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### Editorial Notes

#### AMENDMENTS

1994—Pub. L. 103-409, §2(b), Oct. 25, 1994, 108 Stat. 4232, added item 8714d.

1988—Pub. L. 100-233, title I, §108(a)(2)(B), Jan. 8, 1988, 101 Stat. 1747, added item 8713.

1984—Pub. L. 98-353, title II, §208(b), July 10, 1984, 98 Stat. 351, inserted “; assignment of ownership” in item 8706.

1980—Pub. L. 96-427, §§2(e), 7(b), 8(c), and 9(b), Oct. 10, 1980, 94 Stat. 1832, 1836, 1837, added items 8714b and 8714c, substituted “Definitions” for “Definition” in item 8701, and struck out item 8713 “Advisory committee”.

1967—Pub. L. 90-206, title IV, §404(2), Dec. 16, 1967, 81 Stat. 648, added item 8714a.

Pub. L. 90-83, §1(94), Sept. 11, 1967, 81 Stat. 219, substituted “Advisory committee” for “Advisors” in item 8713.

### § 8701. Definitions

(a) For the purpose of this chapter, “employee” means—

(1) an employee as defined by section 2105 of this title;

(2) a Member of Congress as defined by section 2106 of this title;

(3) a Congressional employee as defined by section 2107 of this title;

(4) the President;

(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii) who has resigned the judicial office under section 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of the office at the time of his resignation;

(6) an individual first employed by the government of the District of Columbia before October 1, 1987;

(7) an individual employed by Gallaudet College;<sup>1</sup>

(8) an individual employed by a county committee established under section 590h(b) of title 16;

(9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 5 of the

Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;

but does not include—

(A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or

(C) an employee excluded by regulation of the Office of Personnel Management under section 8716(b) of this title.

(b) Notwithstanding subsection (a) of this section, the employment of a teacher in the recess period between two school years in a position other than a teaching position in which he served immediately before the recess period does not qualify the individual as an employee for the purpose of this chapter. For the purpose of this subsection, “teacher” and “teaching position” have the meanings given them by section 901 of title 20.

(c) For the purpose of this chapter, “basic insurance amount” means, in the case of any employee under this chapter, an amount equal to the greater of—

(1) the annual rate of basic pay payable to the employee, rounded to the next higher multiple of \$1,000, plus \$2,000, or

(2) \$10,000.

In the case of any former employee entitled to coverage under this chapter, the term means the basic insurance amount applicable for the employee at the time the insurance to which the employee is entitled as an employee under this chapter stops pursuant to section 8706(a) of this title.

(d)(1) For the purpose of this chapter, “family member”, when used with respect to any individual, means—

(A) the spouse of the individual; and

(B) an unmarried dependent child of the individual (other than a stillborn child), including an adopted child, stepchild or foster child (but only if the stepchild or foster child lived with the individual in a regular parent-child relationship), or recognized natural child—

(i) who is less than 22 years of age, or

(ii) who is 22 years of age or older and is incapable of self-support because of a mental or physical disability which existed before the child became 22 years of age.

(2) For the purpose of this subsection, “dependent”, in the case of any child, means that the individual involved was, at the time of the child's death, either living with or contributing to the support of the child, as determined in accordance with the regulations the Office shall prescribe.

<sup>1</sup> See Change of Name note below.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 592; Pub. L. 91-418, §3(a), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-160, §1(a), Nov. 27, 1973, 87 Stat. 635; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-54, §2(a)(51), Aug. 14, 1979, 93 Stat. 384; Pub. L. 96-70, title I, §1209(b), Sept. 27, 1979, 93 Stat. 463; Pub. L. 96-427, §§2(a), 8(b), Oct. 10, 1980, 94 Stat. 1831, 1837; Pub. L. 98-353, title II, §205, July 10, 1984, 98 Stat. 350; Pub. L. 99-335, title II, §207(k)(1), June 6, 1986, 100 Stat. 597; Pub. L. 100-679, §13(b), Nov. 17, 1988, 102 Stat. 4071; Pub. L. 105-311, §§3(1), 4, Oct. 30, 1998, 112 Stat. 2950; Pub. L. 114-136, §2(c)(4), Mar. 18, 2016, 130 Stat. 305.)

Section 5 of the Presidential Transition Act of 1963, referred to in subsec. (a)(10), is section 5 of Pub. L. 88-277, which is set out as a note under section 102 of Title 3, The President.

AMENDMENTS

Subsec. (a)(10). Pub. L. 114-136 substituted “section 5” for “section 4”.

1998—Subsec. (c). Pub. L. 105-311, §3(1), substituted a period for comma after “\$10,000” in par. (2) and struck out “except that the amount of insurance may not exceed the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of this title, rounded to the next higher multiple of \$1,000, plus \$2,000.” before last sentence.

Subsec. (d)(1)(B). Pub. L. 105-311, §4, inserted “or foster child” after “stepchild” in two places in introductory provisions.

1988—Subsec. (a)(10). Pub. L. 100-679 added par. (10).

1986—Subsec. (a)(6). Pub. L. 99-335 amended par. (6) generally, substituting “first employed” for “employed” and inserting “before October 1, 1987”.

1984—Subsec. (a)(5) to (9). Pub. L. 98-353 added par. (5) and redesignated former pars. (5) to (8) as (6) to (9), respectively.

1980—Pub. L. 96-427, §2(a)(1), substituted “Definitions” for “Definition” in section catchline.

Subsec. (c). Pub. L. 96-427, §2(a)(2), added subsec. (c). Subsec. (d). Pub. L. 96-427, §8(b), added subsec. (d).

1979—Subsec. (a)(7) to (9). Pub. L. 96-54 struck out cl. (7) which related to coverage within term “employee” of a United States Commissioner, and redesignated cls. (8) and (9) as (7) and (8), respectively.

Subsec. (a)(B). Pub. L. 96-70 inserted provisions relating to an individual who was an employee for the purpose of this chapter on Sept. 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone.

1978—Subsec. (a)(C). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1973—Subsec. (a)(B). Pub. L. 93-160 excluded from definition of “employee” persons who are not nationals of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone.

1970—Subsec. (a)(B). Pub. L. 91-418 excluded from definition of “employee” a noncitizen employee whose permanent duty station is outside the Panama Canal Zone.

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	2 U.S.C. 126.	Sept. 1, 1954, ch. 1208, §603, 68 Stat. 1116.
	5 U.S.C. 2091(a) (1st sentence, less words between 6th and 7th commas), (b), (d) (1st sentence, less words between 1st and 2d commas).	Aug. 17, 1954, ch. 752, §2(a) (1st sentence, less words between 6th and 7th commas), (b), 68 Stat. 736. Aug. 1, 1956, ch. 837, §501(c)(1) (as applicable to §2 (b)), 70 Stat. 882. Aug. 2, 1956, ch. 901, §1, 70 Stat. 955. July 1, 1960, Pub. L. 86-568, §115(c) “(d) (1st sentence, less words between 1st and 2d commas)”. 74 Stat. 302. Aug. 31, 1964, Pub. L. 88-531 §2, 78 Stat. 737.
	[Uncodified].	Aug. 25, 1958, Pub. L. 85-745, §1(b) (last sentence, as applicable to the Federal Employees’ Group Life Insurance Act of 1954), 72 Stat. 838.
(b) .....	5 U.S.C. 2358(c) (less applicability to the Civil Service Retirement Act).	July 17, 1959, Pub. L. 86-91, §10(c) (less applicability to the Civil Service Retirement Act), 73 Stat. 217.

The definition of “Congressional employee” in section 2107 of this title includes an Official Reporter of Debates of the Senate and an individual employed by an Official Reporter of Debates of the Senate so that the inclusion of “a Congressional employee” in subsection (a)(3) provides the coverage for those individuals which was given by former section 126 of title 2.

The definition of “employee” in section 2105 of this title is broad enough to cover the officers and employees set out in former section 2091(a) with the exception of Members of Congress, the President, individuals employed either by the government of the District of Columbia or by Gallaudet College, and United States commissioners. Accordingly, these have been added specifically in paragraphs (2), (4), (5), (6), and (7).

In subsection (a) (B), the words “United States” are substituted for “a State of the United States or the District of Columbia”.

Subsection (a)(C) is added for clarity.

In subsection (b), the last sentence is added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

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

Editorial Notes

REFERENCES IN TEXT

Act of August 25, 1958 (72 Stat. 838), referred to in subsec. (a)(9), is Pub. L. 85-745 and is set out as a note under section 102 of Title 3, The President.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Gallaudet College, referred to in subsec. (a)(7), redesignated Gallaudet University by section 101(a) of Pub. L. 99-371, which is classified to section 4301(a) of Title 20, Education.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-311, §11, Oct. 30, 1998, 112 Stat. 2954, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this Act [see Short Title of 1998 Amendment note below], the amendments made by this Act shall take effect on the date of enactment of this Act [Oct. 30, 1998].

“(b) MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.—Section 3 [amending this section and section 8714b of this title] shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

“(c) ERRONEOUS COVERAGE.—Section 5 [amending section 8706 of this title] shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment of this Act.

“(d) DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.—Section 6 [amending sections 8707 and 8714a to 8714c of this title] shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

“(e) ADDITIONAL OPTIONAL LIFE INSURANCE.—

“(1) IN GENERAL.—Section 7 [amending section 8714b of this title and enacting provisions set out as a note under section 8714b of this title] shall take effect on the first day of the first pay period that begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe that is at least 60 days after the date of enactment of this Act.

“(2) REGULATIONS.—The Office shall prescribe regulations under which an employee may elect to continue additional optional insurance that remains in force on such effective date without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date if that employee—

“(A) separated from service before such effective date due to retirement or entitlement to compensation under subchapter I of chapter 81 of title 5, United States Code; and

“(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before such effective date.

“(f) IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.—The amendments made by section 8 [amending section 8714c of this title] shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act or on any earlier date that the Office of Personnel Management may prescribe.

“(g) OPEN SEASON.—Any election made by an employee under section 9 [set out as a note below], and applicable withholdings, shall be effective on the first day of the first applicable pay period that—

“(1) begins on or after the date occurring 365 days after the first day of the election period authorized under section 9; and

“(2) follows a pay period in which the employee was in a pay and duty status.”

#### 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 1980 AMENDMENT

Pub. L. 96-427, §10, Oct. 10, 1980, 94 Stat. 1838, provided that:

“(a) Unless otherwise specified, this Act [see Short Title note below] shall take effect on the date of the enactment of this Act [Oct. 10, 1980] and shall have no effect in the case of an employee who died, was separated, or retired before the date of enactment.

“(b) The amendment made by subsection (d) of section 2 of this Act [amending section 8704 of this title] shall apply with respect to premium pay payable under section 5545(c)(2) of title 5, United States Code, from and after the first day of the first pay period which begins on or after the date of the enactment of this Act [Oct. 10, 1980].

“(c) The amendment made by section 3 of this Act [amending section 8706 of this title] shall apply only in the case of an employee who retires or become entitled to receive compensation for work injury on or after the 180th day following the date of the enactment of this Act [Oct. 10, 1980], or any earlier date that the Office of Personnel Management may prescribe which is at least 60 days after the date of enactment.

“(d) The amendments made by sections 7 and 8 of this Act [enacting sections 8714b and 8714c of this title and amending this section] shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of the enactment of this Act [Oct. 10, 1980], or on any earlier date that the Office may prescribe which is at least 60 days after the date of enactment, and shall have no effect in the case of an employee who died, was finally separated, or retired before the effective date.”

#### EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective

Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-311, §1, Oct. 30, 1998, 112 Stat. 2950, provided that: “This Act [amending this section and sections 7703, 8706, 8707, and 8714a to 8714c of this title and enacting provisions set out as notes under this section and sections 7703 and 8714b of this title] may be cited as the ‘Federal Employees Life Insurance Improvement Act.’”

#### SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-409, §1, Oct. 25, 1994, 108 Stat. 4230, provided that: “This Act [amending this section and sections 8704, 8714, and 8901 of this title] may be cited as the ‘FEGLI Living Benefits Act.’”

#### SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-427, §1, Oct. 10, 1980, 94 Stat. 1831, provided that: “This Act [enacting sections 8714b and 8714c of this title, amending this section and sections 8704, 8706, 8707, 8709, and 8714a of this title, repealing section 8713 of this title and enacting provisions set out as notes under this section and sections 8704 and 8714a of this title] may be cited as the ‘Federal Employees’ Group Life Insurance Act of 1980.’”

#### CONSTRUCTION

Pub. L. 111-8, div. D, title III, §307(b), Mar. 11, 2009, 123 Stat. 648, provided that: “For purposes of constructing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

“(1) United States magistrate judges.

“(2) Bankruptcy judges appointed under chapter 6 of title 28, United States Code.

“(3) Judges of the District Court of Guam, judges of the District Court for the Northern Mariana Islands, and judges of the District Court of the Virgin Islands.

“(4) Bankruptcy judges and magistrate judges retired under section 377 of title 28, United States Code.

“(5) Judges retired under section 373 of title 28, United States Code.”

[Section 307(b) of Pub. L. 111-8, set out above, applicable with respect to any payment made on or after the first day of the first applicable pay period beginning on or after Jan. 7, 2008, see section 307(c) of Pub. L. 111-8, set out as an Effective Date of 2009 Amendment note under section 604 of Title 28, Judiciary and Judicial Procedure.]

Similar provisions were contained in the following prior act:

Pub. L. 110-177, title V, §502(b), Jan. 7, 2008, 121 Stat. 2542.

#### OPEN SEASON

Pub. L. 105-311, §9, Oct. 30, 1998, 112 Stat. 2954, provided that: “Beginning not later than 180 days after the date of enactment of this Act [Oct. 30, 1998], the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined under section 8701(a) of such title)—

“(1) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87

of such title, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of such chapter without submitting evidence of insurability; and

“(2) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.”

Pub. L. 103-409, §3(b), Oct. 25, 1994, 108 Stat. 4232, provided that:

“(1) The Office of Personnel Management shall prescribe regulations under which, beginning not later than 9 months after the date of the enactment of this Act [Oct. 25, 1994], and over a period of not less than 8 weeks—

“(A) an employee (as defined by section 8701(a) of title 5, United States Code) who declined or voluntarily terminated coverage under chapter 87 of such title—

“(i) may elect to begin, or to resume, group life insurance and group accidental death and dismemberment insurance; and

“(ii) may make such other elections under such chapter as the Office may allow; and

“(B) such other elections as the Office allows may be made.

“(2) The Office shall take such action as may be necessary to ensure that employees and any other individuals who would be eligible to make an election under this subsection are afforded advance notification to that effect.”

CONTINUED COVERAGE UNDER CERTAIN FEDERAL EMPLOYEE BENEFIT PROGRAMS FOR CERTAIN EMPLOYEES OF SAINT ELIZABETHS HOSPITAL

For provisions relating to treatment of certain Federal employees of Saint Elizabeths Hospital under certain Federal employee benefit programs, see section 207(o) of Pub. L. 99-335, set out as a note under section 8331 of this title.

§ 8702. Automatic coverage

(a) An employee is automatically insured on the date he becomes eligible for insurance and each policy of insurance purchased by the Office of Personnel Management under this chapter shall provide for that automatic coverage.

(b) An employee desiring not to be insured shall give written notice to his employing office on a form prescribed by the Office. If the notice is received before he has become insured, he shall not be insured. If the notice is received after he has become insured, his insurance stops at the end of the pay period in which the notice is received.

(c) Notwithstanding a notice previously given under subsection (b), an employee who is deployed in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10) or an employee of the Department of Defense who is designated as an emergency essential employee under section 1580 of title 10 shall be insured if the employee, within 60 days after the date of notification of deployment or designation, elects to be insured under a policy of insurance under this chapter. An election under the preceding sentence shall be effective when provided to the Office in writing, in the form prescribed by the Office, within such 60-day period.

(d) Any services by an officer or employee under this chapter relating to benefits under this chapter shall be deemed, for purposes of section 1342 of title 31, services for emergencies involving the safety of human life or the protection of property.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 593; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 106-398, §1 [[div. A], title XI, §1134(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-318; Pub. L. 110-417, [div. A], title XI, §1103(a), Oct. 14, 2008, 122 Stat. 4616; Pub. L. 116-92, div. A, title XI, §1110(b), Dec. 20, 2019, 133 Stat. 1600.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2094(a) (less 1st par.).	Aug. 17, 1954, ch. 752, §5(a) (less 1st par.), 68 Stat. 738.

In subsection (a), the words “eligible for insurance” are coextensive with and substituted for “eligible under the terms of this chapter”.

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

Editorial Notes

AMENDMENTS

2019—Subsec. (d). Pub. L. 116-92 added subsec. (d).

2008—Subsec. (c). Pub. L. 110-417 inserted “an employee who is deployed in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10) or” after “subsection (b),” and substituted “the date of notification of deployment or” for “the date of the”.

2000—Subsec. (c). Pub. L. 106-398 added subsec. (c).

1978—Subsecs. (a), (b). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission” and “Office” for “Commission”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-92, div. A, title XI, §1110(d), Dec. 20, 2019, 133 Stat. 1600, provided that: “The amendments made by subsection[s] (a) and (b) [amending this section and section 8905 of this title] shall apply to any lapse in appropriations beginning on or after the date of enactment of this Act [Dec. 20, 2019].”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

REGULATIONS

Pub. L. 116-92, div. A, title XI, §1110(c), Dec. 20, 2019, 133 Stat. 1600, provided that:

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Office of Personnel Management shall prescribe regulations to carry out the amendments made by subsections (a) and (b) [amending this section and section 8905 of this title].

“(2) PAY STATUS FOR FURLOUGHED EMPLOYEES.—The regulations prescribed under paragraph (1) for the amendments made by subsection (a) [amending section 8905 of this title] shall provide that an employee furloughed as result of a lapse in appropriations shall, during such lapse, be deemed to be in a pay status for purposes of enrolling or changing the enrollment (as the case may be) of that employee under chapter 89 of title 5, United States Code.”

APPLICABILITY

Pub. L. 106-398, §1 [[div. A], title XI, §1134(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-318, provided that: “For purposes of section 8702(c) of title 5, United States Code (as added by subsection (a)), an employee of the Department of Defense who is designated as an emergency es-