

(2) If an agency fails to withhold the proper cost of optional life insurance on family members from an individual's salary, compensation, or retirement annuity, the collection of amounts properly due may be waived by the agency if, in the judgment of the agency, the individual is without fault and recovery would be against equity and good conscience. However, if the agency so waives the collection of any unpaid amount, the agency shall submit an amount equal to the uncollected amount to the Office for deposit to the Employees' Life Insurance Fund.

(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.

(e) The cost of the optional life insurance on family members shall be determined from time to time by the Office on the basis of the employee's age relative to such age groups as the Office establishes under section 8714a(e) of this title.

(f) The amount of optional life insurance which is in force under this section on a family member of an employee or former employee on the date of the death of the family member shall be paid, on the establishment of a valid claim by the employee, to such employee or, in the event of the death of the employee before payment can be made, to the person or persons entitled to the group life insurance in force on the employee under section 8705 of this title.

(Added Pub. L. 96-427, §8(a), Oct. 10, 1980, 94 Stat. 1836; amended Pub. L. 98-353, title II, §206, as amended by Pub. L. 99-336, §7(1), June 19, 1986, 100 Stat. 639; Pub. L. 99-335, title II, §207(k)(5), June 6, 1986, 100 Stat. 598; Pub. L. 99-336, §7(1), June 19, 1986, 100 Stat. 639; Pub. L. 105-311, §§6(4), 8, Oct. 30, 1998, 112 Stat. 2951, 2953; Pub. L. 111-350, §5(a)(14), Jan. 4, 2011, 124 Stat. 3842.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-350 substituted “section 6101(b) to (d) of title 41” for “section 5 of title 41”.

1998—Subsec. (b). Pub. L. 105-311, §8(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The optional life insurance on family members provided under this section shall be made available to each eligible employee who elects coverage under this section, under conditions the Office shall prescribe, in the amount of \$5,000 for a spouse and \$2,500 for each child described in section 8701(d). The employee may stop coverage elected under this section at any time.”

Subsec. (c)(2). Pub. L. 105-311, §8(b)(1), substituted “section 8714b(c)(2) through (4)” for “section 8714b(c)(2) of this title”.

Subsec. (d)(1). Pub. L. 105-311, §8(b)(2), inserted before last sentence “Notwithstanding the preceding sentence, the full cost shall be continued after the calendar month in which the former employee becomes 65 years of age if, and for so long as, an election under this section corresponding to that described in section 8714b(c)(3)(B) remains in effect with respect to such former employee.”

Subsec. (d)(3). Pub. L. 105-311, §6(4), added par. (3).

1986—Subsec. (c)(1). Pub. L. 99-336 amended Pub. L. 98-353, §206, generally. See 1984 Amendment note below.

Pub. L. 99-335 amended par. (1) generally, effective Jan. 1, 1977. Prior to such effective date, par. (1) read as follows: “Optional life insurance on family members shall stop at the earlier of the employee's death, the employee's separation from the service, 12 months after discontinuance of pay, or the employee's entry on active duty or active duty for training, as provided in sections 8706(a) and 8706(c) of this title, subject to provision for a 31-day temporary extension of insurance coverage and for conversion to individual policies under conditions approved by the Office. Justices and judges of the United States described in section 8701(a)(5)(ii) and (iii) of this chapter are deemed to continue in active employment for purposes of this chapter.”

1984—Subsec. (c)(1). Pub. L. 98-353, §206, as amended generally by Pub. L. 99-336, inserted sentence which deemed justices and judges described in section 8701(a)(5)(ii) and (iii) of this chapter to continue in active employment for purposes of this chapter.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 6(4) of Pub. L. 105-311 effective on the first day of the first applicable pay period beginning on or after Oct. 30, 1998, and amendment by section 8 of Pub. L. 105-311 effective on the first day of the first pay period which begins on or after the 180th day following Oct. 30, 1998, or on any earlier date that the Office of Personnel Management may prescribe, see section 11(d), (f) of Pub. L. 105-311, set out as a note under section 8701 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353, §206, as amended generally by Pub. L. 99-336, §7(1), applicable to any justice or judge who retires under 28 U.S.C. 371(a) or (b) or 372(a) on or after January 1, 1982, see section 207 of Pub. L. 98-353, as amended generally by Pub. L. 99-336, §7(2), set out as a note under section 8706 of this title.

EFFECTIVE DATE

Section effective on first day of first pay period which begins on or after 180th day following Oct. 10, 1980, or on any earlier date that Office may prescribe which is at least 60 days after Oct. 10, 1980, and shall have no effect in case of an employee who died, was finally separated, or retired before effective date, see section 10(d) of Pub. L. 96-427 set out as an Effective Date of 1980 Amendment note under section 8701 of this title.

§ 8714d. Option to receive “living benefits”

(a) For the purpose of this section, an individual shall be considered to be “terminally ill” if such individual has a medical prognosis that such individual's life expectancy is 9 months or less.

(b) The Office of Personnel Management shall prescribe regulations under which any individual covered by group life insurance under section 8704(a) may, if such individual is terminally ill, elect to receive a lump-sum payment equal to—

(1) the full amount of insurance under section 8704(a) (or portion thereof designated for this purpose under subsection (d)(4)) which would otherwise be payable under this chapter (on the establishment of a valid claim)—

(A) computed based on a date determined under regulations of the Office (but not later

than 30 days after the date on which the individual's application for benefits under this section is approved or deemed approved under subsection (d)(3); and

(B) assuming continued coverage under this chapter at that time;

reduced by

(2) an amount necessary to assure that there is no increase in the actuarial value of the benefit paid (as determined under regulations of the Office).

(c)(1) If a lump-sum payment is taken under this section—

(A) no insurance under the provisions of section 8704(a) or (b) shall be payable based on the death or any loss of the individual involved, unless the lump-sum payment represents only a portion of the total benefits which could have been taken, in which case benefits under those provisions shall remain in effect, except that the basic insurance amount on which they are based—

(i) shall be reduced by the percentage which the designated portion comprised relative to the total benefits which could have been taken (rounding the result to the nearest multiple of \$1,000 or, if midway between multiples of \$1,000, to the next higher multiple of \$1,000); and

(ii) shall not be subject to further adjustment; and

(B) deductions and withholdings under section 8707, and contributions under section 8708, shall be terminated with respect to such individual (or reduced in a manner consistent with the percentage reduction in the individual's basic insurance amount, if applicable), effective with respect to any amounts which would otherwise become due on or after the date of payment under this section.

(2) An individual who takes a lump-sum payment under this section (whether full or partial) remains eligible for optional benefits under sections 8714a–8714c (subject to payment of the full cost of those benefits in accordance with applicable provisions of the section or sections involved, to the same extent as if no election under this section had been made).

(d)(1) The Office's regulations shall include provisions regarding the form and manner in which an application under this section shall be made and the procedures in accordance with which any such application shall be considered.

(2) An application shall not be considered to be complete unless it includes such information and supporting evidence as the regulations require, including certification by an appropriate medical authority as to the nature of the individual's illness and that the individual is not expected to live more than 9 months because of that illness.

(3)(A) In order to ascertain the reliability of any medical opinion or finding submitted as part of an application under this section, the covered individual may be required to submit to a medical examination under the direction of the agency or entity considering the application. The individual shall not be liable for the costs associated with any examination required under this subparagraph.

(B) Any decision by the reviewing agency or entity with respect to an application for benefits under this section (including one relating to an individual's medical prognosis) shall not be subject to administrative review.

(4)(A) An individual making an election under this section may designate that only a limited portion (expressed as a multiple of \$1,000) of the total amount otherwise allowable under this section be paid pursuant to such election.

(B) A designation under this paragraph may not be made by an individual described in paragraph (1) or (2) of section 8706(b).

(5) An election to receive benefits under this section shall be irrevocable, and not more than one such election may be made by any individual.

(6) The regulations shall include provisions to address the question of how to apply section 8706(b)(3)(B) in the case of an electing individual who has attained 65 years of age.

(Added Pub. L. 103-409, §2(a), Oct. 25, 1994, 108 Stat. 4230.)

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-409, §3(a), Oct. 25, 1994, 108 Stat. 4232, provided that: "The amendments made by section 2 [enacting this section] shall take effect 9 months after the date of the enactment of this Act [Oct. 25, 1994]."

§ 8715. Jurisdiction of courts

The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States founded on this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 599; Pub. L. 97-164, title I, §160(a)(2), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2103 (less applicability to 5 U.S.C. 2099).	Aug. 17, 1954, ch. 752, §14 (less applicability to §10), 68 Stat. 743.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1992—Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Pub. L. 97-164 substituted "United States Claims Court" for "Court of Claims".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.