



**Office of
Personnel Management**
The Federal Government's Human Resources Agency

***Retirement and Insurance Service
Benefits Administration Letter***

Number: 02-103

Date: May 7, 2002

**Subject: Retirement Coverage Error Correction:
Erroneous FERS Coverage in Effect for Less than 3 Years**

This Benefits Administration Letter (BAL) provides instructions for correcting errors involving erroneous FERS coverage that lasted for ***less than 3 years of service***. It includes instructions for correcting errors where an employee is in FERS by mistake and can choose to stay in FERS. These are sometimes called "deemed FERS" elections (see 5 CFR §846.204(b)(2)). You should resume correcting these coverage errors following the instructions in this BAL, provided the error was in effect for ***less than 3 years of service***.

What is a deemed FERS error?

A deemed FERS error is one where the employee is automatically put in FERS and should have been put in CSRS, CSRS Offset, or Social Security (FICA)-only with a 6-month opportunity to elect FERS coverage.

Procedures for correcting these errors are already in the CSRS & FERS Handbook for Personnel and Payroll Offices. Why is this BAL being issued?

You have been correcting deemed FERS coverage errors since 1993. However, the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) changes some of the procedures for correcting retirement coverage when the employee is erroneously put in FERS. You should follow the instructions in this BAL for correcting erroneous FERS coverage errors until the Handbook is updated.

*Civil Service
Retirement
System*

*Federal Employees'
Group Life
Insurance Program*

*Federal Employees
Health Benefits
Program*

*Federal Employees
Retirement
System*

*Long Term
Care Insurance
Program*

How does FERCCA affect erroneous FERS coverage that has been in effect for less than 3 years?

FERCCA changes the service credit rules for employees who owe deposits or redeposits for military or civilian service that they performed before the coverage error. The employee can still pay the deposit or redeposit under normal rules. However, if the employee does not pay the military or civilian deposit or redeposit, the military or civilian service is used in the computation of the employee's retirement benefit. The retirement benefit will be reduced by an amount that is actuarially determined.

FERCCA also changes some of the rules regarding TSP contributions. Any contributions an employee made to his or her TSP account while erroneously covered under FERS may remain in the employee's TSP account. Earnings associated with the employee's contributions may also remain in the employee's TSP account. Agency contributions made while the employee was erroneously covered under FERS, and associated earnings, still must be removed from the employee's TSP account if the employee declines FERS coverage. Although FERCCA allows payment of lost earnings on employee make up TSP contributions in some situations, it does not permit payment of lost earnings when the employee was erroneously placed in FERS.

What if the employee was erroneously put in FERS and would have had no opportunity to elect FERS?

If this error lasted for less than 3 years of service, you must correct the error. The employee has no choice regarding his or her retirement coverage.

What if the error was discovered some time ago and the employee was already given a chance to choose to stay in FERS under OPM's old guidance?

If the employee already chose whether he or she wanted to be deemed to have elected FERS, or if the employee was given a notice but failed to respond, then the employee does not get an opportunity to make another election.

I already corrected an employee's retirement coverage from FERS and I didn't give the employee the chance to choose to remain in FERS. Do I have to go back and give the employee the opportunity to remain in FERS?

Yes. If the employee was put in FERS during a period that the employee would have had an opportunity to elect FERS, then you must now go back and give the employee a chance to elect FERS. Note that if the employee decides that he or she wants FERS

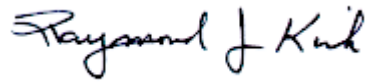
coverage, the effective date of the FERS coverage is retroactive to the date that the employee was erroneously put in FERS.

What if we discover that our employee was erroneously put in FERS while working at a previous agency?

Your agency is responsible for notifying the employee of the error, correcting the personnel records, and, if applicable, giving the employee an election opportunity and counseling. If the Individual Retirement Records or Social Security records for the prior service need correction, then you must notify the prior agency (through that agency's benefits counselor) so that they can ensure that the corrections are made.

Can we now correct all retirement coverage errors?

Attachment 1 provides you with the instructions for correcting errors involving erroneous FERS coverage. At this time, you may only correct retirement coverage errors that have been in effect for less than 3 years of service. We will provide detailed guidance on correcting retirement coverage errors that lasted for 3 or more years of service in the future.



Raymond J. Kirk, Acting Director
Benefits Officers Resource Center
Retirement and Insurance Service

Attachments:

- Attachment 1: Correcting Erroneous FERS Coverage
- Attachment 2: Model Notice of Error Subject to Correction under FERCCA
- Attachment 3: Model Notice of the Opportunity to Decline FERS Coverage
- Attachment 4: Thrift Savings Plan Correction Instructions
- Attachment 5: Should You Stay In FERS? (A guide to choosing between FERS and CSRS retirement plans when you were erroneously put in FERS.)
- Attachment 6: Should You Stay In FERS? (A guide to choosing between FERS and CSRS Offset retirement plans when you were erroneously put in FERS.)