

BAL Making Eligibility Determinations Under The Federal Erroneous Retirement Coverage Correction Act (FERCCA)

Attachment 2

FERCCA Eligibility Sample Letters

This attachment contains 5 sample letters for notifying employees of their eligibility for FERCCA relief and 1 sample letter for OOP expenses. These letters are samples and are not intended to be used in every case. Each letter must be customized to the circumstances in the case you have made the determination on.

Each letter sent should either list the employee's service history or enclose a completed copy of the FERCCA Service History Worksheet and tell the employee to alert you if he/she detects any errors (in case some service is missing). Each letter should also give the employee the name and contact information (telephone number, e-mail address, etc.) for an agency contact person for questions.

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Sample Letter 1 - Ineligible for FERCCA
No error or non-deemed FERS less than 3 year error

NAME
ADDRESS

Dear

A review of your retirement records indicates that you are not entitled to corrective action under the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) due to an error in retirement plan coverage. We have carefully reviewed all of your official personnel records. This review disclosed that you do not have a retirement coverage error that lasted for 3 years of service after December 31, 1986.

[Briefly describe the situation – for example: You were appointed to a position covered by CSRS Interim (full social security and partial CSRS) from (date). On January 1, 1987 you were automatically converted to FERS because you did not have at least 5 years of civilian service as of December 31, 1986. Your retirement coverage is correct.]

We have enclosed a copy of the FERCCA Service History Worksheet, which outlines your career with the Federal government. Please review this summary of your service and contact us immediately if we've missed anything. Any change to your service record, no matter how minor, could affect the options you have regarding your retirement coverage.

This represents our final decision. If you disagree with our decision, you may file an appeal with the Merit Systems Protection Board (MSPB). Please note that you must file your appeal with the MSPB within 30 calendar days after the date of receipt of this letter. *[You must provide the employee with the address of the MSPB office in his or her region, and provide a copy of the Merit Systems Protection Board (MSPB) appeal form. Appeal forms can be accessed online at: <http://www.mspb.gov/foia/forms-pubs/applform.html> or www.mspb.gov.]*

[Insert name of contact person in your agency] will be able to answer any questions you have about your retirement benefits. *[He/She]* can be reached on *[insert telephone number, email, etc....]*. Please don't hesitate to contact us to ask any questions you have.

Sincerely,

Enclosures:
FERCCA Service History Worksheet
MSPB Appeal Package

**Sample Letter 2 – Eligible for FERCCA
Election Opportunity Provided**

NAME
ADDRESS

Dear

A review of your retirement records indicates that you are entitled to corrective action under the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) due to an error in retirement plan coverage.

[Briefly describe the error – for example: You were appointed to a position covered by CSRS Interim (full social security and partial CSRS) on (date). You were previously covered under CSRS, but you had a break in service of more than 365 days before you were reinstated on (date). On January 1, 1987 you should have been automatically converted to CSRS Offset because you had at least 5 years of civilian service as of December 31, 1986. However, a review of your personnel records indicates that on (date) you were incorrectly placed under FERS.]

We have enclosed a copy of the FERCCA Service History Worksheet, which outlines your career with the Federal government. Please review this summary of your service and contact us immediately if we've missed anything. Any change to your service record, no matter how minor, could affect the options you have regarding your retirement coverage.

Because the error lasted over 3 years of service after December 31, 1986, you are entitled to relief under FERCCA. *[You can choose whether to stay under your current retirement plan or change to the plan you should have been placed under. – or – You were in CSRS in error and cannot remain in CSRS. You may elect either CSRS Offset or FERS.]* You also may be entitled to reimbursement of any eligible out-of-pocket (OOP) expenses you may have incurred as a result of this error. We have enclosed information for filing an OOP claim.

We will provide you with a FERCCA election package that will include a comparison of your retirement benefits under both plans as well as a comparison of Social Security and Thrift Savings Plan benefits. Preparing this package may take some time and we ask you to please be patient. We will contact you as soon as the package is prepared.

[Insert name of contact person at your agency] will be able to answer any questions you have about your retirement benefits. *[He/She]* can be reached on *[insert telephone number, email, etc....]*. Please don't hesitate to contact us to ask any questions you have.

Sincerely,

Enclosures:
FERCCA Service History Worksheet
Out-of-Pocket Expense Letter and Guidelines

**Sample Letter 3 – Eligible for FERCCA
No Election Opportunity Provided**

NAME
ADDRESS

Dear

A review of your retirement records indicates that you are entitled to corrective action under the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) due to an error in retirement plan coverage.

[Briefly explain the error – for example: You were appointed to a position covered by CSRS retirement coverage on (date). Because you were previously covered under CSRS, but had a break in service of more than 365 days before you were reinstated on (date), and had more than 5 years of creditable civilian service as of December 31, 1986, you should have been placed in CSRS Offset (full social security and partial CSRS) coverage. However, a review of your personnel records indicates that on (date) you were incorrectly placed under CSRS.]

We have enclosed a copy of the FERCCA Service History Worksheet, which outlines your career with the Federal government. Please review this summary of your service and contact us immediately if we've missed anything. Any change to your service record, no matter how minor, could affect the options you have regarding your retirement coverage.

Because the error existed over 3 years, you are entitled to benefits under FERCCA. *[However, because the law required you to be covered under social security, you do not have a choice of whether to stay under your current retirement plan or change to the plan you should have been placed under.]* Your error must be corrected. Therefore, we are correcting your retirement records.

This represents our final decision. If you disagree with our decision, you may file an appeal with the Merit Systems Protection Board (MSPB). Please note that you must file your appeal with the MSPB within 30 calendar days after the date of receipt of this letter. *[You must provide the employee with the address of the MSPB office in his or her region, and provide a copy of the Merit Systems Protection Board (MSPB) appeal form. Appeal forms can be accessed online at: <http://www.mspb.gov/foia/forms-pubs/applform.html> or www.mspb.gov.]*

Although you do not have a choice of retirement coverage, you may be entitled to reimbursement of any eligible out-of-pocket (OOP) expenses you may have incurred as a result of this error. We have enclosed information for filing an OOP claim.

[Insert name of contact person in your agency] will be able to answer any questions you have about your retirement benefits. *[He/She]* can be reached on *[insert telephone number, email, etc....]*. Please don't hesitate to contact us to ask any questions you have.

Sincerely,

Enclosures:

FERCCA Service History Worksheet

Out-of-Pocket Expense Letter and Guidelines

**Sample Letter 4 – Partially Eligible FERCCA
Deemed FERS more than 3 years already given valid deemed FERS election**

NAME
ADDRESS

Dear

A review of your retirement records indicates that you had a retirement error but are not entitled to elect new coverage under the Federal Erroneous Retirement Coverage Corrections Act (FERCCA). However, you are entitled to partial relief under FERCCA. We have carefully reviewed all of your official personnel records. This review disclosed that although an error was made in your retirement plan that lasted for at least 3 years of service after December 31, 1986, you were already given an opportunity to elect to keep your erroneous coverage.

[Briefly describe the error – for example: You were appointed to a position covered by CSRS Interim (full social security and partial CSRS) from (date) to (date). On January 1, 1987 you should have been automatically converted to CSRS Offset because you had 5 years of civilian service as of December 31, 1986. However, a review of your personnel records indicates that on (date) you were incorrectly placed under FERS. You were given an election letter to remain in FERS or have your coverage corrected to CSRS Offset on (date). You elected (FERS or CSRS Offset) coverage on (date) – or – You did not make an election so your coverage remained in FERS .]

We have enclosed a copy of the FERCCA Service History Worksheet, which outlines your career with the Federal government. Please review this summary of your service and contact us immediately if we've missed anything. Any change to your service record, no matter how minor, could affect the options you have regarding your retirement coverage.

FERRCA does not provide another election opportunity to employees who already received an election opportunity. Although you are not entitled to an election, you are entitled to reimbursement of any out-of-pocket (OOP) expenses you incurred as a result of your coverage error. Under separate cover, we are sending you information for filing an OOP claim.

This represents our final decision. If you disagree with our decision, you may file an appeal with the Merit Systems Protection Board (MSPB). Please note that you must file your appeal with the MSPB within 30 calendar days after the date of receipt of this letter. *[You must provide the employee with the address of the MSPB office in his or her region, and provide a copy of the Merit Systems Protection Board (MSPB) appeal form. Appeal forms can be accessed online at: <http://www.mspb.gov/foia/forms-pubs/applform.html> or www.mspb.gov.]*

[Insert name of contact person in your agency] will be able to answer any questions you have about your retirement benefits. *[He/She]* can be reached on *[insert telephone number, email, etc....]*. Please don't hesitate to contact us to ask any questions you have.

Sincerely,

Enclosures:

FERCCA Service History Worksheet

Out-of-Pocket Expense Letter and Guidelines

Sample Letter 5 – Out-of-Pocket (OOP) Expenses

NAME
ADDRESS

Dear

You appear to be eligible for reimbursement of qualified Out-of-Pocket (OOP) expenses you may have incurred as a result of your retirement coverage error. The Office of Personnel Management (OPM) makes eligibility determinations for reimbursement of OOP expenses. The FERCCA Out-of-Pocket Guidelines are attached and contain model letters for your use in requesting a waiver and/or reimbursement of OOP expenses. Please read the guidelines carefully. You may use the model letters included or another format, but all the information outlined in the guidelines must be included. You should only file a claim for out-of-pocket expenses if you incurred an expense that was the direct result of your coverage error.

You bear the burden of proof. In order to be reimbursed for expenses, there must be clear and adequate documentation to show that the expenses claimed actually occurred, are reasonable, and that they were directly caused by the retirement coverage error.

Proof that the expense in question has been paid must accompany any claim for reimbursement of expenses. For example, for an expense that was paid directly out of your personal funds, the proof can be in the form of cancelled checks, receipts, credit card statements, and any other document that shows you paid the bill(s). If the amount in question was paid through a payroll deduction, payroll statements showing the amount that was deducted would be appropriate. Please refer to the section ‘Proving your case’ in the enclosed guidelines for information on the types of documentation to be included to support your claim.

The enclosed information about claiming Out-of-Pocket expenses is being sent to you so you may begin collecting documentation for submitting a claim. If you are eligible to make an election under FERCCA, you may submit a claim before your election or may wait until after you complete the FERCCA counseling and election process. Again, please only file a claim for out-of-pocket expenses if you incurred an expense that was the direct result of your coverage error.

Your claim for OOP expenses should be sent to:

US Office of Personnel Management
OOP Claims, Room 4H28
1900 E Street, NW
Washington DC 20415

OPM's decision will be final and will not be subject to appeal, or any other kind of administrative or judicial review.

Sincerely,

Enclosure:
FERCCA Out-of-Pocket Guidelines