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2022 DoD VIRTUAL BENEFITS & WORK-LIFE SYMPOSIUM



How to Research and Interpret Benefit Laws and Regulations

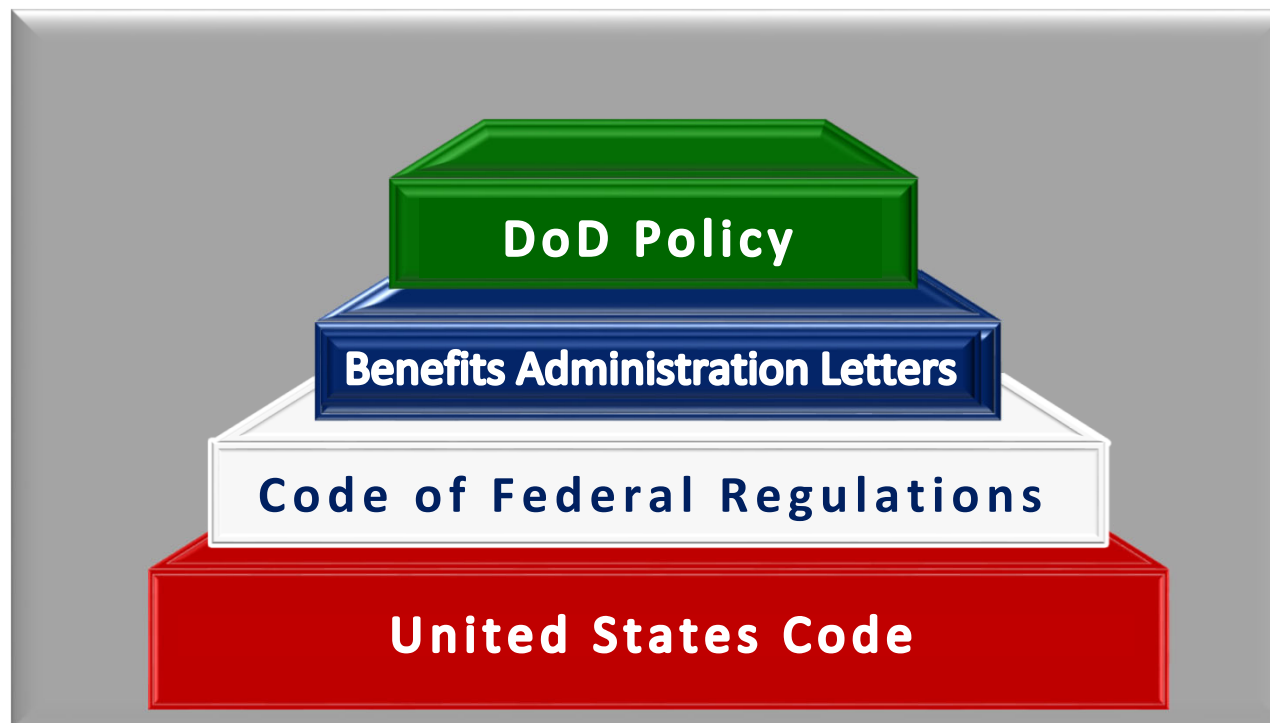
Chuck Wadleigh and Darren Rechel - September 27, 2022

Objectives

Participants will:

- Become familiar with guidance used for federal benefits programs
- Become familiar with the structure and usage of Title 5 United States Code and Title 5 Code of Federal Regulations
- Become familiar with steps and tools used to interpret, research and apply Benefits laws & regulations
- Complete knowledge checks & statute interpretation & application exercise

Guidance Used for Federal Benefit Programs



The Formation of Federal Employee Benefit Laws and Regulations

Title 5 United States Code (U.S.C.)
Title 5 Code of Federal Regulations
(CFR)

CSRS and FERS Handbook
Benefits Administration Letters (BALs)
DoD Policy



United States Codes (Law)

- Contains general and permanent laws

Laws (United States Code (U.S.C.) Title 5

Prepared by the office of Law Revision Counsel, U.S. House of Representatives and published by the Government Publishing Office (GPO)

Consolidated and coded by subject matter

- Contains 54 titles, sub-titles, parts, subparts, chapters & subchapters
- Contains sections that are numbered sequentially & divided into subsections, paragraphs, subparagraphs, clauses, sub clauses, items and sub-items

United States Codes (Law)

United States Code
Title 5 – Government Organization and Employees
Part III – Insurance & Annuities (Sections § 2101- § 11001)
Subpart G – Insurance and Annuities (Sections § 8101- § 9009)
Chapter 89 – Health Insurance
Sections – (§ 8901- § 8914)
Subpart B - Enrollment

The figure above is read aloud as:
“Title 5 U.S.C.; Part III, Subpart G, Chapter 89,
Sections 8901 through 8914, Subpart “B”

Administration Resources: Title 5 U.S.C.

Chapter 83 CSRS Retirement
(Sections 8301 to 8351)

Chapter 84 FERS Retirement
(Sections 8401 to 8480)

Chapter 87 Life Insurance
(Sections 8701 to 8716)

Chapter 89 Health Insurance
(Sections 8901 to 8914)

Code of Federal Regulations (CFR)

- Codification of general and permanent rules
 - Agencies can “propose” adding, changing, or deleting a regulation by publishing the proposal in the Federal Register
 - The agency reviews feedback
 - Makes changes as appropriate
 - Publishes final rule w/effective date in the Federal Register
 - Final rule is issued as “regulation” and published by the Government Publishing Office (GPO)
- The CFR is divided into:

50
Titles

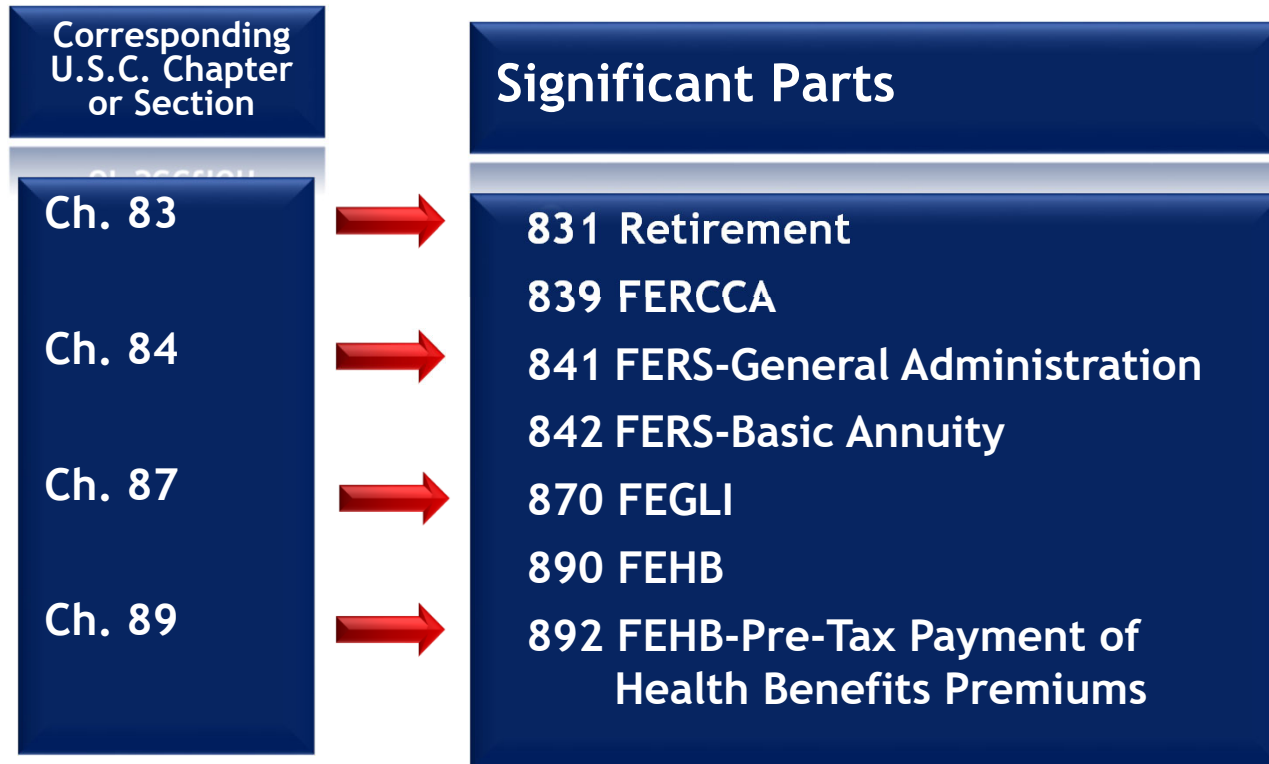
- Individual Volumes
- Chapters
- -Parts
- -Subparts

Code of Federal Regulations (CFR)

**Title 5 – Administrative Personnel
CFR 890.302 (c)
Part 890 – FEHB Programs
Section 302 – Coverage of Family Members
Subpart C - Enrollment**

**The figure above is read aloud as:
“Title 5 CFR, part 890, section 302; subpart “C”**

Administration Resources: Title 5 CFR



CSRS and FERS Handbook

- The Civil Service Retirement System and Federal Employees Retirement System Handbook
 - Used to advise Federal agencies about various aspects of benefits administration
 - Example: CSRS and FERS Handbook, Chapter 3, Section 3-1
Located at <https://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/>

Benefits Administration Letters (BALs)

- Benefits Administration Letters (BALs)
 - BALs provide guidance to agencies on various benefit aspects of Federal administration. Obtain from www.opm.gov
 - BALs are numbered with the 1st two characters indicating the year of publication and the remaining number assigned to each BAL sequentially:
 - Example: 08–204 – indicates a BAL was published in 2008 for the Insurance and Policy Process Issues
- ListServ
 - Provides an email subscription service to OPM’s latest federal updates regarding various benefit programs. Register at <https://www.opm.gov/utilities/sign-up-for-listserv/>

Benefits Administration Letters (BALs)

- **Benefits Administration Letters (BAL)**
 - **BAL Series include:**
 - 100 – Retirement Policy and Process Issues**
 - 200 – Insurance Policy and Process Issues**
 - 300 – Payroll and Financial Management Guidance**
 - 400 – Federal Employees Health Benefit Open Season Guidance**
 - 800 – Flexible Spending Issues and Guidance**
 - 900 – Long Term Care Insurance**
 - **ListServ**
 - **Provides an email subscription service to OPM’s latest federal updates regarding various benefit programs. Register at listserv@listserv.opm.gov**

DoD Policy

- **Department of Defense Issuances** establish and implement DoD policy. There are several types of issuances that are published for different reasons:
 - DoD Directives (DoDDs)
 - DoD Instructions (DoDIs)
 - DoD Manuals (DoDMs)
 - Directive-type Memorandums (DTMs)
 - Administrative Instructions – Provides policy for administrative processes
- Issuances may also assigns responsibility, delegate authority, and provide specific procedures to implement Federal law, Executive orders, and Presidential directives.

DoD Issuances

Directives	Instructions	Manuals	Directive-Type Memos
<ul style="list-style-type: none"> • Exclusively establishes policy, assigns responsibilities, and delegates authority to DoD Components • Contains no procedures 	<ul style="list-style-type: none"> • Establishes or implements policy • Two types: policy and non-policy • May contain overarching procedures 	<ul style="list-style-type: none"> • Implement or supplement a directive or policy instruction • Authorized by a directive or policy instruction • Authorizing issuance cited in the manual and as a reference 	<ul style="list-style-type: none"> • Only for a time-sensitive action that affects a current DoD issuance or that will become a DoD issuance • Used when time constraints prevent publishing an issuance

Steps to Interpret Laws and Statutes

- Preliminary Step #1
 - Read the statute: The primary language of the statute should always serve as the starting point for any inquiry into its meaning.
 - To properly understand and interpret a law or regulation the HR Specialist must first read the text closely and keep in mind that their initial understanding of the text may not be the only plausible interpretation and may not be the final interpretation.

Steps to Interpret Laws and Statutes (Cont)

- Preliminary Step #2
 - Understand the Issue: Make sure you have a sound understanding of the issue and the underlying facts so that you can determine which statutes are relevant when responding to or resolving the issue at hand.

Steps to Interpret Laws and Statutes (Cont)

- Preliminary Step #3
 - Confirm that the statute is the most current: Be sure to consult the corresponding statute to determine whether or not a part or parts have been replaced, repealed or amended.

Steps to Interpret Laws and Statutes (Cont)

- Interpretation Tool #1
 - Statutory Text: Many statutes contain a “definitions” section. These definitions are important because they suggest that legislatures intended for a term to have a specific meaning that might differ in important ways from its common usage.

Steps to Interpret Laws and Statutes (Cont)

- Interpretation Tool #2
 - Commonly Used Terms: Describes several terms that are commonly found in statutes and often used purposely to define the scope and function of that law and regulation.

Steps to Interpret Laws and Statutes (Cont)

- Interpretation Tool #3
 - Code of Federal Regulations (CFR): The agency in charge of administering a given statute issues regulations to clarify how the statute should be interpreted and applied. These regulations are found in the Code of Federal Regulations (CFR) and are helpful in determining both the meaning and policy concerns that form the basis of a statute.

Steps to Interpret Laws and Statutes (Cont)

TERMS	FUNCTION (meaning)
And v. Or	“And” typically signifies a conjunctive list, meaning each condition in the list must be satisfied, while “or” typically signifies a disjunctive list, meaning satisfying any one condition in the list is sufficient
May v Shall	Generally, “shall” signifies that certain behavior is mandated by the statute, while “may” grants the HR Specialist some discretion
Unless & Except	These terms usually signify an exception to the law or regulation
Subject to; Within the meaning of; For the purposes of	These terms may limit the scope of the statute or may indicate that a certain part of the law or regulation is controlled or limited by another section or statute
If, then, Upon, Before/After, Provided that	Generally these terms indicate that for one part of a law or regulation to take effect, a precondition or requirement must be satisfied

Knowledge Checks

How to Research and Interpret Benefit Laws and Regulations Knowledge Check

1. The _____ contains general and permanent laws while the _____ is the codification of general and permanent rules.
 - A. United States Code (USC) and Code of Federal Regulations (CFR)
 - B. Department of Labor (DOL) and Thrift Savings Plan (TSP)
 - C. Internal Revenue Service (IRS) and Federal Employee Health Benefits (FEHB)
 - D. Department of the Air Force and United States Army

How to Research and Interpret Benefit Laws and Regulations Knowledge Check

2. The United States Code is consolidated and coded by subject matter and is further divided into how many titles?
- A. 50
 - B. 33
 - C. 62
 - D. 54

How to Research and Interpret Benefit Laws and Regulations Knowledge Check

3. Who is responsible for the oversight for the Civil Service Retirement System (CSRS), the Federal Employee Retirement System (FERS) and related Federal benefits administrative function?
 - A. Washington Headquarters Services (WHS)
 - B. The Office of Personnel Management (OPM)
 - C. Defense Civilian Personnel Advisory Service (DCPAS)
 - D. Government Printing Office (GPO)

How to Research and Interpret Benefit Laws and Regulations Knowledge Check

4. True or False:

To properly understand and interpret a law or regulation the HR Specialist must first read the text closely and keep in mind that their initial understanding of the text may not be the only plausible interpretation and may not be the final interpretation.

- a. True
- b. False

On-Line Searches

When searching or researching the

U.S.C. or CFR go to:

<http://uscode.house.gov/>

&

<https://www.ecfr.gov/>

Searching the USC and CFR Online

STEPS	UNITED STATES CODE (U.S.C.)	CODE OF FEDERAL REGULATIONS (CFR)																
1	When researching the U.S.C., go to http://uscode.house.gov/	When researching the CFR, go to https://www.ecfr.gov/																
2	Click on Title 5—Government Organization And Employees; and Appendix	Click on Title 5 :: Administrative Personnel																
3	Click on Part III—Employees (sections §2101 to 10210)	Click on Chapter I – Office of Personnel Management																
4	Click on Subchapter G—Insurance and Annuities (sections §8101 to 9009)	Click on Subchapter B - Civil Service Regulations																
5	Scroll down Click on Title 5	Scroll down to click on the Part / Section (Parts 110 – 960)																
6	<table border="0"> <tr> <td>Click on Chapters:</td> <td>Sections:</td> </tr> <tr> <td>83 CSRS</td> <td>(§8301 – 8351)</td> </tr> <tr> <td>84 FERS</td> <td>(§8401 – 8480) (§8701 – 8716)</td> </tr> <tr> <td>87 FEGLI</td> <td>(§8901 – 8914)</td> </tr> <tr> <td>89 FEHB</td> <td>(§8951 – 8962)</td> </tr> <tr> <td>89A Dental</td> <td>(§8981 – 8992)</td> </tr> <tr> <td>89B Vision</td> <td>(§9001 – 9009)</td> </tr> <tr> <td>90 Long Term Care</td> <td></td> </tr> </table>	Click on Chapters:	Sections:	83 CSRS	(§8301 – 8351)	84 FERS	(§8401 – 8480) (§8701 – 8716)	87 FEGLI	(§8901 – 8914)	89 FEHB	(§8951 – 8962)	89A Dental	(§8981 – 8992)	89B Vision	(§9001 – 9009)	90 Long Term Care		Click on Parts: 831 Retirement 841 FERS – General Administration 842 FERS – Basic Annuity 843 FERS – Death Benefit & Employee Refunds 844 FERS – Disability 846 FERS – Elections of Retirement Coverage 850 Electronic Retirement Processing 870 Federal Employees' Group Life Insurance 875 Federal Long Term Care Insurance 890 Federal Employees Health Benefits 891 Retired – Federal Employees Health Benefits 892 Federal Premium Conversion 894 FEDVIP
Click on Chapters:	Sections:																	
83 CSRS	(§8301 – 8351)																	
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89B Vision	(§9001 – 9009)																	
90 Long Term Care																		
7	Click on applicable Chapter and Subchapter	Click on applicable Part and Subpart																
8	Click on Applicable § Section	Click on the envelope icon to Subscribe to: Changes in Title 5 :: Chapter I :: Subchapter B																

Questions?

Group Exercises



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2022 DoD VIRTUAL BENEFITS & WORK-LIFE SYMPOSIUM

Exercises

Scenario 1

The Human Resources Specialist received an inquiry on January 18, 2017 from an employee who states that their spouse passed away in 2012. The employee's spouse was the last eligible family member under the Option C coverage; however, the premiums for Option C coverage were not discontinued. Is the employee eligible to receive a reimbursement of the premiums paid for Option C after the death of the spouse?

Exercises

Answer:

Yes they are eligible for refund of premiums for Option C dating back to 2012
Per 5 CFR 870.104 Incontestability

Exercises

Scenario 2

The Human Resources Specialist is asked by an employee, who is separating via a postponed retirement, “When will my FEHB terminate?”

Exercises

Answer:

The employee's FEHB coverage will terminate at midnight on last day of the pay period in which the employee separates per 5 CFR 890.304

Exercises

Scenario 3

The Human Resources Specialist is a part of the Reduction-in-Force (RIF) team. There are 50 FERS employees who are at least 50 years old with 20+ years of service.

Unfortunately, each of the employees are being involuntarily separated from their position(s). Fortunately, the employees meet age and service requirements to be eligible for Early Retirement; however, 10 of the employees are being separated due to misconduct. All 10 of the employees have emailed HR asking whether or not they meet Early-Out Retirement criteria.

Exercises

Answer:

The 10 FERS employees being separated due to misconduct are NOT eligible for Early Retirement per 5 CFR 842.206

Exercises

Scenario 4

A FERS employee nearing retirement calls into your office with questions about the FERS supplement. The employee has 25 years of service and would like information on the computation of the annuity supplement. They received their social security statement and believe that the FERS annuity supplement will equal the age 62 benefit from SSA. Please draft a professional response to their inquiry for information

Exercises

Answer:

Thank you for contacting the DoD. Your inquiry was regarding the computation of the FERS annuity supplement. According to Title 5 of the Code of Federal Regulations , Section 842.504, an annuity supplement is an amount equal to the old age insurance benefit payable under title II of the Social Security Act, multiplied by a fraction, the numerator of which is the annuitants total service creditable under FERS, excluding military service not performed during LWOP, rounded to the nearest whole number not exceeding 40 years; and denominator which is 40

Exercises

Scenario 5

A reemployed annuitant enters your office, they have worked for 4 years as a reemployed annuitant. They believe they are entitled to a redetermined annuity. After explaining the 5 year requirement, the employee asks for you to, “show it to me in writing”. Please draft a professional response to the employee’s inquiry

Exercises

Answer:

Thank you for contacting DoD. Your inquiry was regarding the redetermined annuity computation. According to Title 5 CFR Section 837.504, a reemployed annuitant is entitled, on separation, or conversion to intermittent service, to a redetermined annuity if the annuitant performed 5 years of actual, continuous, full time service. Retirement deductions are withheld, or a deposit is paid, for the entire period of continuous reemployment service immediately preceding the most recent separation from reemployment service and employee elects redetermined annuity over previous annuity and the supplemental annuity payable under 837.503 of this subpart

Exercises

Scenario 6

A FERS employee enters your office, after reviewing their service history you notice they have 22 years as a Law Enforcement Officer. You begin by explaining the annuity computation rules to the employee, they receive One and 7/10th percent for first 20 years of service, and 1 percent for all years exceeding 20. The employee states they heard it was 2 percent for the first 20 and one and 7/10th percent for everything exceeding 20. They would like to see the legal citation for the information you are providing. Draft a professional response

Exercises

Answer:

Thank you for contacting the DoD. Your inquiry was regarding the annuity computation for **approved** Law Enforcement Officer(LEO) positions. According to Title 5 CFR, section 842.405, the annuity of LEO retiring under 842.208 is computed at 1 and 7/10th percent of average pay multiplied by 20 years plus 1 percent of average pay multiplied by years of service exceeding 20 years. In order to qualify for the additional percentage, a LEO must retire with at least 20 years of LEO or Firefighter service.

Questions?



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