

### Subpart H—Order of Precedence and Designation of Beneficiary

#### § 870.801 Order of precedence and payment of benefits.

(a) Except as provided in paragraph (d) of this section, benefits are paid according to the order of precedence stated in 5 U.S.C. 8705(a), as follows:

(1) To the designated beneficiary (or beneficiaries);

(2) If none, to the widow(er);

(3) If none, to the child, or children in equal shares, with the share of any deceased child going to his/her children;

(4) If none, to the parents in equal shares or the entire amount to the surviving parent;

(5) If none, to the executor or administrator of the estate;

(6) If none, to the next of kin according to the laws of the State in which the insured individual legally resided.

(b) If an insured individual provides in a valid designation of beneficiary for insurance benefits to be payable to the insured's estate, or to the Executor, Administrator, or other representative of the insured's estate, or if the benefits would otherwise be payable to the duly appointed representative of the insured's estate under the order of precedence specified in 5 U.S.C. 8705(a), payment of the benefits to the duly appointed representative of the insured's estate bars recovery by any other person.

(c) Option A and B insurance in force on a person on the date of his/her death is paid, on receipt of a valid claim, in the same order of precedence and under the same conditions as Basic insurance. A designation of beneficiary for Basic insurance is also a designation of beneficiary for Options A and B, unless the insured individual states otherwise in his/her designation.

(d)(1) If there is a court order in effect naming a specific person or persons to receive life insurance benefits upon the death of an insured individual, Basic insurance and Option A and Option B insurance will be paid to the person or persons named in the court order, instead of according to the order of precedence.

(2) To qualify a person for such payment, a certified copy of the court order must be received by the appro-

priate office on or after July 22, 1998, and before the death of the insured.

(3)(i) For employees, the appropriate office is their employing agency.

(ii) For annuitants, the appropriate office is OPM.

(iii) For compensationers during the first 12 months of nonpay status, the appropriate office is their employing agency.

(iv) For compensationers after separation or the completion of 12 months in nonpay status, the appropriate office is OPM.

(v) For employees and former employees who have ported Option B coverage, the appropriate office is the Portability Office.

(4) If, within the applicable time frames, the appropriate office receives conflicting court orders entitling different persons to the same insurance, benefits will be paid based on whichever court order was issued first.

(e) Upon the death of an insured family member, Option C benefits are paid to the employee, annuitant, or compensationer responsible for withholdings under § 870.402(a), except as provided in paragraph (f) of this section.

(f) If an employee, annuitant, or compensationer entitled to receive Option C benefits dies before the benefits are paid, the Option C benefits are paid to the individual(s) entitled to receive Basic life insurance benefits under the statutory order of precedence. However, if the insurance has been assigned in accordance with subpart I of this part, any prior designations of beneficiary were cancelled; benefits in this instance are paid under the statutory order of precedence, starting with the second on the list.

[62 FR 48731, Sept. 17, 1997, as amended at 64 FR 16602, Apr. 6, 1999; 64 FR 72464, Dec. 28, 1999; 68 FR 59082, Oct. 14, 2003]

#### § 870.802 Designation of beneficiary.

(a) Except as provided in paragraph (i) of this section, if an insured individual wants benefits paid differently from the order of precedence, he/she must file a designation of beneficiary. A designation of beneficiary cannot be filed by anyone other than the insured individual. Exception: if the insurance has been assigned under subpart I of