

widow, widower, or dependent child, under section 1450 of this title shall be equal to 55 percent of the base amount.”, and added pars. (1) and (2), and substituted “For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 to the extent that such benefit has been offset by deductions under section 403 of title 42 on account of work” for “For the purpose of the preceding sentence, a widow or widower shall be considered as entitled to a benefit under subchapter II of chapter 7 of title 42 even though that benefit has been offset by deductions under section 403 of title 42 on account of work”.

Subsec. (b). Pub. L. 95-397, §204(c), substituted “The monthly annuity payable under section 1450(a)(4) of this title shall be—” for “The monthly annuity payable under section 1450(a)(4) of this title shall be 55 percent of the retired or retainer pay of the person who elected to provide that annuity after the reduction in that retired or retainer pay in accordance with section 1452(c) of this title.”, added pars. (1) and (2) and provision following par. (2) relating to the entitlement to retirement pay, and computation thereof, by a person who provided an annuity and who dies before becoming 60 years of age.

Subsec. (d). Pub. L. 95-397, §204(d), added subsec. (d). 1976—Subsec. (b). Pub. L. 94-496 substituted “(a)(4)” for “(a)(3)”.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 effective Sept. 10, 2001, and applicable with respect to deaths of members of the Armed Forces occurring on or after that date, see section 642(d) of Pub. L. 107-107, set out as a note under section 1448 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-65 effective Oct. 1, 1999, see section 644 of Pub. L. 106-65, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title XIV, §1407(b)(2), Nov. 29, 1989, 103 Stat. 1589, provided that: “The amendments made by paragraph (1) [amending this section] shall apply only with respect to the computation of an annuity for a person who becomes a former spouse under a divorce that becomes final after the date of the enactment of this Act [Nov. 29, 1989].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-456, div. A, title VI, §652(b), Sept. 29, 1988, 102 Stat. 1991, provided that: “The amendments made by subsection (a) [amending this section] shall apply to payments under the Survivor Benefit Plan established under subchapter II of chapter 73 of title 10, United States Code, for periods after February 28, 1986.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 642(b) of Pub. L. 99-661 applicable to payments for periods after Feb. 28, 1986, see section 642(c) of Pub. L. 99-661, set out as a note under section 1448 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by section 711(a) of Pub. L. 99-145 effective Mar. 1, 1986, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99-145, set out as a note under section 1447 of this title.

Pub. L. 99-145, title VII, §711(b), Nov. 8, 1985, 99 Stat. 670, provided that the repeal of section 641 of Pub. L. 98-525 [amending this section and enacting provision set out below] is effective Sept. 1, 1985.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 641(b) of Pub. L. 98-525, which provided that the amendments made by subsection (a), amending this

section, was applicable only in the case of payments of annuities payable for periods that began on or after Sept. 30, 1985, was repealed effective Sept. 1, 1985, by section 711(b) of Pub. L. 99-145.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98-94, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-402 effective Dec. 1, 1980, applicable to annuities payable for months beginning on or after such date, and prohibiting accrual of benefits for any period before Oct. 9, 1980, see section 7 of Pub. L. 96-402, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95-397, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-496 effective Sept. 11, 1972, see section 3 of Pub. L. 94-496, set out as a note under section 1447 of this title.

ADJUSTMENT OF ANNUITIES FOR SURVIVORS OF CERTAIN MEMBERS WHO DIED WHILE ON ACTIVE DUTY BETWEEN SEPTEMBER 21, 1972 AND NOVEMBER 29, 1990

Pub. L. 101-189, div. A, title XIV, §1403(b)-(d), Nov. 29, 1989, 103 Stat. 1579, provided that:

“(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

“(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in subsection (d) is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) or 1448(d)(1)(C) of title 10, United States Code, and who is further described in subsection (c).

“(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in subsection (d) if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as amended by subsection (a).

“(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

“(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in subsection (d); and

“(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

“(d) EFFECTIVE DATE.—An annuity recomputed under subsection (b) shall take effect as so recomputed on March 1, 1990.”

§ 1452. Reduction in retired pay

(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—

(1) REQUIRED REDUCTION IN RETIRED PAY.—Except as provided in subsection (b), the retired pay of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

(A) STANDARD ANNUITY.—If the annuity coverage being provided is a standard annuity, the reduction shall be as follows:

(i) **DISABILITY AND NONREGULAR SERVICE RETIREES.**—In the case of a person who is entitled to retired pay under chapter 61 or chapter 1223 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

(ii) **MEMBERS AS OF ENACTMENT OF FLAT-RATE REDUCTION.**—In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

(iii) **NEW ENTRANTS AFTER ENACTMENT OF FLAT-RATE REDUCTION.**—In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 1223 of this title, the reduction shall be in an amount equal to 6½ percent of the base amount.

(iv) **ALTERNATIVE REDUCTION AMOUNTS.**—For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

(I) **FLAT-RATE REDUCTION.**—An amount equal to 6½ percent of the base amount.

(II) **AMOUNT UNDER PRE-FLAT-RATE REDUCTION.**—An amount equal to 2½ percent of the first \$337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

(B) **RESERVE-COMPONENT ANNUITY.**—If the annuity coverage being provided is a reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

(i) **FLAT-RATE REDUCTION.**—An amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

(ii) **AMOUNT UNDER PRE-FLAT-RATE REDUCTION.**—An amount equal to 2½ percent of the first \$337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

(2) **ADDITIONAL REDUCTION FOR CHILD COVERAGE.**—If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1) shall be increased by an amount prescribed under regulations of the Secretary of Defense.

(3) **NO REDUCTION WHEN NO BENEFICIARY.**—The reduction in retired pay prescribed by paragraph (1) shall not be applicable during any month in which there is no eligible spouse or former spouse beneficiary.

(4) **PERIODIC ADJUSTMENTS.**—

(A) **ADJUSTMENTS FOR INCREASES IN RATES OF BASIC PAY.**—Whenever there is an increase in the rates of basic pay of members of the uniformed services effective on or after October 1, 1985, the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be increased by the overall percentage of such increase in the rates of basic pay. The increase under the preceding sentence shall apply only with respect to persons whose retired pay is computed based on the rates of basic pay in effect on or after the date of such increase in rates of basic pay.

(B) **ADJUSTMENTS FOR RETIRED PAY COLAS.**—In addition to the increase under subparagraph (A), the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be further increased at the same time and by the same percentage as an increase in retired pay under section 1401a of this title effective on or after October 1, 1985. Such increase under the preceding sentence shall apply only with respect to a person who initially participates in the Plan on a date which is after both the effective date of such increase under section 1401a and the effective date of the rates of basic pay upon which that person's retired pay is computed.

(5) **SPOUSE COVERAGE DESCRIBED.**—For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who—

(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.

(b) **CHILD-ONLY ANNUITIES.**—

(1) **REQUIRED REDUCTION IN RETIRED PAY.**—The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

(2) **NO REDUCTION WHEN NO CHILD.**—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

(3) **SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.**—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an el-

eligible dependent child during a month for which the reduction is made.

(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

(A) does not have an eligible spouse or former spouse; or

(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.

(c) REDUCTION FOR INSURABLE INTEREST COVERAGE.—

(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4)¹ of this title shall be reduced as follows:

(A) STANDARD ANNUITY.—In the case of a person providing a standard annuity, the reduction shall be by 10 percent plus 5 percent for each full five years the individual designated is younger than that person.

(B) RESERVE COMPONENT ANNUITY.—In the case of a person providing a reserve-component annuity, the reduction shall be by an amount prescribed under regulations of the Secretary of Defense.

(2) LIMITATION ON TOTAL REDUCTION.—The total reduction under paragraph (1) may not exceed 40 percent.

(3) DURATION OF REDUCTION.—The reduction in retired pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(4)¹ of this title or until the person receiving retired pay changes his election under section 1450(f) of this title.

(4) RULE FOR COMPUTATION.—Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.

(5) RULE FOR DESIGNATION OF NEW INSURABLE INTEREST BENEFICIARY FOLLOWING DEATH OF ORIGINAL BENEFICIARY.—The Secretary of Defense shall prescribe in regulations premiums which a participant making an election under section 1448(b)(1)(G) of this title shall be required to pay for participating in the Plan pursuant to that election. The total amount of the premiums to be paid by a participant under the regulations shall be equal to the sum of the following:

(A) The total additional amount by which the retired pay of the participant would have been reduced before the effective date of the election if the original beneficiary (i) had not died and had been covered under the Plan through the date of the election, and (ii) had been the same number of years younger than the participant (if any) as the new beneficiary designated under the election.

(B) Interest on the amounts by which the retired pay of the participant would have been so reduced, computed from the dates on

which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable.

(C) Any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(d) DEPOSITS TO COVER PERIODS WHEN RETIRED PAY NOT PAID.—

(1) REQUIRED DEPOSITS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, that person must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period.

(2) DEPOSITS NOT REQUIRED WHEN PARTICIPANT ON ACTIVE DUTY.—Paragraph (1) does not apply to a person with respect to any period when that person is on active duty under a call or order to active duty for a period of more than 30 days.

(e) DEPOSITS NOT REQUIRED FOR CERTAIN PARTICIPANTS IN CSRS AND FERS.—When a person who has elected to participate in the Plan waives that person's retired pay for the purposes of subchapter III of chapter 83 of title 5 or chapter 84 of such title, that person shall not be required to make the deposit otherwise required by subsection (d) as long as that waiver is in effect unless, in accordance with section 8339(j) or 8416(a) of title 5, that person has notified the Office of Personnel Management that he does not desire a spouse surviving him to receive an annuity under section 8341(b) or 8442(a) of title 5.

(f) REFUNDS OF DEDUCTIONS NOT ALLOWED.—

(1) GENERAL RULE.—A person is not entitled to refund of any amount deducted from retired pay under this section.

(2) EXCEPTIONS.—Paragraph (1) does not apply—

(A) in the case of a refund authorized by section 1450(e) of this title; or

(B) in case of a deduction made through administrative error.

(g) DISCONTINUATION OF PARTICIPATION BY PARTICIPANTS WHOSE SURVIVING SPOUSES WILL BE ENTITLED TO DIC.—

(1) DISCONTINUATION.—

(A) CONDITIONS.—Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), a person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Secretary of Veterans Affairs as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan.

(B) EFFECTIVE DATE.—Participation in the Plan of a person who submits a request

¹ See References in Text note below.

under subparagraph (A) shall be discontinued effective on the first day of the first month following the month in which the request under subparagraph (A) is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

(C) FORM FOR REQUEST FOR DISCONTINUATION.—Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

(2) CONSENT OF BENEFICIARIES REQUIRED.—A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficiaries of such person under the Plan.

(3) INFORMATION ON PLAN TO BE PROVIDED BY SECRETARY CONCERNED.—

(A) INFORMATION TO BE PROVIDED PROMPTLY TO PARTICIPANT.—The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation.

(B) RIGHT TO WITHDRAW DISCONTINUATION REQUEST.—A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

(4) REFUND OF DEDUCTIONS FROM RETIRED PAY.—Upon the death of a person described in paragraph (1) who discontinued participation in the Plan in accordance with this subsection, any amount deducted from the retired pay of that person under this section shall be refunded to the person's surviving spouse.

(5) RESUMPTION OF PARTICIPATION IN PLAN.—

(A) CONDITIONS FOR RESUMPTION.—A person described in paragraph (1) who discontinued participation in the Plan may elect to participate again in the Plan if—

(i) after having discontinued participation in the Plan the Secretary of Veterans Affairs reduces that person's service-connected disability rating to a rating of less than total; and

(ii) that person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require.

(B) EFFECTIVE DATE OF RESUMED COVERAGE.—Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned re-

ceives the application for resumption of participation in the Plan.

(C) RESUMPTION OF CONTRIBUTIONS.—When a person elects to participate in the Plan under this paragraph, the Secretary concerned shall begin making reductions in that person's retired pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on the effective date of such participation under subparagraph (B).

(h) INCREASES IN REDUCTION WITH INCREASES IN RETIRED PAY.—

(1) GENERAL RULE.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount of the reduction to be made under subsection (a) or (b) in the retired pay of any person shall be increased at the same time and by the same percentage as such retired pay is so increased.

(2) COORDINATION WHEN PAYMENT OF INCREASE IN RETIRED PAY IS DELAYED BY LAW.—

(A) IN GENERAL.—Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is for a month that begins later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section (or section 631(b) of Public Law 104-106 (110 Stat. 364)), then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

(B) DELAY NOT TO AFFECT COMPUTATION OF ANNUITY.—Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section.

(i) RECOMPUTATION OF REDUCTION UPON RECOMPUTATION OF RETIRED PAY.—Whenever the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

(j) COVERAGE PAID UP AT 30 YEARS AND AGE 70.—Effective October 1, 2008, no reduction may be made under this section in the retired pay of

a participant in the Plan for any month after the later of—

(1) the 360th month for which the participant's retired pay is reduced under this section; and

(2) the month during which the participant attains 70 years of age.

(Added Pub. L. 92-425, §1(3), Sept. 21, 1972, 86 Stat. 710; amended Pub. L. 94-496, §1(4), (5), Oct. 14, 1976, 90 Stat. 2375; Pub. L. 95-397, title II, § 205, Sept. 30, 1978, 92 Stat. 847; Pub. L. 96-402, § 4, Oct. 9, 1980, 94 Stat. 1706; Pub. L. 97-22, §11(a)(3), (5), July 10, 1981, 95 Stat. 137; Pub. L. 99-145, title VII, §§ 714(a), 719(7), (8), 723(b)(2), Nov. 8, 1985, 99 Stat. 672, 675-677; Pub. L. 99-348, title III, § 301(a)(3), July 1, 1986, 100 Stat. 702; Pub. L. 99-661, div. A, title XIII, § 1343(a)(8)(E), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100-224, § 3(b), Dec. 30, 1987, 101 Stat. 1537; Pub. L. 101-189, div. A, title XIV, §§ 1402(a)-(c), 1407(a)(9), title XVI, § 1621(a)(1), Nov. 29, 1989, 103 Stat. 1577, 1578, 1589, 1602; Pub. L. 101-510, div. A, title XIV, § 1484(l)(4)(C)(ii), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 103-337, div. A, title VI, § 637(a), Oct. 5, 1994, 108 Stat. 2790; Pub. L. 104-201, div. A, title VI, §§ 634, 635(a), Sept. 23, 1996, 110 Stat. 2572, 2579; Pub. L. 105-85, div. A, title X, § 1073(a)(29), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 105-261, div. A, title VI, § 641, Oct. 17, 1998, 112 Stat. 2045; Pub. L. 106-65, div. A, title VI, § 643(a)(2), Oct. 5, 1999, 113 Stat. 663; Pub. L. 109-364, div. A, title VI, § 643(b), Oct. 17, 2006, 120 Stat. 2260; Pub. L. 112-239, div. A, title VI, § 641(a), Jan. 2, 2013, 126 Stat. 1782.)

REFERENCES IN TEXT

Section 1450(a)(4) of this title, referred to in subsec. (c)(1), (3), was redesignated section 1450(a)(5) of this title by Pub. L. 113-291, div. A, title VI, § 624(a)(1)(A), Dec. 19, 2014, 128 Stat. 3403.

Section 631(b) of Public Law 104-106 (110 Stat. 364), referred to in subsec. (h)(2)(A), was set out as a note under section 1401a of this title prior to repeal by Pub. L. 104-201, div. A, title VI, § 631(b), Sept. 23, 1996, 110 Stat. 2549.

AMENDMENTS

2013—Subsec. (e). Pub. L. 112-239 inserted in heading “and FERS” after “CSRS” and inserted in text “or chapter 84 of such title” after “chapter 83 of title 5”, “or 8416(a)” after “8339(j)”, and “or 8442(a)” after “8341(b)”.

2006—Subsec. (c)(5). Pub. L. 109-364 added par. (5).

1999—Subsec. (i). Pub. L. 106-65 substituted “Whenever the retired pay” for “When the retired pay”.

1998—Subsec. (j). Pub. L. 105-261 added subsec. (j).

1997—Subsec. (a)(1)(A). Pub. L. 105-85, § 1073(a)(29)(A), substituted “provided” for “providing” in introductory provisions.

Subsec. (e). Pub. L. 105-85, § 1073(a)(29)(B), substituted “section 8339(j)” for “section 8339(i)” and “section 8341(b)” for “section 8331(b)”.

1996—Pub. L. 104-201, § 634, amended section generally, revising and restating provisions relating to reductions in retired pay.

Subsec. (h)(2). Pub. L. 104-201, § 635(a), added par. (2).

1994—Subsec. (b). Pub. L. 103-337 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The retired pay of a person to whom section 1448 of this title applies who has a dependent child but does not have an eligible spouse or former spouse, or who has a spouse or former spouse but has elected to provide an annuity for dependent children only, shall, as long as he has an eligible dependent child, be reduced by an amount prescribed under regulations of the Secretary of Defense.”

1990—Subsec. (h). Pub. L. 101-510 made clarifying amendment to directory language of Pub. L. 101-189, § 1407(a)(9), see 1989 Amendment note below.

1989—Subsec. (a). Pub. L. 101-189, § 1402(a), inserted heading.

Subsec. (a)(1). Pub. L. 101-189, § 1402(a), added par. (1) and struck out former par. (1) which read as follows: “Except as provided in subsection (b), the retired pay of a person to whom section 1448 of this title applies who has a spouse or former spouse, or who has a spouse or former spouse and a dependent child, and who has not elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title, or who had elected to provide such an annuity to such a person but has changed his election in favor of his spouse under section 1450(f) of this title, shall be reduced each month—

“(A) by an amount equal to 2½ percent of the first \$300 (as adjusted from time to time under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount, if the person is providing a standard annuity; or

“(B) by an amount prescribed under regulations of the Secretary of Defense, if the person is providing a reserve-component annuity.”

Subsec. (a)(4)(A), (B). Pub. L. 101-189, § 1402(c), substituted “amounts under paragraph (1)” for “amount under paragraph (1)(A)”.

Subsec. (a)(5). Pub. L. 101-189, § 1402(b), added par. (5).

Subsec. (g)(1), (5). Pub. L. 101-189, § 1621(a)(1), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (h). Pub. L. 101-189, § 1407(a)(9), as amended by Pub. L. 101-510, inserted “(or any other provision of law)” after “Whenever retired pay is increased under section 1401a of this title” and substituted “such retired pay is so increased” for “such retired pay is increased under section 1401a of this title”.

1987—Subsec. (i). Pub. L. 100-224 added subsec. (i).

1986—Subsec. (c). Pub. L. 99-348 inserted provision that computation of a member's retired pay for purposes of this subsection be made without regard to any reduction under section 1409(b)(2) of this title.

Subsec. (h). Pub. L. 99-661 struck out “and retainer” after “Whenever retired”.

1985—Pub. L. 99-145, § 719(8)(B), struck out “or retainer” after “retired” in section catchline.

Subsec. (a)(1). Pub. L. 99-145, § 714(a)(1), (2), designated existing first sentence of subsec. (a) as par. (1); redesignated cl. (1) as (A), inserting “(as adjusted from time to time under paragraph (4))” after “\$300” and substituting “a standard annuity” for “an annuity by virtue of eligibility under section 1448(a)(1)(A) of this title”; and redesignated cl. (2) as (B), substituting “a reserve-component annuity” for “an annuity by virtue of eligibility under section 1448(a)(1)(B)”.

Pub. L. 99-145, § 719(8)(A), substituted “retired pay” for “retired or retainer pay”.

Pub. L. 99-145, § 723(b)(2)(1), inserted “or former spouse” after first two references to “spouse”.

Subsec. (a)(2). Pub. L. 99-145, § 714(a)(3), designated existing second sentence of subsec. (a) as par. (2), and substituted “If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1)” for “As long as there is an eligible spouse and a dependent child, that amount”.

Subsec. (a)(3). Pub. L. 99-145, § 714(a)(4), designated existing third sentence of subsec. (a) as par. (3), substituted “paragraph (1)” for “the first sentence of this subsection”, and inserted “or former spouse” after “eligible spouse”.

Pub. L. 99-145, § 719(8)(A), substituted “retired pay” for “retired or retainer pay”.

Subsec. (a)(4). Pub. L. 99-145, § 714(a)(5), added par. (4).

Subsec. (b). Pub. L. 99-145, § 723(b)(2)(2), inserted “or former spouse” after “spouse” in two places.

Pub. L. 99-145, § 719(8)(A), substituted “retired pay” for “retired or retainer pay”.

Subsec. (c). Pub. L. 99-145, § 719(7), (8)(A), substituted “retired pay” for “retired or retainer pay” in three

places, and substituted “a standard annuity” for “the annuity by virtue of eligibility under section 1448(a)(1)(A) of this title” in cl. (1), “a reserve-component annuity” for “the annuity by virtue of eligibility under section 1448(a)(1)(B) of this title” in cl. (2), and “this subsection” for “this section” in third sentence.

Subsecs. (d) to (h). Pub. L. 99-145, §719(8)(A), substituted “retired pay” for “retired or retainer pay” wherever appearing.

1981—Subsec. (e). Pub. L. 97-22, §11(a)(3), substituted “Office of Personnel Management” for “Civil Service Commission”.

Subsec. (g)(4). Pub. L. 97-22, §11(a)(5), substituted “this section” for “section 1452 of this title”.

1980—Subsecs. (g), (h). Pub. L. 96-402, added subsecs. (g) and (h).

1978—Subsec. (a). Pub. L. 95-397, §205(a), substituted pars. (1) and (2) for “by an amount equal to 2½ percent of the first \$300 of the base amount plus 10 percent of the remainder of the base amount” after “shall be reduced each month”.

Subsec. (c). Pub. L. 95-397, §205(b), substituted pars. (1) and (2) for “by 10 percent plus 5 percent for each full 5 years the individual designated is younger than that person. However, the total reduction may not exceed 40 percent. The reduction in retired or retainer pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f)”, and inserted provision following par. (2) that the total reduction under clause (1) may not exceed 40 percent, and that the reduction in retired or retainer pay shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person changes his election under section 1450(f) of this title.

1976—Subsec. (a). Pub. L. 94-496, §1(4), (5)(A), substituted “Except as provided in subsection (b), the retired or retainer pay” for “The retired or retainer pay”, “(a)(4)” for “(a)(3)”, and inserted provision prohibiting a reduction in retired or retainer pay during any month in which there is no eligible spouse beneficiary.

Subsec. (b). Pub. L. 94-496, §1(5)(B), inserted “or who has a spouse but has elected to provide an annuity for dependent children only,” after “spouse.”.

Subsec. (c). Pub. L. 94-496, §1(4), (5)(C), substituted “(a)(4)” for “(a)(3)”, and inserted provision directing that reduction in retired or retainer pay continue during the lifetime of a beneficiary designated under section 1450(a)(4) of this title or until such person change his election pursuant to section 1450(f) of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-239 applicable with respect to any participant electing an annuity for survivors under chapter 84 of Title 5, United States Code, on or after Jan. 2, 2013, see section 641(c) of Pub. L. 112-239, set out as a note under section 1450 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-65 effective Oct. 1, 1999, see section 644 of Pub. L. 106-65, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title VI, §635(b), Sept. 23, 1996, 110 Stat. 2579, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to retired pay payable for months beginning on or after the date of the enactment of this Act [Sept. 23, 1996].”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title VI, §637(b), Oct. 5, 1994, 108 Stat. 2790, provided that:

“(1) Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section]

applies to any election for child-only coverage under a reserve-component annuity under the Survivor Benefit Plan, whether made before, on, or after the date of the enactment of this Act [Oct. 5, 1994].

“(2) Paragraph (1) does not apply in a case of an election referred to in that paragraph that was made before the date of the enactment of this Act if the participant was informed, in writing, before the date of the enactment of this Act that no reduction in the participant’s retired pay for child-only coverage would be made during a period when there was no eligible dependent child.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-510, div. A, title XIV, §1484(l)(4)(C), Nov. 5, 1990, 104 Stat. 1720, provided that the amendment made by that section is effective Nov. 29, 1989.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VII, §714(b), Nov. 8, 1985, 99 Stat. 673, provided that: “The amendments made by clause (5) of subsection (a) [amending this section] shall apply only with respect to persons who first participate in the Plan on or after the effective date of this title [see note below].”

Amendment by title VII of Pub. L. 99-145 effective Mar. 1, 1986, except as otherwise provided, with prohibition against accrual of benefits to any person by reason of the enactment of such title VII for any period before Mar. 1, 1986, see section 731 of Pub. L. 99-145, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-402 effective Dec. 1, 1980, applicable to annuities payable for months beginning on or after such date, and prohibiting accrual of benefits for any period before Oct. 9, 1980, see section 7 of Pub. L. 96-402, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-397 effective Oct. 1, 1978, and applicable to annuities payable by virtue of amendment for months beginning on or after such date, see section 210 of Pub. L. 95-397, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-496 effective Sept. 11, 1972, see section 3 of Pub. L. 94-496, set out as a note under section 1447 of this title.

RECOMPUTATION OF SBP PREMIUM FOR CURRENT PARTICIPANTS

Pub. L. 101-189, div. A, title XIV, §1402(d), Nov. 29, 1989, 103 Stat. 1578, provided that:

“(1) RECOMPUTATION.—The Secretary concerned shall recompute the SBP premium of persons described in paragraph (2). Any such recomputation shall take effect on March 1, 1990.

“(2) PERSONS COVERED.—A person referred to in paragraph (1) as described in this paragraph is a person who on March 1, 1990—

“(A) is entitled to retired pay;

“(B) is providing spouse coverage (as described in paragraph (5) of section 1452(a)) of title 10, United States Code, as added by subsection (b)); and

“(C) is subject to an SBP premium in excess of 6½ percent of the base amount of that person under the Survivor Benefit Plan.

“(3) AMOUNT OF RECOMPUTED PREMIUM.—The amount of an SBP premium recomputed under this subsection shall be 6½ percent of the base amount under the Survivor Benefit Plan of the person whose premium is recomputed.

“(4) SBP PREMIUM DEFINED.—For purposes of this subsection, the term ‘SBP premium’ means a reduction in retired pay under section 1452 of title 10, United States Code.”

§ 1453. Recovery of amounts erroneously paid

(a) RECOVERY.—In addition to any other method of recovery provided by law, the Secretary concerned may authorize the recovery of any amount erroneously paid to a person under this subchapter by deduction from later payments to that person.

(b) AUTHORITY TO WAIVE RECOVERY.—Recovery of an amount erroneously paid to a person under this subchapter is not required if, in the judgment of the Secretary concerned—

(1) there has been no fault by the person to whom the amount was erroneously paid; and

(2) recovery of such amount would be contrary to the purposes of this subchapter or against equity and good conscience.

(Added Pub. L. 92-425, §1(3), Sept. 21, 1972, 86 Stat. 710; amended Pub. L. 104-201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577; Pub. L. 104-316, title I, §105(a), Oct. 19, 1996, 110 Stat. 3830.)

AMENDMENTS

1996—Pub. L. 104-201 substituted “amounts” for “annuity” in section catchline and amended text generally. Prior to amendment, text read as follows: “In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by deduction from later payments to a person, of any amount erroneously paid to him under this subchapter. However, recovery is not required if, in the judgment of the Secretary concerned and the Comptroller General, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this subchapter or against equity and good conscience.”

Subsec. (b). Pub. L. 104-316 struck out “and the Comptroller General” after “judgment of the Secretary concerned” in introductory provisions.

§ 1454. Correction of administrative errors

(a) AUTHORITY.—The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when the Secretary considers it necessary to correct an administrative error.

(b) FINALITY.—Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.

(Added Pub. L. 92-425, §1(3), Sept. 21, 1972, 86 Stat. 711; amended Pub. L. 101-189, div. A, title XIV, §1407(a)(10)(A), Nov. 29, 1989, 103 Stat. 1589; Pub. L. 104-201, div. A, title VI, §634, Sept. 23, 1996, 110 Stat. 2577.)

AMENDMENTS

1996—Pub. L. 104-201 amended section generally. Prior to amendment, section read as follows: “The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.”

1989—Pub. L. 101-189 substituted “errors” for “deficiencies” in section catchline.

§ 1455. Regulations

(a) IN GENERAL.—The President shall prescribe regulations to carry out this subchapter. Those

regulations shall, so far as practicable, be uniform for the uniformed services.

(b) NOTICE OF ELECTIONS.—Regulations prescribed under this section shall provide that before the date on which a member becomes entitled to retired pay—

(1) if the member is married, the member and the member’s spouse shall be informed of the elections available under section 1448(a) of this title and the effects of such elections; and

(2) if the notification referred to in section 1448(a)(3)(E) of this title is required, any former spouse of the member shall be informed of the elections available and the effects of such elections.

(c) PROCEDURE FOR DEPOSITING CERTAIN RECEIPTS.—Regulations prescribed under this section shall establish procedures for depositing the amounts referred to in sections 1448(g), 1450(k)(2), and 1452(d) of this title.

(d) PAYMENTS TO GUARDIANS, FIDUCIARIES, AND SPECIAL NEEDS TRUSTS.—

(1) IN GENERAL.—Regulations prescribed under this section shall provide procedures for the payment of an annuity under this subchapter in the case of—

(A) a person for whom a guardian or other fiduciary has been appointed;

(B) a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed; and

(C) a dependent child incapable of self-support because of mental or physical incapacity for whom a supplemental or special needs trust has been established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)).

(2) AUTHORIZED PROCEDURES.—The regulations under paragraph (1) may include provisions for the following:

(A) In the case of an annuitant referred to in paragraph (1)(A), payment of the annuity to the appointed guardian or other fiduciary.

(B) In the case of an annuitant referred to in paragraph (1)(B), payment of the annuity to any person who, in the judgment of the Secretary concerned, is responsible for the care of the annuitant.

(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant.

(D) Subject to subparagraphs (E) and (F), a requirement for the payee of an annuity to spend or invest the amounts paid on behalf of the annuitant solely for benefit of the annuitant.

(E) Authority for the Secretary concerned to permit the payee to withhold from the annuity payment such amount, not in excess of 4 percent of the annuity, as the Secretary concerned considers a reasonable fee for the fiduciary services of the payee when a court appointment order provides for payment of such a fee to the payee for such services or the Secretary concerned determines that payment of a fee to such payee is necessary in order to obtain the fiduciary services of the payee.