



DEPARTMENT OF DEFENSE
DCPAS
Defense Civilian Personnel Advisory Service



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VIATICAL SETTLEMENTS

Employee Guide
April 2015

1.0 INTRODUCTION

The purpose of this guide is to provide an overview and comparison of benefits under the Viatical Settlement and Living Benefits under the Federal Employees' Group Life Insurance (FEGLI) program. This guide will assist you in determining whether you wish to have a lump-sum payment or a portion of your FEGLI during a difficult time such as diagnosis of a terminal illness. Effective October 3, 1994, Public Law 103-336 amended the life insurance law to allow all employees and annuitants enrolled in the FEGLI Program to assign their life insurance to another person(s), firm(s) or trust(s). The law was enacted on October 3, 1994. Living Benefits payments come from the Employees' Life Insurance Fund (Part of the U.S. Treasury). Viatical settlement firms are private firms not connected with the Federal government. The Federal law determines the amount of insurance available and the requirement for receiving a Living Benefit payment. Viatical settlement firms set their own requirements and payment amounts. Generally, viatical settlement firms accept assignment of life insurance from terminally ill patients within 24 months of their anticipated death. Contact your servicing employing office for additional information and application.

2.0 WHAT IS A VIATICAL SETTLEMENT?

A viatical settlement is the "sale" (or assignment) of someone's life insurance coverage to a third party, known as a viatical settlement firm (VSF), in exchange for cash. The percentage of the face value that the VSF will offer varies; somewhere in the range of 60 percent to 85 percent of the total face value of the insurance coverage. VSFs will generally accept an assignment from individuals with defined life expectancies. If the insured assigns 100 percent of their insurance to a VSF, the VSF will receive the full life insurance death benefit upon the person's death.

The difference between what the person receives in cash from the VSF and the full face value of the insurance is the VSF's revenue. The purchase price paid for the policy is dependent primarily on the person's life expectancy and the current cost of funds. The VSF's costs include interest expenses on the money paid to the person, underwriting expenses, general operating expenses, etc. The VSF tries to cover these costs from the revenue earned on each transaction.

3.0 INFORMATION FOR VIATICAL SETTLEMENT FIRMS

When you want to assign your insurance to a viatical settlement firm, the firm will ask your employing office to provide information about your FEGLI coverage.

Your employing office must have a release signed by you before providing the information; the viatical settlement firm will give you the necessary release form. Copies of the release and the information disclosed to the viatical settlement company will be filed in your Official Personnel Folder.

4.0 BENEFITS OF AN ASSIGNMENT

- Helps terminally ill employees and annuitants by giving them an influx of cash (which otherwise would have been paid to their beneficiary(ies) only after their death). Employees can use the money to finance needed medical care to improve the quality of their final days of life.

- Complies with a court order for divorce that requires an employee to name a former spouse as the beneficiary of his/her FEGLI proceeds. Beneficiaries may be changed at any time; whereas, an assignment is irrevocable.
- Employees may use assignments for inheritance tax purposes. An absolute assignment of an insured person's interest in a group life insurance policy, made at least 3 years *before* his/her death generally removes the insurance proceeds from the insured person's estate.
- To pay off debts (agencies cannot refuse to accept an assignment made to satisfy indebtedness).

Note: Agencies should remind employees that an assignment is irrevocable and cannot be canceled when the debt is paid.

5.0 THE DIFFERENCE BETWEEN ASSIGNING BENEFITS AND DESIGNATING A BENEFICIARY

Assigning benefits transfers ownership of the employee's FEGLI coverage to the assignee(s). The insured no longer has control over their insurance coverage and can no longer designate beneficiaries. An assignment is irrevocable.

Designating a beneficiary declares to whom payment of death benefits should be made. The insured retains ownership of the insurance and retains the right to change or cancel the designation at any time. A designation of beneficiary is revocable.

Upon a valid assignment of FEGLI insurance coverage, all Designations of Beneficiary forms completed by the insured, both before and after the effective date of the assignment, become void. Cancelled designations must be retained in the Official Personnel Folder (OPF) in case the assignment is later found to be invalid.

6.0 ASSIGNMENT OPTIONS

If an employee has more than one type of coverage, he or she must assign all insurance. The employee can assign to more than one person or firm designating specific percentages which must total 100 percent. Assignments cannot be made so that Basic is assigned to one person/firm, Option A to another, etc.

The employee must understand that Designations of Beneficiary *can* be revoked without knowledge or consent of the designee

If the insurance is assigned to the firm, the firm (like any assignee) may designate whomever it chooses and may change this designation at any time. Depending on the circumstances, the employee may wish to enter into a private agreement with the firm wherein the firm promises to keep the designation valid. However, any contractual arrangements are private negotiations between the employee and the VSF and do not have any effect on the validity of a FEGLI Program designation.

7.0 TERMINALLY ILL EMPLOYEES AND ANNUITANTS ENROLLED IN THE FEGLI PROGRAM

The employee can choose to assign their Basic and all Optional insurance (except Option C) to a VSF in exchange for approximately 60-85 percent of the face value of that coverage. NO death benefit would be payable to their survivors. The VSF would receive the entire death benefit (unless they negotiate to assign only a percentage of their coverage).

A terminally ill employee can elect FEGLI Living Benefits. The employee *must* choose either full Living Benefits (their full Basic benefit, discounted by approximately a 6 percent factor, which does not vary by life expectancy, to account for lost interest to the FEGLI Program; the program will not charge a profit factor) or partial Living Benefits (a portion of their basic benefit, in a multiple of \$1,000). They cannot elect the remaining portion of their basic benefit as a Living Benefit later. They may only elect Living Benefits once. The remaining portion of their basic benefit will become payable as a death benefit to their beneficiary.

Annuitants are not eligible for partial Living Benefits. If employees elect Living Benefits, their Optional insurance, if any, is unaffected and is available for payment to their beneficiary(ies) upon the death. Employees may also elect Living Benefits and then assign the remainder of their insurance.

8.0 CONSIDERATIONS OF ASSIGNING COVERAGE

Terminally ill employees should assess their financial needs to determine whether they should receive money against their life insurance coverage. Simply because these cash benefits are available does not mean they are appropriate for each terminally ill employee. Depending on the life expectancy, assignment to a VSF may be the only opportunity to obtain a pre-death benefit. Your decision to assign your life insurance coverage is irrevocable; you cannot cancel your assignment if you change your mind. Any additional life insurance coverage elected or funds due to salary increases are *automatically* covered by the existing assignment.

If you choose FEGLI Living Benefits, you will still retain all of the Optional insurance, which will be payable to your designated beneficiary(ies) or other survivor(s). Terminally ill employees, excluding **annuitants** and compensationers have the option of electing a **portion** of their Basic benefit as a Living Benefit (a multiple of \$1,000). In this way, they can retain a residual death benefit payable to their beneficiaries/survivors.

In addition, benefits will be payable upon their death for any Optional insurance they may have. Terminally ill employees also need to consider their projected life expectancy. VSFs will generally accept an assignment from individuals with life expectancies of greater than 9 months. FEGLI Living Benefits will *only* be available to individuals with life expectancies of 9 months or less.

9.0 NOTIFICATION TO ASSIGNEE

When you make an assignment, your employing office will notify each assignee that you have assigned ownership of your life insurance to the assignee. The notice will include the types of insurance you assigned and will give the percentage of the total insurance that the assignee now owns. The notice will also inform the assignee of their responsibility to notify the employing office of any address change. Your employing office *must* also provide each assignee a copy of the FEGLI

Booklet (RI 76-21), a copy of the Assignment of Federal Employees' Group Life Insurance form (RI 76-10), and a blank Designation of Beneficiary form (SF 2823).

10.0 ARE THESE BENEFITS TAXABLE?

Under present law, Living Benefits are not subject to Federal income tax. However, some states have laws, regulations, or rulings concerning the taxability of Living Benefits (also called accelerated death benefits). Consult your State's tax department for specific information concerning State income tax laws.

11.0 INCORRECT PROGNOSIS

If you elect a living benefit and live longer than the expected nine months, you do *not* have to repay the living benefit.

12.0 PROHIBITED ACTIONS

If you assign your insurance, you cannot make another assignment unless your assignee reassigns your insurance back to you. To take any action after assigning your insurance, your employing office *must* verify whether you are eligible to do so by determining whether you have a valid assignment on file.

13.0 RESPONSIBILITY OF PAYING THE PREMIUMS - VIATICAL SETTLEMENTS

The FEGLI Program requires that employees and annuitants *continue* to pay FEGLI premiums through withholding from their paycheck or annuity, even after the employee has assigned their insurance to a VSF or, for that matter, to anyone else. They cannot cancel the withholdings. Some VSFs will offer to assume payment of the premiums for the remainder of the employee or annuitant's lifetime. However, there is no mechanism for the Federal government to accept premiums directly from a VSF.

Employees who assign their insurance to a VSF may attempt to negotiate with the VSF to receive a lump sum payment equal to the total amount of the premiums that will be withheld from their salary during the employee's remaining life. This is a private negotiation between the employee and the VSF.

14.0 LOCATING A VSF

Support groups for victims of terminal illnesses such as cancer and AIDS generally can help locate such firms. In addition, financial planners, estate planners, social workers, and physicians specializing in terminal illnesses should be aware of these firms and may provide referrals.

15.0 VIATICAL SETTLEMENT APPLICATION

Employees first need to contact a VSF. Once a written release signed by the employee is received, the employing office may provide the information requested by the VSF. VSFs cannot tell employees how much they will pay until they know the details of the employee coverage. Therefore, it is important for the employing office to provide this information in a timely manner. The employing office should verify that the employee has not previously assigned their insurance. The employee can only assign their insurance once and it is irrevocable.

Some sample data items that may be requested are:

GROUP POLICY NUMBER:

#17000-G with the Metropolitan Life Insurance Company

CERTIFICATE NUMBER:

There is no "certificate number" for FEGLI insurance. You can provide the employee or annuitant's social security number (SSN) if the SSN is an item on the release form signed by the employee or annuitant.

COPY OF THE ENROLLEE'S GROUP CERTIFICATE:

The employee or annuitant's certificate of insurance is a copy of their most recent SF 2817 along with a copy of the FEGLI Program Booklet for Federal Employees (RI 76-26).

TOTAL DEATH BENEFIT:

This is an estimate of the employee or annuitant's death benefit (amount of their Basic coverage plus any Optional coverage). For annuitants, details about the post-65 reduction schedule of each of their coverages (Basic and Option A and Option B, if applicable) should be provided. A copy of the RI 76-26 should also be provided, with the details about the extra benefit, if applicable, highlighted.

16.0 VSF OPTIONS UPON AN EMPLOYEE'S SEPARATION

If the employee separates from employment or retires and the policy has been assigned, the assignee (in this case, the VSF) can convert the policy to a private one. Annuitants had a conversion privilege when they retired -- there is no other opportunity to convert their coverage.

17.0 MORE INFORMATION ON DESIGNATIONS OF BENEFICIARIES

Designations are revocable. However, assignments are irrevocable. If the employee assigns their insurance, all current designations are void. The assignee *automatically* becomes the beneficiary and is free to designate whomever they choose. If they do not designate anyone, then the assignee is the beneficiary.

The employing office will also likely be asked for assignment and designation of beneficiary forms. A blank copy of each form *must* be provided to the firm.

If an employee chooses to make an assignment, they will need to complete a RI 76-10 assignment form and indicate the name of the VSF in the space provided for the assignee. The employee should sign the form, have their signature witnessed in writing by two people, and return the form to their employing office. The assignment is effective on the day that a properly completed form is received in the employing office. Other information concerning assignment is contained on the form.

18.0 LIVING BENEFITS APPLICATION

Employees must contact the Office of Federal Employees' Group Life Insurance (OFEGLI) at 1-800-633-4542 to apply for Living Benefits. OFEGLI will send the employee an application, Claim for Living Benefits (FE-8) and also a calculation sheet, to help you can estimate the amount of Basic insurance available.

The employee completes Part A of the FE-8 and the doctor completes Part B. The completed form must be returned to OFEGLI. OFEGLI determines whether the employee qualifies for a Living Benefit. If the application is approved, the employee will receive a check, along with an Explanation of Benefits (FE-8C). The Living Benefit election becomes effective the date the check is cashed. Once cashed, the Living Benefit election becomes final.

Note: Agencies *cannot* obtain a supply of FE-8, and employing offices are not to give this form to employees who ask about living benefits.

19.0 COMPARISON CHART

	VIATICAL SETTLEMENT AGREEMENT	FEGLI LIVING BENEFIT
Earliest Date Available	October 3, 1994 (for all enrollees)	July 25, 1995
Life Expectancy Requirement	24 months or less	9 months or less
Insurance Involved	100% of Basic, Option A and Option B (if held) (100% must be assigned, although not necessarily all to the same person/firm)	100% of Basic (employees and annuitants) Part of Basic (employees only -- must be a multiple of \$1,000)
Percentage of Face Value Paid to Employee/ Annuitant	60 to 85 percent The percentage varies, and is negotiated with the Viatical Settlement Firm (VSF)	94 percent (approximately)
Source Of Payment	VSF to whom benefits are assigned (sold)	FEGLI Program
Residual Life Insurance Benefit	None, unless the VSF agrees to accept only a percentage of the assignment or to designate a portion to a survivor	Option A and Option B, if held. Remaining Basic for employees who elect partial Living Benefits
Payment of Premiums	Employee or annuitant continues to pay full premiums and cannot cancel the premiums VSF may agree to reimburse the employee/annuitant directly for premiums paid	Premium payments for Basic end for annuitants and employees who elect a full Living Benefit For employees who elect partial Living Benefits, premiums are prorated depending on the amount of Basic remaining