



EVOLVE EXPANDE EXCEL
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2022 DoD VIRTUAL BENEFITS & WORK-LIFE SYMPOSIUM



HR Issues Affecting FECA Issues

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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...

- How this would affect the employee's benefits and entitlements?
- Which benefits and entitlements are affected?
- 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?

Personnel Action

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.”

Guidance for processing personnel action for LWOP can be found in the Guide to Processing Personnel Actions (GPPA), Chapter 15, Placement in Non-pay or Nonduty Status, Rule 26.

Service Computation Date

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

- Periods of LWOP are credited to a maximum of 6 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.

Leave Accrual

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 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?

NOTE: Periods of LWOP due to compensable injury are fully creditable. 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 employee is eligible to continue FEHB coverage while on compensation if enrolled at time of injury

The Employing Agency will make deductions through the last date in which the employee received pay. Based upon that date, (on the CA-7 section 10) OWCP deductions for FEHB and FEGLI become effective on the next calendar 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.

The Employing 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.

If the employee has an outstanding TSP loan, the agency must notify TSP immediately upon placing them on LWOP. Use Form TSP 41.

Preservation of Benefits

- In order to preserve benefits; should FECA benefits be terminated, the employee needs to take action. 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 & FEGLI)

FEHB

- The application for OPM Disability (annuity) will also preserve rights to continued health insurance (FEHB) coverage if compensation ceases.
- If a timely application for OPM Disability 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 (FEHB).

FEGLI

- Life insurance (FEGLI) terminates when compensation stops unless the employee has an approved OPM Disability retirement to which they can switch. There is no 31-day extension of coverage.

Slide 15

RM8 xception: If employee is an annuitant and eligible to continue FEGLI as annuitant or has been RTW in a non-excluded position.

Renee Morris, 6/29/2022

FEHB & FEGLI

FEHB

- 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 back to the agency.

FEGLI

- 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.

Scenarios

The following scenarios will illustrate the different factors that can affect an employee when they return to work after collecting wage loss compensation from OWCP. These scenarios will cover the employee...

- On LWOP, not separated from agency
- Separated from agency without an approved OPM Disability Retirement
- Separated from agency with an approved OPM Disability Retirement

Employee A Not separated from agency (LWOP)

Employee was injured at work, was totally disabled, and placed on the periodic roll. The Employing Agency placed the employee on LWOP, the employee remained on LWOP for 3 years, and the employee was later returned to work.

While on LWOP, employee did not apply for an OPM Disability retirement.

- Employee will be treated as if they never left. Time spent on the periodic roll will be considered service time for retirement eligibility and annuity.
- If the employee is CSRS they must work 1 year out of the 2 years preceding their retirement. FERS has no such requirement.

Employee B

No approved disability retirement (Separated)

Employee was injured at work, was totally disabled, and placed on the periodic roll. The Employing Agency removed employee due to inability to perform the job, employee did not apply for OPM Disability, and was later returned to work.

Employee is not considered an annuitant and will be treated as if they never left.

The time spent on the periodic roll will be considered service time calculated for retirement. If the employee is CSRS they must work 1 year out of the 2 years preceding their retirement. FERS has no such requirement.

Employee C

Approved Disability Retirement (Separated)

Employee was injured at work, was totally disabled, and placed on the periodic roll. The Employing Agency removed employee due to inability to perform the job, employee applied for OPM Disability in 1 year (was approved) and after 5 years was returned to work.

There are several factors to review for time in service for annuity purposes.

- The age of the employee,
- How long they worked after their return,
- Are they considered recovered or restored to earning capacity by OPM?

Approved Disability Retirement

Employee C is considered a reemployed annuitant since s/he is still unable to perform the duties of the original job (even though s/he has returned to work in another position).

If found to be recovered or restored to earning capacity, the annuity will stop and the employee will receive their full pay for the period of time worked.

National Defense Authorization Act (NDAA)

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

DoDI 1400.25, vol 300 states, when reemployed with DoD, all reemployed annuitants will be placed in FICA (Retirement Code “2”) will receive full annuity and salary, and will be unable to receive credit for future retirement benefits.

Determined Recovered by OPM

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 the disability has ameliorated to the point that the annuitant is no longer disabled for the position from which he or she retired,

Or,

- Permanently reemployed, under CSRS or FERS, in a position of the same, or higher, grade or pay 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) and 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.

OPM Restoration Rights

Full recovery within 1 year of compensation

- Restoration rights to the former position or its equivalent when employee fully recovers from a compensable injury within 1 year from the date eligibility when compensation began.
- If the Annuitant (employee) does not work 5 years to establish title to a new annuity, they are entitled to a supplemental annuity as long as they worked at least 1 year of continuous full time service (or part-time equivalent).

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?

- 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?

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

Dual Benefits

Social Security Disability benefits and FECA wage loss can be collected at the same time. The Social Security benefits will be offset based upon the amount of FECA benefits being paid.

While receiving Social Security Old Age benefits, FECA wage loss benefits will be reduced based upon the amount of Social Security benefits being paid at the time of the employee's Federal service.

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

Summary

- Know the CSRS/FERS Handbook
- Without approved disability retirement, OWCP time counts towards annuity
- With approved disability retirement, rules for reemployed annuitants applies

FOOTNOTE: CSRS/FERS Refund

- An employee 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, applies to employees covered on or after October 28, 2009

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Renee Morris, 6/29/2022

References

- The CSRS/FERS Handbook can be found at the following URL:
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>
- The chapter that contains information pertinent to FECA and OPM Retirement is Chapter 102 and can be found at:
<http://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/c102.pdf>

Questions?

