Linking Employee Relations And Retirement
Types Of Retirement

- Regular/optional
- Early retirement
  - Early optional
  - Discontinued service
- Disability
- Special provisions
- Deferred
Disability Retirement

- An employee benefit intended only for those employees who are unable to complete a normal career due to a disease or injury and who meet all of the statutory and regulatory criteria.
Statutory And Regulatory Provisions

- **CSRS** - 5 U.S.C. Section 8337 and 5 C.F. R. 831.502 and 831.1203
- **FERS** - 5 U.S.C. Section 8451 and 5 C.F.R. Chapter 844
Other Pertinent Laws

- The American with Disabilities Act of 1990 as amended by the ADA Amendment Act of 2008
Role of OPM and Employing Agency

- **OPM**
  - Independently adjudicate claim based on application submitted

- **Agency**
  - Forward any application to OPM
  - Provide documentation
  - Take appropriate personnel actions
Criteria for Entitlement

- Minimum service
- Medical condition
- Which arose while employed
- Deficiency in service
- Nexus between medical condition & deficiency in service
- Duration of one year or more
- Reasonable accommodation not possible
- Placement not possible
Minimum Service

- CSRS - 5 years
- FERS - 18 months
Medical Condition

- Health impairment resulting from disease or injury, including psychiatric disease
- Can occur on or off the job
- Must be demonstrated by objective medical evidence
Which Arose While Employed

- Pre-existing disease - substantially worsened during period of employment
- Progressive disease - able to perform duties of position when hired, but has subsequently become disabled due to progression of disease
Deficiency in Service

- Performance or
- Conduct or
- Attendance or
Deficiency in Service

If no service deficiency, a medically warranted restriction from performing essential duties or from the workplace based on risk of

- Sudden incapacitation
- Further health impairment caused by working
- Transmission of communicable disease
Nexus

Showing that medical condition has caused the service deficiency
Duration

- Anticipated duration of more than one year
- Measured from date application is filed
- Refusal/failure to follow prescribed treatment may preclude approval
- Surgery, invasive medical procedures cannot be required
Reasonable Accommodation

- Any action which agency would be obligated to take under Rehabilitation Act
- Obligation extends through adjudication process
Placement

- Agency obligation to review all vacant positions at same pay or grade and tenure within commuting area for which person is qualified
- Agency not obligated to create position
- Extends through adjudication process
Placement (Continued)

- OPM should be notified of refusal to accept placement
- Agency may want to use detail to try out placement
- Voluntary acceptance of lower graded position treated as withdrawal of application
Application Process

- Submission by employee, family member

- Agency filed applications very rare
  - Decision to remove has been issued &
  - Documented nexus between medical condition and reason for removal &
  - Employee incapable of filing &
  - No representative or immediate family member
Application Process (Cont’d)

- Time limit for filing - one year from date of separation from service
  - Established by statute
  - Waiver - only on basis of mental incompetence
Application Process (Continued)

- **Effective date of annuity**
  - Generally, first day after pay status as employee terminates and all disability & service requirements are met

- **Withdrawal of application**
  - Can be made at any time prior to date of separation or approval of application, whichever is later
Duration of Annuity

- Lifetime benefit
  - Medical Recovery
  - Restoration to Earning Capacity
Duration (Continued)

- Restoration to earning capacity
  - 80% of current rate of pay of former salary
  - If exceeds limitation, benefits terminate six months from end of calendar year in which earnings capacity was restored
Interrelationship With Other Actions

- OWCP determinations
- Social security determinations
- Adverse actions
- Settlement agreements
- Appeals
OWCP and Social Security

- **OWCP**
  - Cannot receive concurrently with disability payments

- **Social Security**
  - FERS employee must file for Social Security
Adverse Actions

- Agency required to give information regarding disability retirement to employee separated under 432 or 752 if employee claims problem leading to separation is due to medical condition
- Removal due to physical inability
Adverse Actions (Continued)

- Use of settlement agreements - see OPM guidance

- Appeals
Discontinued Service Retirement

Criteria for Entitlement

- Age and service
- Involuntary separation
- Specific notice
- Reasonable offer
DSR (Continued)

- Performance
- RIF
- Use of settlement agreements - see OPM guidance
- Appeals
Additional Settlement Issues

- Eligibility
- Payments