



Retirement and Insurance Service
Benefits Administration Letter

Number: 99-207

Date: April 14, 1999

Subject: Federal Employees' Group Life Insurance: Court Order Regulations

Regulations implementing Pub. L. 105-205 were published in the *Federal Register* on April 6, 1999.

Under this law, court orders preempt the statutory order of precedence for paying benefits under the Federal Employees' Group Life Insurance Program.

Attached is a copy of the regulations.

A handwritten signature in cursive script, appearing to read "Abby L. Block".

Abby L. Block, Chief
Insurance Policy
and Information Division

Attachment

Publication date April 6, 1999

6325-01

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN: 3206-AI49

FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM:

COURT ORDERS

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement a new law, which was enacted July 22, 1998. This law requires that provisions of a court decree of divorce, annulment, or legal separation, or the terms of a court order or court-approved property settlement agreement relating to such a court decree be followed instead of the otherwise existing statutory order of precedence for payment of benefits under the Federal Employees' Group Life Insurance Program.

DATES: Interim rules are effective May 6, 1999. Comments must be received on or before June 7, 1999.

ADDRESS: Send written comments to Abby L. Block, Chief, Insurance Policy and Information Division, Office of Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 3425, 1900 E Street, NW, Washington, DC; or FAX to (202) 606-0633.

FOR FURTHER INFORMATION CONTACT: Karen Leibach, (202) 606-0004.

SUPPLEMENTARY INFORMATION: The Federal Employees' Group Life Insurance (FEGLI) law sets an order of precedence for payment of benefits following the death of an insured employee, annuitant, or compensator (5 U.S.C. § 8705). First in the order of precedence is a designated beneficiary. There has been no statutory limitation on changing designations.

When a divorce decree requires an individual insured under FEGLI to name his/her children or former spouse as the beneficiary, it is possible the individual may not comply or may comply and then change the designation at a later date. This action, while potentially in violation of the court order, did not violate the FEGLI law.

Pub. L. 105-205, 112 Stat. 683, enacted July 22, 1998, requires benefits to be paid in accordance with the terms of a court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement relating to a court decree of divorce, annulment, or legal separation, regardless of whether or not the insured

individual actually completes a designation complying with the court order, if the court order is received in the appropriate office before the death of the insured individual. To the extent provided in the court order, the court order supersedes any prior designation by the insured individual. Pub. L. 105-205 also prohibits an insured individual from changing his/her designation, unless the person(s) named in the court order agrees or unless the court order is subsequently modified by the court that originally issued it.

These regulations define the types of court orders that the law applies to and state that the statutory order of precedence will not be applicable if such a court order has been received in the appropriate office on or after the date of enactment of the legislation and prior to the death of the insured. The appropriate office for active employees is their employing agency; the appropriate office for separated employees (annuitants) is OPM. For a compensation, during the first 12 months of nonpay status the appropriate office is their employing agency; after separation or the completion of 12 months in nonpay status, the appropriate office is OPM. To avoid the possibility of a fraudulent submission, we are requiring that certified copies of the court orders be submitted.

In the event of conflicting court orders, the Office of Federal Employees' Group Life Insurance (OFEGLI) will pay benefits based on whichever court order has the earliest date of execution and meets the requirement of having been received by the appropriate office on or after the date of enactment and before the death of the insured. (A domestic relations court order from one court does not automatically have the effect of modifying an existing domestic relations court order from another court.)

Pub. L. 105-205 also allows a court order to direct the insured to make an irrevocable assignment to the person(s) named in the court order. However, until the insured individual properly completes an assignment form, the assignment does not occur.

These regulations also correct an error to § 870.506(e)(2) to state that eligible employees who return to Federal service after a break in service of 180 days or more receive whatever Optional insurance coverage they had before separation, if they do not submit a Life Insurance Election specifically electing or waiving Optional insurance.

Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(3)(B) and (d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. These regulations implement Pub. L. 105-205, which became effective July 22, 1998.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect life insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

U.S. OFFICE OF PERSONNEL MANAGEMENT

Janice R. Lachance
Director

Accordingly, OPM is amending 5 CFR part 870 as follows:

Part 870–FEDERAL EMPLOYEES’ GROUP LIFE INSURANCE PROGRAM

1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; subpart J also issued under sec 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; § 870.302 also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111 Stat. 251; §§ 870.101, 870.801, 870.802, and 870.901 also issued under Pub. L. 105-205, 112 Stat. 683.

2. In § 870.101, the definition Court order is added in alphabetical order to read as follows:

§ 870.101 Definitions.

* * * * *

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.

* * * * *

3. In § 870.506, the third sentence of paragraph (e)(2) is revised to read as follows:

§ 870.506 Optional insurance: cancelling a waiver.

* * * * *

(e) * * *

(2) * * * If the employee doesn’t file a Life Insurance Election, in a manner designated by OPM, within the 31-day period, the employee gets whatever Optional insurance coverage he/she had immediately before separating from Federal service and is considered to

have waived any other Optional insurance. * * *

* * * * *

4. In § 870.801, paragraph (a) is revised, paragraphs (d) and (e) are redesignated as paragraphs (e) and (f), and a new paragraph (d) is added to read as follows:

§ 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:

* * * * *

(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 appropriate 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.

(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.

* * * * *

5. In § 870.802, the first sentence of paragraph (a) is revised, and a new paragraph (i) is added to read as follows:

§ 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. * * *

* * * * *

(i) (1) Except as provided in paragraph (i)(2) of this section, if a court order has been received in accordance with § 870.801(d), an insured individual cannot designate a different beneficiary, unless

(i) The person(s) named in the court order gives written consent for the change, or

(ii) The court order is modified.

(2) If a court order has been received in accordance with § 870.801(d), and the court order applies to only part of the insurance benefits, an insured individual can designate a different

beneficiary to receive the insurance benefits that are not included under the court order. If the insured individual does not make a designation for these benefits and there is no previous valid designation on file, benefits will be paid according to the order of precedence shown in § 870.801(a).

(3) If a court order received in accordance with § 870.801(d) is subsequently modified without naming a new person to receive the benefits, and a certified copy of the modified court order is received by the appropriate office before the death of the insured, the insured individual can designate a beneficiary. Benefits will be paid according to the order of precedence shown in § 870.801(d) if the insured individual does not complete a new designation of beneficiary.

6. In § 870.901, paragraph (i) is added to read as follows:

§ 870.901 Assignments permitted

* * * * *

(i) A court order can direct that an insured individual make an irrevocable assignment to the person(s) named in the court order. For an assignment to be effective, the insured individual must follow the procedures in § 870.902.

Billing code: 6325-01