

Rules and Regulations

Federal Register

Vol. 60, No. 115

Thursday, June 15, 1995

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 874

RIN 3206-AG79

Federal Employees' Group Life Insurance Program: Living Benefits

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the "FEGLI Living Benefits Act" of 1994. This law requires OPM to issue regulations which state: that under the Federal Employees' Group Life Insurance (FEGLI) Program, basic life insurance may be elected to be paid to an insured individual who is certified as terminally ill with a life expectancy of 9 months or less; that an employee may elect that the basic benefit be paid in total or, in part in multiples of \$1,000; that annuitants may elect only the total amount of basic; that there will be no increase in the actuarial value of the benefit; that OPM will have an Open Season of at least 8 weeks duration beginning prior to the effective date of the law, during which employees who are not currently enrolled in basic may elect it; and that define an application process.

DATES: These interim regulations are effective June 15, 1995. Comments must be received on or before August 14, 1995.

ADDRESSES: Send written comments to Lucretia F. Myers, Assistant Director for Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 3451, 1900 E Street NW., Washington, DC; or FAX to (202) 606-0633.

FOR FURTHER INFORMATION CONTACT: Faith M. Hannon, (202) 606-0004.

SUPPLEMENTARY INFORMATION: Public Law 103-409, the "FEGLI Living Benefits Act", requires OPM to regulate a FEGLI Open Season in 1995 of at least 8 weeks duration prior to the effective date of the law, July 25, 1995. The law also requires OPM to regulate provisions for: the election by a terminally ill individual covered by FEGLI basic insurance of a lump sum payment of basic insurance as a Living Benefit; the reduction of the Living Benefit so that it is actuarially equivalent to the basic insurance benefit that would have been paid in the absence of a Living Benefit election; and an application process. These interim regulations allow OPM to implement the statutory requirements of the law prior to its effective date.

Open Season

The interim regulations provide that OPM will hold a 9-week FEGLI Open Season from May 22, 1995, through July 21, 1995. The Open Season will be of 9 weeks duration to allow for the 2 legal holidays during this period. During this Open Season, employees who have waived or cancelled basic insurance and who are not excluded from eligibility by law or regulation, may enroll in basic insurance only. Optional insurance may not be elected or increased during this Open Season. This Open Season is limited to election of basic insurance because its purpose is to implement the Living Benefits Act which only applies to basic insurance.

Employees who have been on Leave Without Pay for 12 or more months, compensationers who have been on Leave Without Pay for 12 or more months, and annuitants, may not participate in this Open Season. The law specifically limits participation in the Open Season to employees as defined by section 8701(a) of title 5, United States Code.

The effective date of basic insurance elected during this Open Season will be the first day of the first pay period beginning on or after the date the employing office received the enrollment form. Unlike in previous Open Seasons, there will be no requirement for the employee to be in a pay and duty status for the enrollment elected during this Open Season to become effective. The legislative intent of this law clearly was to make a Living

Benefit available to the greatest number of eligible employees possible. It would be contrary, therefore, to the intent of the law to require that employees be in a pay and duty status before the Open Season election becomes effective. However, we must emphasize that it is OPM's firm intent to have a pay and duty status requirement for coverage elections to be effective in any and all future FEGLI Open Seasons.

An election during this Open Season will not be considered a first opportunity to enroll for purposes of meeting the requirements to carry life insurance into retirement. In order to carry coverage elected during this Open Season into retirement, the coverage must be in effect for the 5 years of service immediately preceding the date of retirement, or for the entire period(s) of service during which it was available, if less than 5 years.

Living Benefits

Public Law 103-409 requires that terminally ill employees who have FEGLI basic insurance be allowed to elect as a Living Benefit either a lump-sum payment of the total amount of their basic insurance or a partial payment of their basic insurance in a multiple of \$1,000. Eligible compensationers and annuitants may only elect to receive a lump-sum payment of the total amount of their basic insurance. The law also defines a terminally ill individual as one who has been certified as having a life expectancy of 9 months or less. The Living Benefits Act does not apply to and has no effect on Optional Insurance.

This interim regulation specifies the parameters of the total/partial requirements of the law and also explains that a Living Benefit election will either reduce the accidental death and dismemberment coverage upon an effective election of a partial Living Benefit or terminate the accidental death and dismemberment coverage upon an effective election of a total Living Benefit. In addition, this regulation describes how the Basic Insurance Amount (BIA) will be reduced in proportion to the amount elected for a partial Living Benefit. The remaining BIA, or post-election BIA, will not change after the computation of the partial Living Benefit regardless if there is a change in other circumstances, e.g., salary, or age. When the insured