



## ***Benefits Administration Letter***

Number 18 – 103

Date: 09-12-2018

### **Subject: FERS Unused Sick Leave and the 1.1% Annuity Formula**

#### **Background**

Section 1901 of The “National Defense Authorization Act for Fiscal Year 2010”, Public Law 111-84 (codified at 5 U.S.C. § 8415(m)(2)) allows unused sick leave under a formal leave system to be credited in the computation of benefits under FERS. The statute prohibits the use of unused sick leave to establish title to annuity or in the calculation of average salary. Therefore, if title to an annuity is already established based on age and creditable service, unused sick leave is added to the length of service for computation purposes.

#### **Discussion**

The question has come up regarding whether a retiree who:

- Is at least age 62, with
- Less than 20 years of actual service, but
- With enough unused sick leave that, when added to other service performed, equals 20 or more years of service for computation purposes,

is eligible to receive the 1.1% FERS formula in the computation of the annuity. The confusion seems to stem from the erroneous assumption that the 1.1% formula is a type of immediate retirement for which an employee would need to meet eligibility requirements.

The eligibility requirements for an immediate annuity are codified at 5 U.S.C. § 8412. At age 62, an employee needs just 5 years of creditable FERS service to retire. Once title to annuity is established, we turn to the correct calculation method.

Computation of FERS annuity is codified at 5 U.S.C. § 8415. As a general rule, FERS annuities are calculated by multiplying the high-3 average pay by total service and multiplying that figure by 1%. However, for an employee eligible for an immediate annuity after becoming 62 years of age and completing 20 years of service, the annuity is calculated by multiplying the high-3 average pay by total service and multiplying that figure by 1.1%, which results in a higher annuity benefit.

Because 5 U.S.C. §8415(m)(2) clearly provides that a retiree is entitled to service credit for unused sick leave for the purposes of calculating the immediate annuity, any unused sick leave is added to the service total and used to calculate the annuity. This means that a retiree who is at least age 62, whose actual service is less than 20 years, but increases to at least 20 years with the addition of unused sick leave credit, will have their annuity computed using the 1.1% formula.

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