

year in which such individual's income from wages or self-employment or both is less than 80 percent of the current rate of pay of the position occupied immediately before retirement.

(3) If an annuitant whose annuity is terminated because of a medical finding that the individual has recovered from disability is not reemployed in a position in which such individual is subject to this chapter, the annuity of such individual shall be restored at the applicable rate under section 8452 effective from the date on which the Office determines that there has been a recurrence of the disability.

(4) Paragraphs (2) and (3) shall not apply in the case of an annuitant receiving an annuity from the Fund under subchapter II of this chapter.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 568.)

§ 8456. Military reserve technicians

(a)(1) Except as provided in paragraph (2) or (3), an individual shall be retired under this subchapter if the individual—

(A) is separated from employment as a military reserve technician by reason of a disability that disqualifies the individual from membership in a reserve component of the Armed Forces specified in section 10101 of title 10 or from holding the military grade required for such employment;

(B) is not considered to be disabled under section 8451(a)(1)(B);

(C) is not appointed to a position in the Government (whether under subsection (b) or otherwise); and

(D) has not declined an offer of an appointment to a position in the Government under subsection (b).

(2) Payment of any annuity for an individual pursuant to this section terminates—

(A) on the date the individual is appointed to a position in the Government (whether pursuant to subsection (b) or otherwise);

(B) on the date the individual declines an offer of appointment to a position in the Government under subsection (b); or

(C) as provided under section 8455(a).

(3) An individual eligible to retire under section 8414(c) shall not be eligible to retire under this section.

(b) Any individual applying for or receiving any annuity pursuant to this section shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

(1) the position is located within the commuting area of the individual's former position;

(2) the individual is qualified to serve in such position, as determined by the head of the agency; and

(3) the position is at the same grade or equivalent level as the position from which the individual was separated.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 570, §8457; amended Pub. L. 99-556, title I, §118, Oct. 27, 1986, 100 Stat. 3134; renumbered §8456, Pub. L. 100-238, title I, §124(b)(1)(B),

Jan. 8, 1988, 101 Stat. 1756; Pub. L. 103-337, div. A, title XVI, §1677(a)(4), Oct. 5, 1994, 108 Stat. 3019.)

PRIOR PROVISIONS

A prior section 8456, added Pub. L. 99-355, title I, §101(a), June 6, 1986, 100 Stat. 569, related to relationship between annuity and workers' compensation, prior to repeal by Pub. L. 100-238, title I, §124(b)(1)(A), Jan. 8, 1988, 101 Stat. 1756. See section 8464a of this title.

AMENDMENTS

1994—Subsec. (a)(1)(A). Pub. L. 103-337 substituted "section 10101" for "section 261(a)".

1988—Pub. L. 100-238 renumbered section 8457 of this title as this section.

1986—Subsec. (a)(1)(C), (D), (2)(A), (B). Pub. L. 99-556 substituted "subsection (b)" for "subsection (c)".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

[§ 8457. Renumbered § 8456]

SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

§ 8461. Authority of the Office of Personnel Management

(a) The Office shall pay all benefits that are payable under subchapter II, IV, V, or VI of this chapter from the Fund.

(b) The Office shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, the Secretary of Labor, or any other officer or agency.

(c) The Office shall adjudicate all claims under the provisions of this chapter administered by the Office.

(d) The Office shall determine questions of disability and dependency arising under the provisions of this chapter administered by the Office. Except to the extent provided under subsection (e), the decisions of the Office concerning these matters are final and conclusive and are not subject to review. The Office may direct at any time such medical or other examinations as it considers necessary to determine the facts concerning disability or dependency of an individual receiving or applying for annuity under the provisions of this chapter administered by the Office. The Office may suspend or deny annuity for failure to submit to examination.

(e)(1) Subject to paragraph (2), an administrative action or order affecting the rights or interests of an individual or of the United States under the provisions of this chapter administered by the Office may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

(2) In the case of any individual found by the Office to be disabled in whole or in part on the basis of the individual's mental condition, and that finding was made pursuant to an application by an agency for purposes of disability retirement under section 8451, the procedures under section 7701 shall apply and the decision of the Board shall be subject to judicial review under section 7703.

(f) The Office shall fix the fees for examinations made under subchapter V of this chapter