

112-96, title V, §5001(c)(2)(B), Feb. 22, 2012, 126 Stat. 200.)

### Editorial Notes

#### REFERENCES IN TEXT

Sections 223 and 224 of the Social Security Act, referred to in subsec. (a)(2), are classified to sections 423 and 424a, respectively, of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112-96 substituted “subsection (h)” for “subsection (g)”.

2003—Subsec. (d)(1). Pub. L. 108-176 substituted “subsection (g)” for “subsection (f)”.

1988—Subsec. (a)(1)(B). Pub. L. 100-238, §122(c)(2)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “An annuity computed under this paragraph shall not, for purposes of any adjustment under section 8462 (including any adjustment under subsection (c)(1) of such section), be considered to have commenced until after such annuity ceases to be determined under subparagraph (A)(i).”

Subsec. (a)(2)(B)(i). Pub. L. 100-238, §122(a), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “For purposes of this paragraph, the assumed disability insurance benefit of an annuitant for any month shall be equal to—

“(I) the amount of the disability insurance benefit to which the annuitant would have been entitled under section 223 of the Social Security Act for the month in which the annuity under this subchapter commenced, or was restored, determined as if such annuitant had then satisfied all requirements for entitlement to a benefit under such section, adjusted by

“(II) all adjustments made under section 8462(b) between the date on which the annuity commenced, or was restored, and the start of the month involved (without regard to whether the annuitant’s annuity was affected by any of those adjustments).

For purposes of computing the assumed disability insurance benefit, the month in which the annuitant’s disability began (as determined under section 216(i)(2)(C) of the Social Security Act) shall be the month in which the annuity commenced or, if earlier (and if a determination was actually made) the month determined under such section.”

Subsec. (a)(3). Pub. L. 100-238, §122(c)(2)(B), added par. (3).

Subsec. (b). Pub. L. 100-238, §122(b), amended subsec. (b) generally, substituting pars. (1) and (2) for former pars. (1) to (4).

Subsec. (d). Pub. L. 100-238, §122(c)(1), designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (b)(3). Pub. L. 99-556, §106, substituted “(a)(1)(A)(i)” for “(a)(1)(A)” in second sentence.

Subsec. (d). Pub. L. 99-556, §104, inserted “(after the reduction under subsection (a)(2), if applicable, has been made)”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual’s separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108-176, set out as a note under section 8401 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 122(d) of Pub. L. 100-238 provided that: “The amendments made by this section [amending this section] shall be effective as of January 1, 1987, as if they

had been enacted as part of the Federal Employees’ Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 514 and following).”

### § 8453. Application

A claim may be allowed under this subchapter only if application is filed with the Office before the employee or Member is separated from the service or within 1 year thereafter. This time limitation may be waived by the Office for an employee or Member who, at the date of separation from service or within 1 year thereafter, is mentally incompetent if the application is filed with the Office within 1 year from the date of restoration of the employee or Member to competency or the appointment of a fiduciary, whichever is earlier.

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

### § 8454. Medical examination

An annuitant receiving a disability retirement annuity from the Fund shall be examined under the direction of the Office—

- (1) at the end of 1 year from the date of the disability retirement; and
- (2) annually thereafter until becoming 60 years of age;

unless the disability is permanent in character. If the annuitant fails to submit to examination as required by this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

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

### § 8455. Recovery; restoration of earning capacity

(a)(1) If an annuitant receiving a disability retirement annuity from the Fund recovers from the disability before becoming 60 years of age, payment of the annuity terminates on reemployment by the Government or 1 year after the date on which the Office determines that the annuitant has recovered, whichever is earlier.

(2) If an annuitant receiving a disability annuity from the Fund, before becoming 60 years of age, is restored to an earning capacity fairly comparable to the current rate of pay of the position occupied at the time of retirement, payment of the annuity terminates 180 days after the end of the calendar year in which earning capacity is so restored. Earning capacity is deemed restored if in any calendar year the income of the annuitant from wages or self-employment or both equals at least 80 percent of the current rate of pay of the position occupied immediately before retirement.

(b)(1) If an annuitant whose annuity is terminated under subsection (a) is not reemployed in a position in which that individual is subject to this chapter, such individual is deemed, except for service credit, to have been involuntarily separated from the service for the purpose of subchapter II of this chapter as of the date of termination of the disability annuity, and after that termination is entitled to annuity under the applicable provisions of such subchapter.

(2) If an annuitant whose annuity is terminated under subsection (a)(2)—