
- 870.906 Cancellation of insurance.
- 870.907 Termination and conversion.
- 870.908 Annuitants and compensationers.
- 870.909 Designations and changes of beneficiary.
- 870.910 Notification of current addresses.

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

- 870.1001 Purpose.
- 870.1002 Definitions.
- 870.1003 Coverage and amount of insurance.
- 870.1004 Effective date of insurance.
- 870.1005 Premiums.
- 870.1006 Cancellation of insurance.
- 870.1007 Termination and conversion.
- 870.1008 Order of precedence and designation of beneficiary.
- 870.1009 Responsibilities of the U.S. Department of State.

Subpart K—Living Benefits

- 870.1101 Eligibility for a Living Benefit.
- 870.1102 Amount of a Living Benefit.
- 870.1103 Election procedures.

Subpart L—Portability

- 870.1201 Portability permitted.
- 870.1202 Eligibility.
- 870.1203 Amount of insurance.
- 870.1204 Cost of insurance.
- 870.1205 Electing portability for Option B.
- 870.1206 Termination and cancellation of ported coverage.
- 870.1207 Designations, assignments, and court orders.
- 870.1208 Return to active service.

AUTHORITY: 5 U.S.C. 8716; subpart J also issued under sec. 599C, Pub. L. 101-513, 104 Stat. 2064, as amended; §870.302(a)(3)(ii) also issued under sec. 153, Pub. L. 104-134, 110 Stat. 1321; §870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251 and sec. 7(e), Pub. L. 105-274, 112 Stat. 2419.

SOURCE: 62 FR 48731, Sept. 17, 1997, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 870.101 Definitions.

Annuitant means a former employee entitled to an annuity under a retirement system established for employees. This includes the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard.

Assign and *assignment* refer to an individual's irrevocable transfer to another individual, corporation, or trustee all ownership of FEGLI coverage (except Option C).

Assignee means the individual, corporation, or trustee to which an individual irrevocably transfers ownership of FEGLI coverage (except Option C).

Child, as used in the definition of *Family member* for Option C coverage, means a legitimate child, an adopted child, a stepchild or foster child who lives with the employee or former employee in a regular parent-child relationship, or a recognized natural child. It does not include a stillborn child or a grandchild (unless the grandchild meets all the requirements of a foster child). The child must be under age 22 or, if age 22 or over, must be incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

Child, as used in the *order of precedence for payment of benefits*, means a legitimate child, an adopted child, or a recognized natural child, of any age. It does not include a stepchild, a stillborn child, a grandchild, or a foster child. An individual who has reached age 18 is considered an adult and can receive a benefit payment in his/her name. However, if the age of adulthood where the individual has his/her legal residence is set at a lower age, the individual is considered an adult upon reaching that lower age. Adopted children do not inherit from their birth parents under the order of precedence stated in 5 U.S.C. 8705, other than as designated beneficiaries, but inherit from their adoptive parents. However, a child who is adopted by the spouse of a birth parent inherits from that birth parent.

Compensation means compensation under subchapter I of chapter 81 of title 5, United States Code, which is payable

§870.101

5 CFR Ch. I (1-1-08 Edition)

because of an on-the-job injury or disease.

Compensation means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty.

Court order means any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement relating to any court decree of divorce, annulment, or legal separation, the terms of which require FEGLI benefits to be paid to a specific person or persons.

Date of retirement, as used in 5 U.S.C. 8706(b)(1)(A), means the starting date of annuity.

Dependent means living with or receiving regular and substantial support from the insured individual.

Duly appointed representative of the insured's estate means an individual named in a court order granting the individual the authority to receive, or the right to possess, the insured's property; the order must be issued by a court having jurisdiction over the insured's estate. Where the law of the insured's legal residence provides for the administration of estates through alternative procedures which do away with the need for a court order, this term also means an individual who shows that he/she is entitled to receive, or possess, the insured's property under the terms of those alternative procedures.

Employee means an individual defined by section 8701(a) of title 5, United States Code.

Employing office means the agency office or retirement system office that has responsibility for life insurance actions.

(1) The Administrative Office of the United States Courts is the employing office for judges of the following courts:

- (i) All United States Courts of Appeals;
- (ii) All United States District Courts;
- (iii) The Court of International Trade;
- (iv) The Court of Federal Claims; and
- (v) The District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands.

(2) The Washington Headquarters Services is the employing office for judges of the United States Court of Appeals for the Armed Forces.

(3) The United States Tax Court is the employing office for judges of the United States Tax Court.

(4) The United States Court of Veterans Appeals is the employing office for judges of the United States Court of Veterans Appeals.

Family member means a spouse (including a valid common law marriage) and unmarried dependent child(ren).

Immediate annuity means:

(1) An annuity that begins no later than 1 month after the date the insurance would otherwise stop (the date of separation from service), and

(2) An annuity under §842.204(a)(1) of this title for which the starting date has been postponed under §842.204(c) of this title.

Judge means an individual appointed as a Federal justice or judge under Article I or Article III of the Constitution.

OFGLI means the Office of Federal Employees' Group Life Insurance, which pays benefits under the policy.

OPM means the Office of Personnel Management.

OWCP means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers subchapter I of chapter 81 of title 5, United States Code.

Parent means the mother or father of a legitimate child or an adopted child. The term *parent* includes the mother of a recognized natural child; it also includes the father of a recognized natural child if the recognized natural child meets the definition provided below.

Portability Office means the office OPM designates to manage ported coverage and to collect premiums for ported coverage.

Ported coverage means continued coverage that would otherwise have terminated.

Recognized natural child, with respect to paternity, is one for whom the father meets one of the following:

- (1) (i) Has acknowledged paternity in writing;
- (ii) Was ordered by a court to provide support;

Office of Personnel Management

§ 870.104

(iii) Before his death, was pronounced by a court to be the father;

(iv) Was established as the father by a certified copy of the public record of birth or church record of baptism, if the insured was the informant and named himself as the father of the child; or

(v) Established paternity on public records, such as records of schools or social welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(2) If paternity is not established by paragraph (1) of this definition, such evidence as the child's eligibility as a recognized natural child under other State or Federal programs or proof that the insured included the child as a dependent child on his income tax returns may be considered when attempting to establish paternity.

Reconsideration means the final level of administrative review of an employing office's initial decision to determine if the employing office followed the law and regulations correctly in making the initial decision concerning FEGLI eligibility and coverage.

Regular parent-child relationship means that the employee or former employee is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and medical care.

Service means civilian service which is creditable under subchapter III of chapter 83 or chapter 84 of title 5, United States Code. This includes service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard for an individual who elected to remain under a retirement system established for employees described in section 2105(c) of title 5.

Terminally ill means having a medical prognosis of a life expectancy of 9 months or less.

Underdeduction means a failure to withhold the required amount of life insurance deductions from an individual's pay, annuity, or compensation. This includes nondeductions (when none of the required amount was withheld) and partial deductions (when only

part of the required amount was withheld).

[62 FR 48731, Sept. 17, 1997; 62 FR 52181, Oct. 6, 1997, as amended at 64 FR 16602, Apr. 6, 1999; 64 FR 72461, Dec. 28, 1999]

§ 870.102 The policy.

Basic, Option A, Option B, and Option C benefits are payable according to a contract with the company or companies that issue a policy under § 8709 of title 5, United States Code. Any court action to obtain money due from this insurance policy must be taken against the company that issues the policy.

§ 870.103 Correction of errors.

(a) The employing office may make corrections of administrative errors regarding coverage or changes in coverage. Retroactive corrections are subject to the provisions of § 870.401(f).

(b) OPM may order correction of an error after reviewing evidence that it would be against equity and good conscience not to do so.

§ 870.104 Incontestability.

(a) If an individual erroneously becomes insured, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the individual has paid applicable premiums during that time. This applies to errors discovered on or after October 30, 1998.

(b) If an employee is erroneously allowed to continue insurance into retirement or compensation, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the annuitant or compensationner has paid applicable premiums during that time. This applies to such errors discovered on or after October 30, 1998.

(c) If an individual who is allowed to continue erroneous coverage because of incontestability does not want the coverage, he/she may cancel the coverage on a prospective basis. There is no refund of premiums.

[64 FR 72461, Dec. 28, 1999]