



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206-AM81

Special Rights for Transferred Employees under the Dodd-Frank Act Regarding Federal Employees' Group Life Insurance

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a Final Rulemaking to implement provisions of the Dodd–Frank Wall Street Reform and Consumer Protection Act (the Act). The Act includes authorization for certain transferred employees to have a special enrollment opportunity and special rights regarding Federal Employees' Group Life Insurance (FEGLI) to ensure their continuity of benefits coverage.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Rachel Royster, Senior Policy Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415.

SUPPLEMENTARY INFORMATION: On January 6, 2014, the U.S. Office of Personnel Management (OPM) published a proposed regulation at 79 FR 613. The Administrative Procedures Act requires Federal agencies to publish a final regulation after a notice and comment period. Therefore, OPM is now finalizing this rule. The rule gave special FEGLI rights to the following employees who were carrying employer sponsored life insurance other than FEGLI:

employees from Office of Thrift Supervision (OTS) transferred to Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) under the Act (Public Law 111-203). The new regulatory provisions include new subparts in part 870 of title 5 of the Code of Federal Regulations.

Authorizing legislation: Section 322 of Public Law 111-203 discusses the transfer of employees and their special FEGLI rights.

Section 322. Transfer of Employees from OTS to OCC or FDIC

The relevant portions of this section states that if, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation will not continue to participate in any dental, vision or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for the purpose of 8706(b)(1)(A) of title 5, United States Code.

These provisions allow a transferring employee that participated in an OTS life insurance program that is no longer available at OCC or FDIC to have a special enrollment period for FEGLI. OTS maintained the Office of Thrift Supervision Group Life Insurance Program in

which OCC and FDIC did not continue to participate. Therefore, at approximately one year after the transfer date, July 21, 2011, OPM held a special enrollment period for transferred employees participating in Office of Thrift Supervision Group Life Insurance Program to enroll in FEGLI. The special enrollment period began on June 1, 2012 and ended July 29, 2012.

Any employee that enrolled in FEGLI during this special enrollment period will have their time in a life insurance plan administered by OTS credited towards their 5 years of continuous enrollment to continue FEGLI coverage into retirement.

There were other provisions in the Dodd-Frank Act relating to FEGLI coverage discussed in the Notice of Proposed Rulemaking. However, these do not require further changes in FEGLI rulemaking. We received no comments on the proposed rule.

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 OPM expects that this rule will not impose costs of more than \$100 million in any one year.

Executive Orders 13563 and 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Orders 13563 and 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, Life insurance.

U.S. Office of Personnel Management.

Beth F. Cobert,
Acting Director.

For the reasons set forth in the preamble, the U.S. Office of Personnel Management amends 5 CFR part 870 as follows:

Title 5—Administrative Personnel

PART 870—FEDERAL EMPLOYEES’ GROUP LIFE INSURANCE PROGRAM

1. The authority citation for part 870 is revised 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, 111 Stat. 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.

2. In § 870.701, add paragraph (f) to read as follows:

§ 870.701 Eligibility for life insurance.

(f) An individual’s period of coverage in a life insurance plan is credited to the 5 years of service under paragraph (a)(2) of this section if:

(1) He/she participated in the Office of Thrift Supervision (OTS) life insurance plan and transferred to the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation under the Dodd–Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203; and

(2) Elected FEGLI coverage during the special enrollment period between June 1, 2012 and July 29, 2012. Evidence of the non-FEGLI period of continuous coverage will be documented in a manner designated by OPM.

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