



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

[Docket ID: OPM-2023-0008]

RIN 3206-AO55

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986 remains unchanged. These revisions are necessary to ensure that the tables conform to the economic and demographic assumptions adopted by the Board of Actuaries and published in the Federal Register on April 14, 2023, as required by law.

DATES: This rule is effective October 1, 2023.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606-0299.

SUPPLEMENTARY INFORMATION: On April 14, 2023, OPM published a notice at 88 FR 23108 in the *Federal Register* to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99-335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. By statute under 5 U.S.C. 8461(i), the revisions to the actuarial assumptions require corresponding changes in factors used to

produce actuarially equivalent benefits when required by the FERS Act. As a result, on July 14, 2023, at 88 FR 45100, OPM published a proposed rule in the *Federal Register* to revise the table of reduction factors in 5 CFR part 843, Appendix A to subpart C for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under 5 CFR 843.309 remains unchanged.

OPM received one comment in response to its proposed rule. The commentor questioned whether this rule change will affect the cost to the Federal retirement systems. Any potential cost impact to the retirement systems would merely be costs associated with complying with the statutory requirements under 5 U.S.C. 8442(c)(2)(B)(ii) and 5 U.S.C. 8461(i). The provision under 5 U.S.C. 8442(c)(2)(B)(ii) requires that if a survivor of a former Federal employee elects to receive a survivor annuity immediately upon the death of the former employee (instead of electing to wait to receive the survivor annuity until the deceased former employee would have otherwise been entitled to an unreduced deferred annuity benefit), then OPM must reduce the survivor annuity so it is “actuarially equivalent” to the present value of what the survivor annuitant would have received had the survivor elected the later survivor annuity commencing date. The statutory provision under 5 U.S.C. 8461(i) provides that OPM must determine “actuarial equivalence” using the same economic assumptions most recently used by the Board of Actuaries for valuation of the FERS based on dynamic assumptions. Therefore, any potential cost impacts to the retirement systems are the result of changes to OPM’s calculations of actuarial equivalence using the most recent dynamic assumptions used by the Board of Actuaries as required under 5 U.S.C. 8442(c)(2)(B)(ii) and 5 U.S.C. 8461(i). Additionally, considering the small number of survivor annuities affected, OPM does not anticipate this rule will have substantial cost impact to the retirement systems.

The effective date of a substantive rule is normally delayed by 30 days. See 5 U.S.C. 553(d). OPM published notice of the normal cost percentages on April 14, 2023, with an effective date of October 1, 2023. Based on the same economic assumptions as the normal cost percentages, OPM published notice of conversion factors on July 14, 2023, and provided a 30-day comment period. OPM provided notice of the October 1, 2023, effective date for the conversion factors in its July 14, 2023, proposed rule and received no comments regarding the date. Delaying the effective date by 30 days is unnecessary as this is a routine, technical rule to update the conversion factors to align with the economic assumptions underlying the normal cost percentages. Furthermore, the normal cost percentages are used to calculate payments into the Civil Service Retirement and Disability Fund (Fund) and failing to adjust the conversion factors at the same time could result in a liability to the Fund. Accordingly, it is also in the public interest to ensure consistency between the economic assumptions underlying the normal cost percentages and the conversion factors. Finally, ensuring the effective dates for the two rules are in alignment complies with 5 U.S.C. 8442 and 8461(i). Therefore, OPM finds there is good cause to make the rule effective October 1, 2023.

Expected Impact of this Rule

OPM is adopting its proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The factors that are in effect can be found in appendix A to subpart C of 5 CFR part 843.

Of all the applications for survivor annuity death benefits OPM receives annually, OPM expects this rule to affect approximately one percent of those survivor annuity death applications it receives that are based on the death of a separated employee. Of the changes this rule implements, the most significant change is to conform the factors to the revised actuarial assumptions when the current or former spouse elects to receive an adjusted annuity beginning on the day after the death of the separated employee, such that the annuity is

reduced using the factors in appendix A to subpart C of 5 CFR part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse otherwise would have received. When OPM updates the FERS normal cost, the FERS law at 5 U.S.C. 8461(i) requires that OPM make corresponding changes to the factors used to produce actuarially equivalent benefits under FERS. Specifically, this rule is needed to revise the present value conversion factors for certain benefits payable under FERS to current and former spouses of deceased separated employees. This rule allows certain survivors to make choices about what benefits they want to receive and, in some instances, when they want the benefits to begin. Considering the small number of survivor annuities affected, OPM does not anticipate this rule will substantially affect local economies or have a large impact in local labor markets.

Regulatory Review

Executive Orders 13563, 12866, and 14094 direct 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). This rule was not designated as a “significant regulatory action,” under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid OMB Control Number.

This rule involves an OMB-approved collection of information subject to the PRA titled “Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS),” OMB Control Number 3206-0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL-1-Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

For the reasons stated in the preamble, OPM amends 5 CFR part 843 as follows:

**PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH
BENEFITS AND EMPLOYEE REFUNDS**

1. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; 843.309 also issued under 5 U.S.C. 8442; 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

2. Revise appendix A to subpart C of part 843 to read as follows:

**Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier
Commencing Date of Annuities of Current and Former Spouses of Deceased Separated
Employees**

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26.....	.1081
27.....	.1146
28.....	.1215
29.....	.1289
30.....	.1367
31.....	.1451
32.....	.1539
33.....	.1634
34.....	.1735

35.....	.1840
36.....	.1954
37.....	.2071
38.....	.2196
39.....	.2326
40.....	.2460
41.....	.2611
42.....	.2772
43.....	.2939
44.....	.3124
45.....	.3314
46.....	.3525
47.....	.3743
48.....	.3978
49.....	.4230
50.....	.4500
51.....	.4792
52.....	.5106
53.....	.5442
54.....	.5804
55.....	.6190
56.....	.6614
57.....	.7070
58.....	.7565
59.....	.8100
60.....	.8680

61.....	.9312
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With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36.....	.2248
37.....	.2383
38.....	.2528
39.....	.2679
40.....	.2835
41.....	.3009
42.....	.3195
43.....	.3389
44.....	.3601
45.....	.3821
46.....	.4064
47.....	.4316
48.....	.4587
49.....	.4878
50.....	.5190
51.....	.5526
52.....	.5887
53.....	.6274
54.....	.6691
55.....	.7137
56.....	.7623
57.....	.8149

58.....	.8717
59.....	.9332

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46 .....	.4989	.5332
47 .....	.5300	.5665
48 .....	.5634	.6021
49 .....	.5991	.6403
50 .....	.6374	.6813
516786	.7253
527228	.7725
537703	.8232
548213	.8778
558763	.9365
569357	1.0000

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