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**Individuals Returning to Work  
Following Receipt of  
Office of Workers' Compensation  
Program (OWCP) Benefits**

**A Guide for Human Resources Specialists**

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**Office of Workers' Compensation Program (OWCP)  
Returning to Work**

The Department of Labor (DOL) is responsible for adjudicating workers compensation claims and maintaining the records of individuals in receipt of compensation. Upon an individual's returning to work, compensation may terminate or continue as a loss of wage earning capacity (LWEC). The individual must receive the same career status as previously appointed to when the injury occurred.

The purpose of this document is to provide guidance on how employee benefits and retirements are affected when an individual returns to work following receipt of compensation. The employing office is responsible for processing benefit actions correctly, setting the correct retirement coverage, and counseling the employee on their options upon returning to work. The procedures and rules may be different depending on the individual's status while in receipt of compensation. This guide is separated into the following three categories:

- 1) Active employees on leave without pay (LWOP)
- 2) Former employees who did not apply or were not approved for disability retirement
- 3) Retired employees (approved disability retirement by the Office of Personnel Management (OPM) or applied for optional retirement)

**ACTIVE EMPLOYEE -- LWOP STATUS**

One of the first things the agency must monitor is when the employee returns to work (regardless of the work schedule); the employing office must notify OWCP/DOL by letter. The employing office must state the beginning and ending dates of the pay period the employee returned to work.

**Retirement**

Retirement coverage continues during the LWOP period. Upon return to duty the retirement coverage remains the same and a Civil Service Retirement System (CSRS) or CSRS Offset covered employee is not eligible to elect the Federal Employees Retirement System (FERS). The employee is only eligible to elect FERS if they separated and returned to work after more than a 3-day break in service.

Employees in a LWOP status are given 6 months credit in each calendar year. All LWOP outside of this 6-month period is not creditable for retirement purposes. However, in the case of an individual who is receiving compensation, the 6-month rule **does not** apply. Full credit is given as though the employee worked for the entire period. Time spent in receipt of compensation is treated as a leave of absence. The employee will receive full credit for the period of LWOP in the annuity and high-3 average salary computations.

If the employee is working less than full-time and is in receipt of LWEC computation, the annuity will be computed as full-time service. This applies regardless of whether the employing office processes a change in work schedule Standard Form (SF) 50. The part-time computation rule does not apply when the employee is in receipt of LWEC.

Nondeduction service credit rules apply, therefore, the employee would not be afforded anything more than what he or she would earn if the injury had not occurred.

Example: An employee serving on a temporary appointment and contributing to the Federal Insurance Contributions Act (FICA) tax system, is injured on the job and in receipt of compensation. He/she returns to work and later is appointed to a permanent position Career-Conditional appointment ( FERS). The time in receipt of compensation is treated as nondeduction service and the applicable service credit rules apply.

**FERS** – FICA on/after January 1, 1989 – no credit  
FICA before January 1, 1989 – no credit unless deposit paid

**CSRS** – FICA on/after October 1, 1982 – no credit in annuity computation unless a deposit is paid  
FICA before October 1, 1982 – deposit paid or annuity will be reduced by 10% of any deposit amount owed

Employees covered by FERS who are receiving compensation during a period of LWOP will be eligible for an enhanced annuity computation if the sum of all qualifying periods of absence totals 2 months or more. The enhanced benefit is computed as follows:

- The regular annuity computed under the appropriate FERS annuity formula,
- Plus**
- The enhanced benefit computed by multiplying the number of years and full months of qualifying service by 1 percent.

The enhanced formula does not apply to the FERS disability annuity computed using 60 percent or 40 percent of the high-3 average salary.

### **Federal Employees Health Benefits (FEHB)**

If the FEHB enrollment was transferred to DOL and the employee returns to work on a full-time basis, the FEHB enrollment will be transferred back to the employing office. A return from LWOP status is a Qualifying Life Event (QLE) for purposes of premium conversion (PC). The employee has 60 days to change or to enroll as a participant in PC and FEHB program. Waiving PC will allow the employee to cancel or change to self only at anytime.

### **Federal Employee's Dental and Vision Plan (FEDVIP)**

If the employee was enrolled in FEDVIP coverage prior to OWCP, their enrollment will automatically continue while receiving compensation benefits. If the employee was not previously enrolled in FEDVIP, they will only be eligible to enroll during the annual Federal Benefits Open Season.

### **Federal Employees' Group Life Insurance (FEGLI)**

If an employee's FEGLI coverage is terminated at the end of 12 months of LWOP and the employee was eligible to continue FEGLI coverage (5-year requirement), OPM should have received the SF 2821, Agency Certification of Insurance Status, along with the original FEGLI forms in the employee's Official Personnel Folder (OPF). Upon receipt, OPM establishes a file on the employee. Upon return to work, the employing office must notify the OPM Retirement Operations Center (ROC), P.O. Box 45, Attn: Life Insurance, Boyers, PA 16017-0045. The ROC will send the original life insurance forms back to the employing office.

If an employee's FEGLI coverage terminated at the end of 12 months of LWOP and the employee was ineligible to continue FEGLI coverage, the terminated coverage will be reinstated.

The value and cost of Basic life insurance and Option B will be based on the work schedule. This applies to all cases, even those when the employee is receiving LWEC. An employee who did not previously have FEGLI will not be allowed to elect it upon return to work. The employee may apply and request approval with the Office of FEGLI after obtaining a physical at their own expense, and completing the SF 2822, Request for Insurance.

### **Thrift Savings Plan (TSP)**

When an employee returns to work, the employee's TSP contributions will resume. The employing office must complete the Form TSP-41, Notification to TSP of Nonpay Status, annotating the beginning and ending dates of LWOP for employees who are returning to work and have TSP loans.

### **Long Term Care (LTC)**

Eligible individuals may apply at anytime with the full underwriting application. Employees already enrolled in LTC whose premium payments were withheld from their salary should contact LTC Partners during the LWOP status to arrange for payment of the premiums. The premiums may be withheld from compensation. Employees should notify LTC Partners upon return to a pay status.

If the LTC coverage terminated because the employee did not pay premiums or requested cancellation, LTC Partners may reinstate the coverage within 12 months from the

termination date upon the employee's request. The employee will be required to reapply based on full underwriting, and LTC Partners will determine whether the employee is still insurable. If the employee is insurable, coverage will be reinstated retroactively to the termination date and back premiums must be paid for that period. The premium will be the same as it was prior to termination.

### **Flexible Spending Accounts (FSA)**

Prior to LWOP, the employee had the option of prepaying FSA accounts by allotments. Employees who prepaid the allotments continued to be able to use the accounts. Health care expenses (not related to the injury) and dependent care expenses (expenses incurred to allow the employee or employee's spouse to work or attend school) incurred during the period of LWOP can continue to be reimbursed.

If the Health Care FSA/Limited Expense Health Care FSA (LEX HCFSA) was not prepaid prior to the LWOP status, the account is frozen. The employee is not eligible for reimbursement of any health care expenses incurred during the period of LWOP until the Benefit Period ends or until the employee returns to a pay status and begins making allotments, whichever occurs first. The Benefit Period runs from January 1 to March 15 of the following year. Claims may be submitted for eligible health care expenses (not related to the injury) incurred prior to the period of LWOP.

If the employee has a Dependent Care FSA and had dependent care expenses that meet the IRS guidelines for eligible expenses incurred during his or her absence, the employee can be reimbursed up to the account balance.

Upon return to work during the same Benefit Period, if the accounts were not prepaid, allotments will be recalculated based on the number of pay dates remaining in the Benefit Period.

LWOP is not a Qualifying Status Change (QSC) and the employee is not permitted to change an election upon return to work. QSC is an IRS term used to determine if someone who participates in a FSA can change their election outside of open season.

The QSCs are very similar and usually identical to the QLEs that are used for PC. QSCs are such events as:

- Change in legal marital status (marriage, divorce, legal separation, annulment)
- Change in the number of dependents (birth or adoption of a child, youngest dependent aging up, etc.)
- Change in employment status that affects eligibility for benefits.

**FORMER EMPLOYEE – DID NOT APPLY FOR  
DISABILITY OR OPTIONAL RETIREMENT**

One of the first things the agency must monitor is when the employee returns to work (regardless of the work schedule). The employing office must notify OWCP/DOL by letter stating the beginning and ending dates of the pay period the employee returned to work.

**Retirement**

When an employee has been in receipt of compensation, that period is treated as a leave of absence and full credit is given as long as the employee eventually returns to a retirement covered position. The time is fully creditable for annuity computation and high-3 average salary purposes. No period of separation may be credited in meeting the requirement that a CSRS employee complete 1 year of covered service in the 2-year period immediately preceding a non-disability retirement.

In cases when a CSRS employee's compensation terminates prior to returning to work, his or her retirement coverage may be affected. The employing office must consider the length of the break (from the end of compensation to the date of rehire) to determine whether a CSRS employee is now subject to Social Security. Breaks of more than 365 days will cause the CSRS coverage to change to either CSRS Offset or FERS depending on whether the employee meets the 5-year test. In addition, employees who have a break in service of more than 3 days are eligible to elect FERS within 6 months after returning to work.

If there is no break between compensation and return to work, the CSRS employee is not subject to the Social Security rules.

If the employee has nondeduction service or refunded service, the deposit rules under both CSRS and FERS apply.

Employees who return to work on less than a full-time schedule and are in receipt of LWEC will have the annuity calculated using the rules for full-time service.

Employees covered by FERS who are receiving compensation during a period of separation will be eligible for an enhanced annuity computation if the sum of all qualifying periods of absence totals 2 months or more.

However, to receive the benefit of an enhanced computation, the former employee must return to work and earn title to a FERS annuity. The enhanced benefit is computed as follows:

- The regular annuity computed under the appropriate FERS annuity formula,

**Plus**

- The enhanced benefit computed by multiplying the number of years and full months of qualifying service by 1 percent.

The enhanced formula does not apply to the FERS disability annuity computed using 60 percent or 40 percent of the high-3 average salary.

### **FEHB**

The FEHB enrollment transferred to DOL will be transferred back to the employing office when the employee returns to work on a full-time basis. Reemployment after a break in service of more than 3 days is a QLE for purposes of PC which means the employee has 60 days to change participation in PC. Waiving PC will allow the employee to cancel or change to self only at anytime. An employee who was not previously enrolled in FEHB may enroll within 60 days.

### **FEDVIP**

If the employee was not previously enrolled in FEDVIP, they will only be eligible to enroll during the annual Federal Benefits Open Season.

### **FEGLI**

Upon separation, the employee's FEGLI coverage terminated and OPM should have received the SF 2821, along with the original FEGLI forms filed in the employee's OPF, if the employee met the 5 year eligibility requirement to continue FEGLI coverage. Upon receipt, OPM establishes a file on the employee. Upon return to work, the employing office must notify the OPM ROC, P.O. Box 45, Attn: Life Insurance, Boyers, PA 16017-0045. The ROC will send the original life insurance forms back to the employing office.

If the employee was ineligible to continue FEGLI coverage, the terminated coverage will be reinstated.

The value and cost of Basic life insurance and Option B will be based on the work schedule. This applies to all cases, even those when the employee is receiving LWEC. Within 60 days of returning to work, the employee is eligible to increase coverage if the break in service was at least 180 days.

### **TSP**

If the break in service was 30 days or less, the prior contribution amount will continue. The employee can elect or change the contribution amount at any time. The agency will automatically contribute to the employee's TSP account in an amount equal to one percent of their basic pay each pay period. There is no waiting period. These contributions are provided regardless of the employee making contributions.

Employees who elect the withdrawal option of monthly installments must be informed that these installments will stop upon return to work.

## **LTC**

LTC is portable; therefore, the employee may continue the coverage after separation. Premiums may be withheld from compensation.

If the employee had a break in service of 180 days or more, he or she may apply for the abbreviated underwriting upon return to work.

If the LTC coverage terminated because the employee did not pay premiums or requested cancellation, LTC Partners may reinstate the coverage within 12 months from the termination date upon the employee's request. The employee will be required to reapply based on full underwriting, and LTC Partners will determine whether the employee is still insurable. If the employee is insurable, coverage will be reinstated retroactively to the termination date and back premiums must be paid for that period. The premium will be the same as it was prior to termination.

## **FSA**

Employees who return to work within 60 days after separation and before the end of the same Benefit Period (January through March of the following year) will have their previous election reinstated. The employee will not be permitted to change the amount of the initial allotment unless they have a QLE. He or she will be required to make up any missed allotments. If the employee returns in another Benefit Period he or she will be given another opportunity to make a new election. If the employee returns to a position that conveys coverage outside of the 60 days, he or she will be provided a new election opportunity to enroll, but must do so no later than October 1 of any Benefit Period.

<b>RETIRED EMPLOYEE – OPM APPROVED DISABILITY OR OPTIONAL RETIREMENT</b>
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**Retirement**

An individual, who chose annuity payments from OPM vs. compensation, is considered an annuitant for the purposes of title 5 U.S.C. 9902(j); the DoD hiring policy applies (DoD policy dated March 18, 2004, updated to DoD Instruction 1400.25V300, dated December 10, 2008). The individual must meet the specific hiring criteria (hard-to-fill, complete a specific project, unique skills, or for not more than 2087 hours to mentor). Under this policy, the annuity continues and the salary is not offset. The individual is not entitled to future retirement credit. The retirement coverage is FICA and the employing office is required to notify OPM of the annuitant’s reemployment. If OPM finds a disability annuitant recovered from the disability or restored to earning capacity, the annuity will stop and the individual is no longer subject to the DoD reemployed annuitant policy. The employing office must determine the retirement coverage at the time the individual is found recovered from the disability or restored to earning capacity. For example,

CSRS disability retirement effective	12-31-03
Hired under the DoD policy	03-30-04
Found recovered	02-01-05

In this example, the retirement coverage on 03-30-04 is FICA. On 02-01-05, the retirement coverage is CSRS Offset. The break in covered service began 01-01-04 and ended 01-31-05 (more than a 365-day break in coverage, therefore, subject to Social Security).

An individual who chose compensation in lieu of annuity payments from OPM is not considered an annuitant for the purposes of title 5 U.S.C. 9902(j). The individual is not subject to the specific hiring criteria in the DoD policy Employment of Annuitants. However, the employee is considered an annuitant for OPM purposes. The retirement code would be

CSRS annuitant	‘4’ – None
CSRS Offset annuitant	‘2’ – FICA
FERS annuitant	‘K’ – FERS

An employee retired under CSRS or CSRS Offset may elect to contribute to the retirement system. The election is effective prospectively and the retirement code will change to ‘1’ – CSRS or ‘C’ – CSRS Offset. If the disability annuitant is not found recovered or restored, the period of separation during which the individual received compensation (in lieu of a disability annuity) is not creditable unless they are reemployed for 5 continuous full-time years (or part-time equivalent) and elects a redetermined annuity. The employee is only entitled to a re-calculated annuity if eligible for an immediate annuity.

Time spent in receipt of compensation prior to reemployment has no effect on a supplemental annuity. This means the employee will not receive credit for the time during receipt of compensation. Continued payment for LWEC is evidence that the individual is not recovered. Typically, OPM will not make a finding of recovery unless there is contradictory medical evidence.

Public Law 108-92 provides an enhanced FERS annuity for certain employees who were in receipt of compensation. FERS employees who received compensation in lieu of annuity payments will be eligible for this enhanced annuity computation if the sum of all qualifying periods of absence totals 2 months or more. The former employee (annuitant) must return to work and earn title to a FERS annuity. The enhanced benefit is computed as follows:

- The regular annuity computed under the appropriate FERS annuity formula,

**Plus**

- The enhanced benefit computed by multiplying the number of years and full months of qualifying service by 1 percent.

If the original annuity terminates on reemployment, and the employee separates meeting the age and service requirements for a new FERS annuity, the employee may receive credit under the enhanced formula for qualifying periods of absence when they received compensation, including periods when they received compensation in lieu of an annuity.

If the original annuity does not terminate upon reemployment, and the reemployed annuitant works long enough to meet the eligibility criteria for a redetermined annuity under FERS (five years of actual, continuous, full-time reemployed service, or part-time equivalent), the employee may receive credit under the enhanced formula for qualifying periods of absence when they received compensation, including periods when they received compensation in lieu of an annuity.

The enhanced formula does not apply to the FERS disability annuity computed using 60 percent or 40 percent of the high-3 average salary. It also does not apply to a disability annuity recomputed at age 62 when the individual does not return to work.

### **FEHB**

If the employee chose to receive the disability annuity in lieu of compensation, the FEHB will be transferred in from OPM. The employee has 60 days to waive PC. If the employee waives PC, the FEHB will transfer back to OPM. If the employee did not have FEHB as an annuitant, they may elect it within 60 days.

If the employee chose compensation in lieu of the disability annuity, the FEHB enrollment transferred to DOL will be transferred back to the employing office, as long as the employee returns to work on a full-time basis. Reemployment after a break in service of more than 3 days is a QLE for purposes of PC which means the employee has 60 days to change participation in PC. Waiving PC will allow the employee to cancel or change to self only at any time. An employee who was not previously enrolled in FEHB may enroll within 60 days.

### **FEDVIP**

If the employee was not previously enrolled in FEDVIP, they will only be eligible to enroll during the annual Federal Benefits Open Season. Retirees must have retired with an immediate annuity (a FERS Minimum Retirement Age plus 10 annuity, postponed, counts as an immediate annuity).

### **FEGLI**

If the employee chose the annuity in lieu of compensation, the Basic, Option A, and Option C coverage the employee had as an annuitant will automatically transfer in as an employee. If the employee had Option B, as an annuitant, he or she must make an election to retain the coverage as an annuitant or elect coverage upon return to employment. This election must be made within 60 days of returning to work.

If the employee chose compensation in lieu of the annuity, when the employee returns to work (regardless of the work schedule) the employing office must notify OWCP/DOL by letter. The employing office must state the beginning and ending dates of the pay period the employee returned to work.

Upon separation, the employee's FEGLI coverage terminated and OPM should have received the SF 2821, along with the original FEGLI forms filed in the employee's OPF, if the employee was eligible to continue FEGLI coverage (5-year requirement). Upon receipt, OPM established a file on the employee. Upon return to work, the employing office must notify the OPM ROC, P.O. Box 45, Attn: Life Insurance, Boyers, PA 16017-0045. The ROC will send the original life insurance forms back to the employing office.

If the employee was ineligible to continue FEGLI coverage, the terminated coverage will be reinstated.

The value and cost of Basic life insurance and Option B will be based on the work schedule. This applies to all cases, even those when the employee is in receipt of LWEC. Within 60 days of returning to work, the employee is eligible to increase coverage if the break in service was at least 180 days.

### **TSP**

An individual who chose compensation in lieu of annuity payments from OPM is not considered an annuitant for the purposes of title 5 U.S.C. 9902(j). Therefore, since they

may be subject to retirement coverage, they are also eligible to participate in TSP. If the break in service was 30 days or less, the prior contribution amount will continue. The employee may elect or change the contribution amount at any time. The agency will automatically contribute to the FERS employee's TSP account an amount equal to one percent of their basic pay each pay period. There is no waiting period. These contributions are provided regardless of the employee making contributions.

An individual who chose annuity payments from OPM vs. compensation is considered an annuitant for the purposes of title 5 U.S.C. 9902(j), therefore, will never be subject to retirement coverage in future appointments and are not eligible to participate in TSP.

Employees who elected the withdrawal option of monthly installments must be informed that these installments will stop upon return to work.

### **LTC**

LTC is portable; therefore, the employee may continue the coverage after separation. Premiums may be withheld from compensation.

If the employee had a break in service of 180 days or more he or she may apply for the abbreviated underwriting upon return to work.

If the LTC coverage terminated because the individual did not pay premiums or requested cancellation, LTC Partners may reinstate the coverage within 12 months from the termination date upon the employee's request. The individual will be required to reapply based on full underwriting, and LTC Partners will determine whether the employee is still insurable. If the employee is insurable, coverage will be reinstated retroactively to the termination date and back premiums must be paid for that period. The premium will be the same as it was prior to termination.

### **FSA**

Individuals who return to work within 60 days after separation and before the end of the same Benefit Period (January through March of the following year) will have their previous election reinstated. The individual will not be permitted to change the amount of the allotment unless they have a QLE and will be required to make up any missed allotments. If the individual returns in another Benefit Period they will be given another opportunity to make a new election.

If the employee returns to a position that conveys coverage outside of the 60 days, he or she will be provided a new election opportunity to enroll, but must do so no later than October 1 of any Benefit Period.