



Benefits Administration Letter

Number: 04-105

Date: December 7, 2004

Subject: Enhanced Annuity for Certain Federal Employees' Retirement System (FERS) Employees Receiving Compensation from the Office of Workers' Compensation Programs (OWCP)

Introduction

Public Law 108-92 was signed on October 3, 2003. The law allows a 1 percent annuity enhancement for certain Federal Employees' Retirement System (FERS) employees receiving disability compensation from the Office of Workers' Compensation Programs (OWCP). This provision is designed to make up for FERS beneficiaries' inability to participate in Social Security or the Thrift Savings Plan during a period of absence from the workplace while receiving workers' compensation benefits. The purpose of the Benefits Administration Letter is to provide guidance on when and how this enhanced annuity formula is applied.

Eligibility for an Enhanced Annuity under Public Law 108-92

A FERS employee who receives OWCP benefits during qualifying periods of absence is eligible for the enhanced annuity computation if the sum of all qualifying periods of absence totals 2 months or more. An employee's qualifying periods of absence include:

- A period of leave without pay (LWOP) while the employee is performing no work and is receiving OWCP benefits.
- A period of separation from service while receiving OWCP benefits, if the former employee is later reinstated in Federal service and earns title to a FERS annuity.
- A period of retirement while receiving OWCP benefits in lieu of annuity payments, if the annuitant is later reemployed in the Federal service and earns title to a new FERS annuity.

In order for the employee to receive the enhanced annuity computation, his or her final separation for retirement must be on or after October 3, 2003. If the employee transferred from the Civil Service Retirement System (CSRS) to FERS, OPM will apply the enhanced formula to any qualifying periods that are creditable under FERS rules (i.e., periods that are not part of the employee's CSRS component).

Annuity Computation

The annuity of an employee who qualifies for the enhanced benefit equals the sum of:

- The regular annuity computed under the appropriate FERS annuity formula,
plus
- The enhanced benefit computed by multiplying the number of years and full months of qualifying service by 1 percent.

EXAMPLE

A 56 year old employee has a total of 26 years, 7 months, and 27 days of total creditable FERS service; 2 years, 2 months, and 18 days of which was qualifying OWCP service. The employee's high-3 average salary is \$50,000. The employee's basic annuity will be calculated as follows:

- 26 years 7 months (26.583333) x 1 % x \$50,000 = **\$13,291.67 (regular annuity)**
plus
- 2 years 2 months (2.166667) x 1% x \$50,000 = **\$1,083.33 (enhanced benefit)**
equals
 - **\$14,375.00 (Basic Annuity with Enhanced Benefit)**

If the employee retired at age 62 or older, the computation would be as follows:

- 26 years 7 months (26.583333) x 1.1 % x \$50,000 = **\$14,620.83 (regular annuity)**
plus
- 2 years 2 months (2.166667) x 1% x \$50,000 = **\$1,083.33 (enhanced benefit)**
equals
 - **\$15,704.16 (Basic Annuity with Enhanced Benefit)**

If the employee retired as a law enforcement officer at age 55, the computation would be as follows:

- 20 years 0 months (20.0) x 1.7 % x \$50,000 = \$17,000, plus
6 years 7 months (6.583333) x 1% x \$50,000 = \$3,291.67, equals
\$20,291.67 (regular annuity)
plus
- 2 years 2 months (2.166667) x 1% x \$50,000 = **\$1,083.33, (enhanced benefit)**
equals
 - **\$21,375.00 (Basic Annuity with Enhanced Benefit)**

OWCP Benefit and Disability Retirement

Employees are encouraged to apply for OWCP and disability retirement simultaneously. This process provides a safety net because an annuitant may have his or her disability annuity reinstated if OWCP benefits are terminated for any reason, and it protects survivor benefits in the event that the annuitant dies from an injury or illness not related to his or her job injury. The annuitant must choose between OWCP and disability retirement when both benefits are approved. The enhanced formula does not apply to the FERS disability annuity computed using 60 percent or 40 percent of the high-3 average salary.

Annuitant Who Returns to Work

An annuitant may qualify for the enhanced formula for the periods when he or she received OWCP benefits in lieu of annuity, if he or she returns to work and retires with a new FERS annuity on or after October 3, 2003.

If the original annuity terminates on reemployment, and the employee separates meeting the age and service requirements for a new FERS annuity, the employee may receive credit under the enhanced formula for qualifying periods of absence when he or she received OWCP benefits, including periods when he or she received OWCP benefits in lieu of annuity.

If the original annuity does not terminate upon reemployment, and the reemployed annuitant works long enough to meet the eligibility criteria for a redetermined annuity under FERS (five years of actual, continuous, full-time reemployed service, or part-time reemployed service equivalent to 5 years of full-time service), the employee may receive credit under the enhanced formula for qualifying periods of absence when he or she received OWCP benefits, including periods when he or she received OWCP benefits in lieu of annuity.

Disability Annuitant Whose Annuity Terminates Without Reemployment

If a disability annuity terminates due to restoration or medical recovery, and the annuitant is not reemployed, he or she has a “deemed involuntary separation” and may be eligible for a new non disability retirement benefit. See Chapter 60, Parts 60A9 and 60B6 of the Handbook. If a disability annuity that began before October 3, 2003, terminates on or after October 3, 2003 and the annuitant is not reemployed, OPM will apply the enhanced formula in the computation of the non-disability benefit that results from the deemed involuntary separation. OPM will apply the enhanced formula to qualifying periods of absence when the annuitant received OWCP benefits before he or she initially retired on disability. However, unless the annuitant earns title to a new annuity based on reemployment, OPM will not credit periods after the annuitant’s original separation for disability retirement.

Disability Annuitant Whose Annuity is Recomputed at Age 62

When a FERS disability is recomputed at age 62, the amount of service used in that computation includes the amount of actual creditable service the individual performed before retirement plus the amount of time during which the individual received disability annuity or received OWCP benefits in lieu of disability annuity. The time during which the individual received disability annuity or OWCP benefits in lieu of disability annuity is typically not a qualifying period of absence under Public Law 108-92 and the individual is not entitled to the enhanced formula for that time. The individual also is not entitled to the enhanced formula for any time before the original disability retirement during which he or she may have received OWCP benefits if the original disability retirement was based on a separation before October 3, 2003.

Documentation of Service

To ensure accurate processing of claims until OPM can revise the standard form 3107-1, FERS retirement application, the human resource office must document OWCP time under the Certified Summary of Federal Service, section B of the retirement application. Make a separate entry for each qualifying period of absence when the employee received OWCP benefits that is documented in the employee's Official Personnel Folder (OPF) and reference P.L. 108-92. Please also note any additional OWCP time the employee may claim that is not verified in the OPF. OPM will verify the OWCP time when it receives the retirement package.

EXAMPLE

Employee Information:

Name: Wayne Jeffries

Date of Retirement: 08-31-2005 (Early Optional)

Service:

Army - Active Duty Military: 10-12-1978 to 10-11-1982 (deposit paid)

NASA: 01-04-1983 to 06-15-1987 (non-deduction – deposit paid)

Department of Agriculture: 06-16-1987 to 04-18-2000 (FERS)
(lwop for OWCP: 08-25-1992 to 12-15-1993)

Break in Service: 04-19-2000 to 03-15-2001 (OWCP)

Department of Agriculture: 03-16-2001 to 01-08-2003 (FERS)

Department of Navy: 01-09-2003 to 08-31-2005 (FERS)

| <p align="center">FERS Federal Employees Retirement System</p> | <p align="center">Certified Summary of Federal Service Federal Employees Retirement System</p> | | <p align="center">Office of Personnel Management 5 CFR Part 841</p> | |
|--|---|----------------------------------|--|------------------------------------|
| Information for Agency | | Instructions for Employee | | |
| Section A – Identification | | | | |
| 1. Wayne Jeffries | | | | |
| Section B – Verified Service History Documented in Official Personnel Records | | | | |
| Federal Agency or Military Service Branch | Appointment, Separation, or Conversion Dates for Civilian and Active Honorable Military Service | | Name of Retirement System* | Remarks and Non-Creditable Time** |
| | From | To | | |
| U.S. Army | 10-12-78 | 10-11-1982 | Honorable Active Duty | Military deposit paid in full |
| NASA | 01-04-1983 | 06-15-1987 | FICA | Deposit paid in full – CSD 8 88888 |
| Department of Agriculture <i>(OWCP</i> | 06-16-1987 <i>08-25-1992</i> | 04-18-2000 <i>12-15-1993</i> | FERS | <i>Lwop – OWCP – PL 108-92)</i> |
| <i>Separation – OWCP</i> | <i>04-19-2000</i> | <i>03-15-2001</i> | | <i>OWCP – PL 108-92</i> |
| Department of Agriculture | 03-16-2001 | 01-08-2003 | FERS | |
| Department of Navy | 01-09-2003 | 08-31-2005 | FERS | Voluntary Early Retirement |

The next revision of Chapter 102 of the Handbook will discuss enhanced annuity computations under Public Law 108-92.

Please do not hesitate to call or e-mail your contact in the Benefits Officers Training and Development Group if you have any questions.

A handwritten signature in blue ink that reads "Raymond J. Kirk". The signature is written in a cursive style with a large, stylized initial 'R'.

Raymond J. Kirk, Manager
Benefits Officers Training & Development Group
Human Capital Leadership & Merit Systems Accountability