

“(B) the term ‘assumed increase in the price index’ means—

“(i) 6.6 percent, in the case of fiscal year 1983,

“(ii) 7.2 percent, in the case of fiscal year 1984, and

“(iii) 6.6 percent, in the case of fiscal year 1985.

“(5) The amount of any survivor annuity which is based on the service of any early retiree subject to this subsection shall be computed as if this subsection had not been enacted.

“(b) [Repealed. Pub. L. 98-270, title II, §201(c)(2), Apr. 18, 1984, 98 Stat. 158.]

“(c) For purposes of this section, the term ‘cost-of-living increase under a Government retirement system’ means any increase under—

“(1) section 8340(b) of title 5, United States Code;

“(2) section 826 of the Foreign Service Act of 1980 [22 U.S.C. 4066];

“(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

“(4) section 1401a(b) of title 10, United States Code;

or

“(5) any other adjustment of any annuity under a retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraph.”

COST-OF-LIVING ADJUSTMENT OF RETIRED PAY OR RETAINER PAY OF MEMBERS AND FORMER MEMBERS OF ARMED FORCES AND COMMISSIONED OFFICERS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND PUBLIC HEALTH SERVICE; EFFECTIVE DATE OF AMENDMENT

See provisions of section 801(c) of Pub. L. 94-361, title VIII, July 14, 1976, 90 Stat. 929, set out as a note under section 1401a of Title 10, Armed Forces.

§ 8341. Survivor annuities

(a) For the purpose of this section—

(1) “widow” means the surviving wife of an employee or Member who—

(A) was married to him for at least 9 months immediately before his death; or

(B) is the mother of issue by that marriage;

(2) “widower” means the surviving husband of an employee or Member who—

(A) was married to her for at least 9 months immediately before her death; or

(B) is the father of issue by that marriage;

(3) “dependent”, in the case of any child, means that the employee or Member involved was, at the time of the employee or Member’s death, either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office of Personnel Management shall prescribe; and

(4) “child” means—

(A) an unmarried dependent child under 18 years of age, including (i) an adopted child, and (ii) a stepchild but only if the stepchild lived with the employee or Member in a regular parent-child relationship, and (iii) a recognized natural child, and (iv) a child who lived with and for whom a petition of adoption was filed by an employee or Member, and who is adopted by the surviving spouse of the employee or Member after his death;

(B) such unmarried dependent child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) such unmarried dependent child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

For the purpose of this paragraph and subsection (e) of this section, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if he shows to the satisfaction of the Office of Personnel Management that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(b)(1) Except as provided in paragraph (2) of this subsection, if an employee or Member dies after having retired under this subchapter and is survived by a widow or widower, the widow or widower is entitled to an annuity equal to 55 percent (or 50 percent if retired before October 11, 1962) of an annuity computed under section 8339(a)–(i), (n), (p), (q), (r), and (s) as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(j)(1) of this title, unless the right to a survivor annuity was waived under such section 8339(j)(1) or, in the case of remarriage, the employee or Member did not file an election under section 8339(j)(5)(C) or section 8339(k)(2) of this title, as the case may be.

(2) If an annuitant—

(A) who retired before April 1, 1948; or

(B) who elected a reduced annuity provided in paragraph (2) of section 8339(k) of this title;

dies and is survived by a widow or widower, the widow or widower is entitled to an annuity in an amount which would have been paid had the annuitant been married to the widow or widower at the time of retirement.

(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he may be entitled under this subchapter or another retirement system for Government employees. The annuity of the widow or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the widow or widower—

(A) dies; or

(B) except as provided in subsection (k), remarries before becoming 55 years of age.

(4) Notwithstanding the preceding provisions of this subsection, the annuity payable under this subsection to the widow or widower of a retired employee or Member may not exceed the difference between—

Board to accommodate participants in the Thrift Savings Plan, as determined by the Secretary of Defense after consultation with the Executive Director (appointed by the Board).

“(3) Paragraph (1) includes the authority to postpone the effective date of the amendments made by this subtitle (apart from section 211(a)(2) of title 37, United States Code), and the effective date of such section 211(a)(2), by different lengths of time.

“(4) The Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate of any determination made under this subsection.”

REGULATIONS

Pub. L. 106-65, div. A, title VI, §661(b), Oct. 5, 1999, 113 Stat. 672, as amended by Pub. L. 106-398, §1 [[div. A], title VI, §661(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-167, provided that: “Not later than the 180th day after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], the Executive Director (appointed by the Federal Retirement Thrift Investment Board) shall issue regulations to implement the amendments made by this subtitle [subtitle F (§§661-663) of title VI of div. A of Pub. L. 106-65, enacting this section and section 211 of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 8351, 8432b, 8433, 8439, and 8473 of this title and section 211 of Title 37].”

§ 8440f. Maximum percentage allowable for certain participants

(a) The maximum percentage allowable under this section shall be determined in accordance with the following table:

In the case of a pay period beginning in fiscal year:	The maximum percentage allowable is:
2001	6
2002	7
2003	8
2004	9
2005	10
2006 or thereafter	100.

(b) Notwithstanding any limitation under this section, an eligible participant (as defined by section 414(v) of the Internal Revenue Code of 1986) may make such additional contributions to the Thrift Savings Fund as are permitted by such section 414(v) and regulations of the Executive Director consistent therewith.

(Added Pub. L. 106-554, §1(a)(4) [div. B, title I, §138(a)(7)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A-234; amended Pub. L. 107-304, §1(b)(2), Nov. 27, 2002, 116 Stat. 2363.)

REFERENCES IN TEXT

Section 414(v) of the Internal Revenue Code of 1986, referred to in subsec. (b), is classified to section 414(v) of Title 26, Internal Revenue Code.

AMENDMENTS

2002—Pub. L. 107-304 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-304 effective as of the earliest practicable date determined by the Executive Director in regulations, see section 1(c) of Pub. L. 107-304, set out as a note under section 8351 of this title.

SUBCHAPTER IV—SURVIVOR ANNUITIES

§ 8441. Definitions

For the purpose of this subchapter—

(1) the term “widow” means the surviving wife of an employee, Member, or annuitant, or of a former employee or Member, who—

- (A) was married to him for at least 9 months immediately before his death; or
- (B) is the mother of issue by that marriage;

(2) the term “widower” means the surviving husband of an employee, Member, or annuitant, or of a former employee or Member, who—

- (A) was married to her for at least 9 months immediately before her death; or
- (B) is the father of issue by that marriage;

(3) the term “dependent”, in the case of any child, means that the employee, Member, or annuitant involved was, at the time of death of the employee, Member, or annuitant either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office shall prescribe; and

(4) the term “child” means—

- (A) an unmarried dependent child under 18 years of age, including (i) an adopted child, (ii) a stepchild but only if the stepchild lived with the employee, Member, or annuitant in a regular parent-child relationship, (iii) a recognized natural child, and (iv) a child who lived with and for whom a petition of adoption was filed by an employee, Member, or annuitant and who is adopted by the widow or widower of the employee, Member, or annuitant after the death of such employee, Member, or annuitant;

(B) such unmarried dependent child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) such unmarried dependent child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

For the purpose of this paragraph and section 8443, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such child shows to the satisfaction of the Office that such child has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 558.)

Pub. L. 95-454, §906(c)(2)(F), (G), substituted “3401” for “3391” in par. (3).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

CHAPTER 89—HEALTH INSURANCE

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8901.	Definitions.
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AMENDMENTS

2006—Pub. L. 109-435, title VIII, §803(a)(2), Dec. 20, 2006, 120 Stat. 3252, added item 8909a.

1998—Pub. L. 105-266, §6(a)(2), Oct. 19, 1998, 112 Stat. 2369, added item 8903b.

1988—Pub. L. 100-654, title I, §101(b), title II, §201(a)(2), title III, §301(b), Nov. 14, 1988, 102 Stat. 3841, 3845, 3846, added items 8902a, 8905a, and 8906a.

Pub. L. 100-238, title I, §108(a)(3)(B), Jan. 8, 1988, 101 Stat. 1748, added item 8914.

1985—Pub. L. 99-53, §§1(b)(2), 3(a)(2)(B), June 17, 1985, 99 Stat. 94, 95, added item 8903a and inserted “or disability” after “and survivor” in item 8908.

1984—Pub. L. 98-615, §3(8), Nov. 8, 1984, 98 Stat. 3204, substituted “Information to individuals eligible to enroll” for “Information to employees” in item 8907.

1976—Pub. L. 94-342, §1(b), July 6, 1976, 90 Stat. 808, substituted “employees and survivor annuitants” for “employee” in item 8908.

§ 8901. Definitions

For the purpose of this chapter—

(1) “employee” means—

(A) an employee as defined by section 2105 of this title;

(B) a Member of Congress as defined by section 2106 of this title;

(C) a Congressional employee as defined by section 2107 of this title;

(D) the President;

(E) an individual first employed by the government of the District of Columbia before October 1, 1987;

(F) an individual employed by Gallaudet College;¹

(G) an individual employed by a county committee established under section 590h(b) of title 16;

(H) an individual appointed to a position on the office staff of a former President

under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

(I) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph; and

(J) an individual who is employed by the Roosevelt Campobello International Park Commission and is a citizen of the United States,

but does not include—

(i) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(ii) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone;

(iii) an employee of the Tennessee Valley Authority; or

(iv) an employee excluded by regulation of the Office of Personnel Management under section 8913(b) of this title;

(2) “Government” means the Government of the United States and the government of the District of Columbia;

(3) “annuitant” means—

(A) an employee who retires—

(i) on an immediate annuity under subchapter III of chapter 83 of this title, or another retirement system for employees of the Government, after 5 or more years of service;

(ii) under section 8412 or 8414 of this title;

(iii) for disability under subchapter III of chapter 83 of this title, chapter 84 of this title, or another retirement system for employees of the Government; or

(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(q)(2) or 8461(n)(2) to remain subject to such a system;

(B) a member of a family who receives an immediate annuity as the survivor of an employee (including a family member entitled to an amount under section 8442(b)(1)(A), whether or not such family member is entitled to an annuity under section 8442(b)(1)(B)) or of a retired employee described by subparagraph (A) of this paragraph;

(C) an employee who receives monthly compensation under subchapter I of chapter 81 of this title and who is determined by the Secretary of Labor to be unable to return to duty; and

¹ So in original. Does not conform to section catchline.

¹ See Change of Name note below.

(D) a member of a family who receives monthly compensation under subchapter I of chapter 81 of this title as the surviving beneficiary of—

(i) an employee who dies as a result of injury or illness compensable under that subchapter; or

(ii) a former employee who is separated after having completed 5 or more years of service and who dies while receiving monthly compensation under that subchapter and who has been held by the Secretary to have been unable to return to duty;

(4) “service”, as used by paragraph (3) of this section, means service which is creditable under subchapter III of chapter 83 or chapter 84 of this title;

(5) “member of family” means the spouse of an employee or annuitant and an unmarried dependent child under 22 years of age, including—

(A) an adopted child or recognized natural child; and

(B) a stepchild or foster child but only if the child lives with the employee or annuitant in a regular parent-child relationship;

or such an unmarried dependent child regardless of age who is incapable of self-support because of mental or physical disability which existed before age 22;

(6) “health benefits plan” means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, paying for, or reimbursing expenses for health services;

(7) “carrier” means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization and an association of organizations or other entities described in this paragraph sponsoring a health benefits plan;

(8) “employee organization” means—

(A) an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under this chapter and which, after December 31, 1978, and before January 1, 1980, applied to the Office for approval of a plan provided under section 8903(3) of this title; and

(B) an association or other organization which is national in scope, in which membership is open only to employees, annuitants, or former spouses, or any combination thereof, and which, during the 90-day period beginning on the date of enactment of section 8903a of this title, applied to the Of-

fice for approval of a plan provided under such section;

(9) “dependent”, in the case of any child, means that the employee or annuitant involved is either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office shall prescribe;

(10) “former spouse” means a former spouse of an employee, former employee, or annuitant—

(A) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved,

(B) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the dissolution of the marriage to the employee, former employee, or annuitant, and

(C)(i) who is receiving any portion of an annuity under section 8345(j) or 8467 of this title or a survivor annuity under section 8341(h) or 8445 of this title (or benefits similar to either of the aforementioned annuity benefits under a retirement system for Government employees other than the Civil Service Retirement System or the Federal Employees’ Retirement System),

(ii) as to whom a court order or decree referred to in section 8341(h), 8345(j), 8445, or 8467 of this title (or similar provision of law under any such retirement system other than the Civil Service Retirement System or the Federal Employees’ Retirement System) has been issued, or for whom an election has been made under section 8339(j)(3) or 8417(b) of this title (or similar provision of law), or

(iii) who is otherwise entitled to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees,

except that such term shall not include any such unremarried former spouse of a former employee whose marriage was dissolved after the former employee’s separation from the service (other than by retirement); and

(11) “qualified clinical social worker” means an individual—

(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

(B) who, if such State does not provide for the licensing or certification of clinical social workers—

(i) is certified by a national professional organization offering certification of clinical social workers; or

(ii) meets equivalent requirements (as prescribed by the Office).

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 600; Pub. L. 90-83, §1(95), Sept. 11, 1967, 81 Stat. 219; Pub. L. 91-418, §§2, 3(b), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-160, §1(b), Nov. 27, 1973, 87 Stat. 635; Pub. L. 95-368, §2, Sept. 17, 1978, 92 Stat. 606; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 95-583, §2, Nov. 2, 1978, 92 Stat. 2482; Pub. L. 96-54, §2(a)(52), Aug. 14, 1979, 93 Stat. 384; Pub. L. 96-70, title I, §1209(c), Sept. 27, 1979, 93 Stat. 463; Pub. L. 96-179, §2, Jan. 2, 1980,

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APPENDIX A TO SUBPART C OF PART 843—PRESENT VALUE CONVERSION FACTORS FOR EARLIER COMMENCING DATE OF ANNUITIES OF CURRENT AND FORMER SPOUSES OF DECEASED SEPARATED EMPLOYEES

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	.0581
27	.0620
28	.0687
29	.0723
30	.0807
31	.0869
32	.0933
33	.1013
34	.1086
35	.1186
36	.1273
37	.1376
38	.1474
39	.1612
40	.1737
41	.1877
42	.2026
43	.2192
44	.2365
45	.2550
46	.2757
47	.2987
48	.3222
49	.3488
50	.3767
51	.4079
52	.4410
53	.4776
54	.5176
55	.5609
56	.6081
57	.6588
58	.7152
59	.7767
60	.8441
61	.9183

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	.1516
37	.1636
38	.1756
39	.1915
40	.2066
41	.2233
42	.2410
43	.2606
44	.2811
45	.3032
46	.3279
47	.3549
48	.3829
49	.4143
50	.4475
51	.4843
52	.5235
53	.5669

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Age of separated employee at birthday before death	Multiplier
54	.6139
55	.6652
56	.7208
57	.7811
58	.8476
59	.9203

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46	.4213	.4572
47	.4557	.4943
48	.4918	.5335
49	.5318	.5768
50	.5744	.6231
51	.6213	.6738
52	.6714	.7282
53	.7267	.7880
54	.7866	.8528
55	.8518	.9233
56	.9227	1.0000

[76 FR 52540, Aug. 23, 2011]

Subpart D—Child Annuities

§ 843.401 Purpose.

This subpart explains the survivor benefits payable under FERS to children based on the deaths of employees and retirees.

§ 843.402 Eligibility requirements.

A surviving child of an employee or retiree who dies after completing 18 months of civilian service creditable under FERS is entitled to an annuity under this subpart.

§ 843.403 Proof of parentage.

(a) A judicial determination of parentage conclusively establishes the paternity of a child.

(b) Except as provided in paragraph (a) of this section, a child born to the wife of a married person is presumed to be the child of the wife's husband. This presumption may be rebutted only by clear and convincing evidence that the husband is not the father of the child.

(c) When paternity is not established under paragraph (a) or (b) of this section, paternity is determined by a preponderance of the credible evidence as defined in § 1201.56(c)(2) of this title.

§ 843.404 Proof of adoption.

(a) An adopted child is—

(1) A child adopted by the employee or retiree before the death of the employee or retiree; or

(2) A child who lived with the employee or retiree and for whom a petition for adoption was filed by the employee or retiree and who is adopted by the current spouse of the employee or retiree after the death of the employee or retiree.

(b) The only acceptable evidence to prove status as an adopted child under paragraph (a)(1) of this section is a copy of the judicial decree of adoption.

(c) The only acceptable evidence to prove status as an adopted child under paragraph (a)(2) of this section is copies of—

(1) The petition for adoption (clearly showing the date filed); and

(2) The judicial decree of adoption.

§ 843.405 Dependency.

To be eligible for survivor annuity benefits, a child must have been dependent on the employee or retiree at the time of the employee's or retiree's death.

§ 843.406 Proof of dependency.

(a) A child is considered to have been dependent on the deceased employee or retiree if he or she is—

(1) A legitimate child; or

(2) An adopted child; or

(3) A stepchild or recognized natural child who lived with the employee or retiree in a regular parent-child relationship at the time of the employee's or retirees death; or

(4) A recognized natural child for whom a judicial determination of support was obtained; or

(5) A recognized natural child to whose support the employee or retiree made regular and substantial contributions.

(b) The following are examples of proofs of regular and substantial support. More than one of the following proofs may be required to show support of a natural child who did not live with the employee or retiree in a regular parent-child relationship and for whom a judicial determination of support was not obtained.

(1) Evidence of eligibility as a dependent child for benefits under other State or Federal programs;

(2) Proof of inclusion of the child as a dependent on the decedent's income tax returns for the years immediately before the employee's or retiree's death;

(3) Cancelled checks, money orders, or receipts for periodic payments received from the employee or retiree for or on behalf of the child;

(4) Evidence of goods or services that show regular contributions of considerable value;

(5) Proof of coverage of the child as a family member under the employee's or retiree's Federal Employees Health Benefits enrollment; and

(6) Other proof of a similar nature that OPM may find to be sufficient to demonstrate support or parentage.

(c) Survivor benefits may be denied—

(1) If evidence shows that the deceased employee or retiree did not recognize the claimant as his or her own despite a willingness to support the child; or

(2) If evidence casts doubt upon the parentage of the claimant, despite the deceased employee's or retiree's recognition and support of the child.

§ 843.407 Disabilities.

A child is eligible for continued annuity because the child is incapable of self-support if the Social Security Administration finds that the child is eligible for continued social security child's benefits because the child is incapable of self-support.

§ 843.408 Commencing and terminating dates of child annuities.

(a) An annuity under this subpart—

(1) Commences on the day after the retiree or employee dies;

(2) Commences or resumes on the first day of the month in which the child later becomes or again becomes a student as described by § 843.313, if any lump sum paid is returned to the Civil Service Retirement Fund; or

(3) Commences or resumes on the first day of the month in which the child later becomes or again becomes incapable of self-support because of a mental or physical disability incurred before age 18 (or a later recurrence of

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such disability), if any lump sum is returned to the Fund.

(b) An annuity under this subpart terminates on the last day of the month before the child—

(1) Becomes 18 years of age unless he or she is a student as described in § 843.410 or is incapable of self-support;

(2) Becomes capable of self-support after becoming 18 years of age unless he or she is a student as described in § 843.410;

(3) Becomes 22 years of age if he or she is a student as described in § 843.410 and—

(i) Capable of self-support; or

(ii) Incapable of self-support because of a mental or physical disability incurred after age 18;

(4) Ceases to be such a student as described in § 843.410 after becoming 18 years of age unless he or she is incapable of self-support; or

(5) Dies or marries.

(c) A survivor annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate. An annuity does not accrue for the 31st day of any month, except in the initial month if the survivor's (of a deceased employee) annuity commences on the 31st day. For accrual purposes, the last day of a 28-day month constitutes 3 days and the last day of a 29-day month constitutes 2 days.

§ 843.409 Rates of annuities.

(a) For each month, the amount of annuity payable to each surviving child under this subpart is—

(1) The difference between the basic child's annuity rate for that month and the total amount of child's insurance benefits under title II of the Social Security Act payable for that month to all children of the employee or retiree based on the total earnings (including any non-Federal wages or self employment subject to FICA taxes) of the employee or retiree;

(2) Divided by the total number of children entitled to annuity based on the service of that employee or retiree.

(b) On the death of the current spouse or the former spouse or termination of the annuity of a child, the annuity of any other child or children is recomputed and paid as though the spouse, former spouse, or child had not

survived the former employee or Member.

§ 843.410 Annuity for a child age 18 to 22 during full-time school attendance.

(a) *General requirements for an annuity.* (1) For a child age 18 to 22 to be eligible to receive an annuity as a full-time student, the child must also meet all other requirements applicable to qualify for an annuity by a child who has not attained age 18.

(2) In addition to the requirements of paragraph (a)(1) of this section, OPM must receive certification, in a form prescribed by OPM, that the child is regularly pursuing a full-time course of study in an accredited institution.

(b) *Full-time course of study.* (1) Generally, a full-time course of study is a noncorrespondence course which, if successfully completed, will lead to completion of the education within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned.

(2) A certification by an accredited institution that the student's workload is sufficient to constitute a full-time course of study for the program in which the student is enrolled is prima facie evidence that the student is pursuing a full-time course of study.

(c) *Certification of school attendance.*

(1) OPM may periodically request the recipient of a child's annuity payments to furnish certification of school attendance. The certification must be completed in the form prescribed by OPM.

(2) If OPM requests the recipient of a child's annuity payments to provide a self-certification of school attendance, the recipient must complete and sign the certification form.

(3) If OPM requests the recipient of a child's annuity payments to provide a certification by the school, the certification must be signed by an official who is either in charge of the school or in charge of the school's records. OPM will not accept certification forms signed by instructors, counselors, aides, roommates, or others not in charge of the school or the records.

(i) If the educational institution is above the high school level, the certification must be signed by the president or chancellor, vice president or vice chancellor, dean or assistant dean, registrar or administrator, assistant registrar or assistant administrator, or the equivalent.

(ii) If the educational institution is at the high school level, the certification must be signed by the superintendent of schools, assistant superintendent of schools, principal, vice principal, assistant principal, or the equivalent.

(iii) If the educational institution is a technical or trade school, the certification must be signed by the president, vice president, director, assistant director, or the equivalent.

(4) OPM will accept a facsimile signature of a school official only if it is accompanied by a raised seal of the institution or other evidence clearly demonstrating the authenticity of the certification and making unauthorized use of the signature stamp unlikely.

(d) *Continuation of annuity during interim breaks.* A child's annuity continues during interim breaks between school years if the following conditions are satisfied:

(1) The student must have been a full-time student at the end of the school term immediately before the break.

(2) The break between the end of the last term of full-time attendance and the return to full-time attendance must not exceed 5 months. (See § 841.109 of this chapter, concerning calculation of this time period.)

(3) The recipient of a child's annuity payments must show that the student has a bona fide intent to return to school as a full-time student immediately after the break. The full-time certification for the period term and the certification (in a form prescribed by OPM) by the recipient of a child's annuity payments that the student intends to return to school (immediately after the break) as a full-time student constitute prima facie evidence of a bona fide intent to return to school.

(e) *Benefits after age 22.* (1) A student's eligibility for a child's annuity terminates based on reaching age 22 on—

(i) June 30 of the calendar year of the child's 22nd birthday if the child's birthday is before July 1; or

(ii) The last day of the month before the child's 22nd birthday if the child's birthday occurs after June 30 but before September 1 of the calendar year; or

(iii) June 30 of the year after the one in which the child attains age 22 if the child's birthday is after August 31 of the calendar year.

(2)(i) An otherwise eligible child who becomes a full-time student after his or her 22nd birthday but before the date the annuity terminates under paragraph (e)(1) of this section is eligible for annuity while he or she is a full-time student until the termination date under paragraph (e)(1) of this section.

(ii) An otherwise eligible child who is a full-time student, and whose parent dies after the child's 22nd birthday but before the date the annuity terminates under paragraph (e)(1) of this section, is eligible for annuity while he or she is a full-time student after the death of the parent until the termination date under paragraph (e)(1) of this section.

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§ 843.411 Direct payments to children.

For purposes of section 8466(c) of title 5, United States Code, persons who have attained age 18 are considered adults, regardless of the age of majority in the jurisdiction in which they reside.

Subpart E—Insurable Interest Annuities

§ 843.501 Purpose.

This subpart explains the benefit payable under FERS to an insurable interest beneficiary based on the death of a retiree who elected to take an annuity reduction to provide such benefits.

§ 843.502 Eligibility.

An insurable interest beneficiary is eligible for an annuity under this subpart upon the death of a retiree if the retiree had elected (under § 842.606 of this chapter) to receive an insurable interest rate with the insurable interest beneficiary as his or her survivor.