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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206-AN21

Federal Employees' Group Life Insurance Program: Filing Deadlines for Court Review of Administrative Final Decisions

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The United States Office of Personnel Management (OPM) is issuing a proposed rule to amend the Federal Employees' Group Life Insurance (FEGLI) Program regulation to establish a timeframe for filing civil actions or claims against the United States based on 5 U.S.C. Chapter 870 (Life Insurance).

DATES: Comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send written comments to Ronald Brown, Policy Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, Room 4312, 1900 E Street NW, Washington, DC 20415; or FAX to 202-606-0636. You may also submit comments, identified by Regulation Identifier Number (RIN) "3206-AN21," using the Federal eRulemaking Portal:

<http://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Ronald Brown, Policy Analyst at Ronald.Brown@opm.gov or 202-606-0004.

SUPPLEMENTARY INFORMATION: This proposed rule is intended to: (1) establish a timeframe for filing legal action for judicial review of OPM or employing agency final action on

FEGLI claims; and (2) provide a 3-year time limit for filing a court claim for review of agency or retirement system final decisions.

OPM intends to amend the FEGLI Program regulation to provide a timeframe for individuals seeking judicial review of the legality of an agency or retirement system final decision on FEGLI eligibility, or an agency or retirement system final decision on change of coverage, designation of beneficiary, or assignment of life insurance. Current OPM regulations provide a 31-day time limit for administrative review under FEGLI but do not state a time limit for seeking judicial review of FEGLI decisions. Accordingly, OPM has specified a 3-year time limit for filing a claim for court review of FEGLI decisions.

OPM is granted the authority in 5 U.S.C. §8716 to prescribe regulations to carry out the FEGLI Program. Thus, we propose to amend the FEGLI regulation to add section 5 C.F.R. 870.106 concerning court review of final administrative life insurance decisions. The proposed rule also reinforces that individuals must first exhaust administrative appeal rights before seeking judicial review.

Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for

major rules with economically significant effects of \$100 million or more in any one year. This rule is not considered a major rule because there will be a minimal impact on costs to Federal agencies.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects life insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life Insurance, Retirement.

U.S. Office of Personnel Management.

Beth F. Cobert,
Acting Director.

Accordingly, OPM is proposing to amend 5 CFR part 870 as follows:

PART 870--FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

1. The authority citation for 5 CFR part 870 continues to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104-134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 111Stat. 251, and section 7(e) of Pub. L. 105-274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106-522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110-279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110-177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104-106, 110 Stat. 521;

Subpart A--Administration and General Provisions

2. Add §870.106 to Subpart A to read as follows:

§ 870.106 Court review.

(a) A suit to review the legality of an agency or retirement system final decision on FEGLI eligibility must be filed in the district courts of the United States or the United States Court of Federal Claims.

(b) A suit to review the legality of an agency or retirement system final decision on change of coverage, designation of beneficiary, or assignment of life insurance, must be filed in the district courts of the United States or United States Court of Federal Claims.

(c) An action under paragraph (a) or (b) of this section:

(1) May not be brought prior to exhaustion of the administrative remedies provided in Sec. 870.105 of this part; and

(2) May not be brought later than December 31 of the 3rd year after the agency or retirement system final decision to the insured individual.

(3) Exception: This time limit may be extended by 31 calendar days after December 31 of the 3rd year (60 calendar days if overseas) of the date of the final decision to the insured if the individual shows that he or she was not notified of the time limit and was not otherwise aware of it or that he or she was unable, due to reasons beyond his or her control, to make the request within the time limit.

(d) This section does not change the rules found in this chapter regarding FEGLI coverage or premium payments for an employee while in nonpay status.

(e) If a claimant thinks that he or she is due money from FEGLI benefits and that legal action is necessary to get the money, the claimant must take action in Federal court against the company that OPM contracts with to adjudicate claims, not against OPM.

Billing Code 6325-63

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