Human Resources Issues Impacting FECA Benefits

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Objectives

• Discuss the impacts of Leave Without Pay (LWOP) on benefits and entitlements

• Address the interaction of Federal Employees Compensation Act (FECA) and Office of Personnel Management (OPM) retirement benefits and state the reference

• Discuss dual benefits with respect to OPM and SSA benefit eligibility concurrently with FECA benefits.
What Would You do?

An employee was injured on the job, submits a FECA claim, the claim is accepted. The employee is off work beyond the COP period and is placed on LWOP. It has not yet known when the employee will be released to return to work. Do you know...

• Do you know how this would affect the employee’s benefits and entitlements?
• Do you know which benefits and entitlements are affected?
• Do you know where to find answers to determine what to do?
Personnel Action

An employee was injured on the job. The claim was accepted. As a result of the injury, the employee is off work collecting wage loss compensation on the FECA Periodic Roll (PR) for 8 months.

- Would you process a request for personnel action (RPA) for an OWCP compensable injury?
- Why?
Guidance

You can find the guidance regarding personnel actions within the Guide to Processing Personnel Actions.

This Guide can be found on the OPM website at:

In this case a personnel action is required.

“Process a personnel action for leave without pay of 80 hours or more granted because of an on-the-job illness or injury.” (Reference: Guide to Processing Personnel Actions, Chapter 15, Placement in Non Pay or Non Duty Status, Section 15-4)

Guidance for finding the information to include on the personnel action can be found in the Guide to Processing Personnel Actions, Chapter 15, Placement in Nonpay or Nonduty Status, Rule 26
An employee was injured on the job. The claim was accepted. As a result of the injury, the employee is off work collecting wage loss compensation on the FECA Periodic Roll (PR) for 8 months.

- Does the 8 months on LWOP affect the employee’s Service Computation Date (SCD)?
Service Computation Date

• Typically, periods of LWOP are credited to a maximum of six months per calendar year.

• This limit **does not** apply to employees on LWOP because of compensable injury.

• Therefore the employee’s SCD **should not be adjusted** if LWOP was due to a compensable injury.

• Coding time correctly and generating an RPA when required will prevent problems such as SCD being adjusted when an employee returns to work.
An employee was injured on the job. The claim was accepted. As a result of the injury, the employee is off work collecting wage loss compensation on the FECA Periodic Roll (PR) for 8 months.

During this time, the employee’s time in service went over 15 years.

• Does the leave accrual rate change or does it remain the same until the employee returns to duty?
Leave Accrual

- Periods of LWOP due to compensable injury are fully creditable to meet the time in service requirement to accrue 4, 6, or 8 hours of annual leave.

- However, no annual or sick leave accumulates while in a LWOP status.
Within-Grade Increase

• A period of LWOP is creditable when the employee is receiving compensation.

• Personnel Actions for the Within-Grade Increase (WGI) should be processed when due regardless of whether the employee is in a pay or non-pay status on the effective date.

• WGI increases do not affect compensation payments because compensation payments are based upon the pay rate in effect on the Date of Injury (DOI).
Other Impacting Issues

• FEHB and FEGLI coverage continues in a LWOP status for employees with accepted claims receiving wage loss compensation from OWCP.

• Premiums will be taken from the compensation entitlement.

• OWCP National Office will start deductions for FEDVIP, if the employee was enrolled.

• TSP contributions are stopped while in a LWOP status.
Health Insurance

- FEHB coverage continues during LWOP for injury

- The Employing Agency will make deductions through the last date in which the claimant received pay. Based upon that date, OWCP deductions for FEHB and FEGLI become effective on the next calendar day. If another date for the last deductions is clearly present (e.g. the end of the pay period), the CE should use that date and begin deductions the day after.

- The Agency must indicated the employee’s coverage on the CA-7 (section 10). Unless specified on the Form CA-7 (or in some other documentation in the file), the CE can assume that premium deductions were made only through the last day that the employee received pay, and begin deductions the following day.
Life Insurance

• FEGLI coverage continues during LWOP

• Unlike FEHB, there is no enrollment to transfer-in for FEGLI. Employees will enroll in FEGLI through their Employing Agency. Any inquiry concerning FEGLI coverage, should be referred to the Employing Agency or to the OPM.

• Agency must notify OWCP on the CA-7 (section 10). Check appropriate box for Basic and appropriate box for Optional. 

  Put FEGLI Code in block that states Class
Thrift Savings Plan (TSP)

- An employee is not eligible to contribute to TSP while on LWOP.
- TSP contributions are based on the basic pay the employee earned.
- An employee receiving OWCP benefits is not receiving basic pay so therefore is not eligible to pay into TSP.

Immediately upon the employee being placed on LWOP

- If the employee has an outstanding TSP loan, Agency must notify TSP at the beginning of LWOP. Form used is TSP 41.
- TSP then contacts Injured Worker regarding repayment.
Employee A - Removal from Agency

If the employee cannot continue to work or return to work due to work restrictions imposed due to their accepted condition(s) and the employee is removed from the agency.

What is the next course of action?
The reference that you need to be familiar with is the CSRS/FERS Handbook. This publication is available via the OPM website and contains the procedures for CSRS and FERS Retirement.

The entire handbook can be found at the following URL:
www.opm.gov/retirement-services/publications-forms/csrsfers-handbook

The chapter that contains information pertinent to FECA and OPM Retirement is Chapter 102 and can be found at:

The chapter that discusses Disability Retirement is Chapter 60 and can be found at:
Preservation of Benefits

• If the employee has been collecting FECA wage loss benefits, there is no additional action to take regarding FEHB and FEGLI benefits (assuming FEHB has been transferred to OWCP).

• The employee needs to take action, however, in order to preserve benefits should FECA benefits be terminated. The employee should apply for OPM Disability Retirement to preserve their CSRS/FERS right to benefits.

• Benefits are preserved should compensation terminate or the employee’s death is unrelated to the accepted condition.

• Must apply for Disability within 1 year of separation from federal service unless the person is mentally incompetent. (The 1 year time limit does not apply to non-disability retirement).
Preservation of Benefits-FEHB Benefits

- The application for retirement annuity will also preserve rights to continued health insurance coverage if compensation ceases.

- If a timely application for retirement benefits is not filed and workers’ compensation payments later stop, the former employee is not eligible for Temporary Continuation of Coverage (TCC) of health insurance.
Preservation of Benefits-FEGLI Benefits

• Life insurance terminates when compensation stops unless the employee has an approved OPM retirement to which they can switch.

• There is no 31-day extension of coverage.

• Exception: If employee is an annuitant and eligible to continue FEGLI as annuitant or has been RTW in a non-excluded position.
CSRS/FERS Refund

• If an employee is receiving compensation and elects a refund of retirement contributions, they could very well be forfeiting future benefits.

• CSRS, may make redeposit if reemployed.

• FERS *redeposit*, only apply to employees covered under FERS on or after October 28, 2009, and only affect annuity benefits based on a separation from FERS coverage on or after October 28, 2009.
OMM & Survivor Benefits

- If the employee dies and the death is not related to accepted condition no FECA Death benefits will be payable.

- CSRS benefits
  - Survivor Annuity is not payable if employee dies and did not fulfill all requirements for retirement.
  - Lump sum credit may be payable.

- FERS benefits
  - Survivor Annuity *may* be payable if employee dies and all eligibility requirements are met.
  - Otherwise, lump sum credit may be payable.
Employee B - Return to Work

An employee was injured on the job. The claim was accepted. As a result of the injury, the employee is off work collecting wage loss compensation on the FECA Periodic Roll (PR) for 8 months.

The most recent medical documentation returned the employee back to work with no restrictions. What is the next course of action?

- What is the course of action to be taken?
OPM Restoration Rights

Full recovery within 1 year of compensation

- Set forth in 5 CFR 353 Subpart C, Section 301

- Mandatory restoration rights to the former position or its equivalent.

- One year begins as of the date eligibility for compensation began.

- Excludes periods of COP

- Agency must restore the employee immediately and unconditionally regardless of whether the employee is still on the agency’s rolls or was separated to same position or like position.
Health Insurance

• When compensation ends and the employee returns to duty, OWCP will transfer the enrollment back to the employing agency.

• The employing agency must complete an SF-2810 to transfer the enrollment in to the agency.
Life Insurance

• When the employee returns to duty, the Employing Agency should inform OWCP of the beginning and ending dates of the pay period that the employee returned to duty.

• OWCP will then certify insurance status back to employment agency.
After being removed, an employee continued receiving FECA wage loss benefits for three years. The employee took the recommended action and timely applied for a Disability Retirement, which was approved.

The agency subsequently made a job offer that was found suitable by OWCP. The employee returned to work in the position.
Return to Work-Approved Disability

• The employee will be considered to be an Annuitant even if FECA benefits were elected and the employee did not receive an annuity check.

• Section 9902 of title 5 United States Code (U.S.C.), as enacted by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2004, changed the procedures for reemployed annuitants who are rehired in the Department of Defense.

• DoDI 1400.25, vol 300 states that when reemployed within DoD, all reemployed annuitants will be placed in FICA (Retirement Code “2” will be reflected in block #30 on SF50) and will receive full annuity and salary, and will be unable to receive credit for future retirement benefits.
Return to Work-Approved Disability

- Annuitants can receive credit for future retirement benefits if OPM find they are recovered or restored to earning capacity.

- If either action happens then the employee will not longer be considered to be an annuitant since they will no longer have claim to an OPM disability annuity.
There are two ways an employee can have their time collecting FECA benefits count in the calculation of their future retirement annuity.

First way is if the employee is **found to be recovered by OPM**

- Medical evidence shows that the medical condition that initially caused the disability has ameliorated to the point that the annuitant is no longer disabled for the position from which he or she retired, -OR-

- The annuitant is permanently reemployed, under CSRS or FERS, in a position of the same, or higher, grade or pay level as the position from which they were disabled from.
Restored to Earning Capacity by OPM

The second way is to be restored to earning capacity by OPM.

• A disability annuitant is deemed restored in any calendar year the annuitant is under age 60 (on December 31), the annuitant's earnings equal or exceed 80% of the current pay of the position from which the annuitant retired. (If annuitant is over 60, then recovery will only be found if they request it.).

• If OPM makes a finding of restoration to earning capacity, then the time spent on compensation will be creditable toward an annuity.
Without Approved Disability

What would happen if this employee had not filed for Disability Retirement after being removed and brought back to work after three years?

- Which benefits and entitlements are affected?
Without Approved Disability

• Upon RTW status, the employee will be treated as if they never left. Therefore, the time spent on the periodic roll will be considered service time for computing retirement eligibility and annuity amount.

• The compensation pay rate, however, will not affect the pay rate used to calculate the retirement annuity.

• If the employee is CSRS they must work 1 year out of the 2 years preceding their retirement. FERS has no such requirement.
Dual Benefits

An employee is collecting FECA wage loss compensation and has an approved OPM Retirement. Can the employee receive payments from both of these programs at the same time?
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An employee is collecting FECA wage loss compensation and has an approved OPM Retirement. Can the employee receive payments from both of these programs at the same time?

No, the employee must elect between the two benefits. The election is not irrevocable and the employee can change benefits any time it is advantageous for the employee to do so?
Dual Benefits

An employee is collecting FECA wage loss compensation and is collecting Social Security benefits. Can the employee receive payments from both of these programs at the same time?
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An employee is collecting FECA wage loss compensation and is collecting Social Security benefits. Can the employee receive payments from both of these programs at the same time?

Yes, the employee can receive both FECA benefits and Social Security benefits at the same time.
Dual Benefits

If the employee is receiving Social Security Disability benefits and FECA wage loss at the same time then the individual’s Social Security benefits will be offset based upon the amount of FECA benefits being paid.

If the employee is receiving Social Security Old Age benefits then the individual’s FECA wage loss benefits will be reduced based upon the amount of Social Security benefits being paid as a result of the employee’s Federal service.

SSA Disability benefits automatically convert to Old Age benefits when the individual reaches SSA full retirement age.
Summary

• Know the CSRS/FERS handbook.

• If an employee does not have an approved disability retirement, then time spent collecting FECA will count toward an annuity upon reemployment.

• If an employee has an approved disability retirement then they are subject to rules for reemployed annuitants.
References


- The CSRS/FERS Handbook can be found at the following URL: [www.opm.gov/retirement-services/publications-forms/csrsfers-handbook](www.opm.gov/retirement-services/publications-forms/csrsfers-handbook)

- The chapter that discusses Disability is Chapter 60 and can be found at: [http://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/c060.pdf](http://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/c060.pdf)

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