

Table of Contents

Subchapter 102A CSRS and FERS

Part 102A1 General Information

Section 102A1.1-1 Overview 1

A. Introduction 1

B. Topics Covered 1

C. Organization of Subchapter 1

D. Statement of Authority 2

Section 102A.1-2 Office of Workers' Compensation (OWCP) Benefits--General 3

A. General 3

B. Benefits Payable 3

C. Survivor Benefits 3

Section 102A1.1-3 Bar Against Dual Compensation 4

A. General Rule 4

B. Exceptions 4

Part 102A2 Electing Between Workers' Compensation Benefits and Annuity

Section 102A2.1-1 Electing Between Workers' Compensation Benefits and Annuity 5

A. Employees Must Apply for Both OWCP and Disability Annuity to Preserve Rights 5

B. Election of OWCP Benefits Over an Annuity 5

C. Disadvantage of Applying for Annuity 5

D. Time Limit for Applying for Disability Retirement 6

E. Payment of a Refund 6

F. Agency Responsibility 6

Section 102A2.1-2 When OWCP Benefits Terminate 7

A. General 7

B. Reverting to Annuity 7

Section 102A2.1-3 Survivor Benefits 8

A. General Rule 8

Part 102A3 Credit for Service for Time Spent in Receipt of Workers' Compensation Benefits

Section 102A3.1-1 General Rules 9

A. When Employee is in a LWOP Status 9

B. When a Separated Employee Returns to Federal Service 9

Section 102A3.1-2 Reemployed Annuitants 10

A. General 10

B. Non-Disability Annuitant 10

C. Disability Annuitant 11

D. Supplemental Annuity 13

Section 102A3.1-3 Miscellaneous 14

A. Alternative Annuity and Workers' Compensation 14

B. Salary Supplemented by Workers' Compensation 14

Section 102A4.1-1 Job Aids 16

A. Chart -- Reemployment Status and Future Annuity Rights of Annuitants
Reemployed After Receiving OWCP Benefits 16

B. Commonly Asked Questions and Answers on Retirement Credit for Time Spent
in Receipt of OWCP Benefits 17

Subchapter 102A CSRS and FERS

Part 102A1 General Information

Section 102A1.1-1 Overview

A. Introduction An employee who is disabled or injured in the line of duty may be eligible for workers' compensation benefits from the Department of Labor. This subchapter explains how the employee's entitlement to workers' compensation benefits affects present and future retirement and survivor annuity rights under CSRS and FERS.

B. Topics Covered This subchapter covers:

- General information about workers' compensation benefits;
- The rules regarding the receipt of dual compensation;
- The effect of making an election between an annuity and workers' compensation benefits;
- The termination of workers' compensation benefits;
- A surviving spouse's election between a survivor annuity and workers' compensation death benefits;
- When time spent in receipt of workers' compensation benefits is creditable for retirement purposes; and
- The effect an election of workers' compensation benefits has on the alternative annuity and other retirement considerations.

C. Organization of Subchapter This subchapter has four parts.

Part	Name of Part	Page
102A1	General Information	1
102A2	Electing Between Workers' Compensation and Disability Annuity	5
102A3	Credit for Service for Time Spent in Receipt of Workers' Compensation Benefits	9
102A4	Job Aids	16

2 **CSRS** **Relationship Between Retirement Annuity and Compensation** **FERS**
for Work-Related Injuries and Diseases
Chapter 102

Section 102A1.1-1 Overview (Cont.)

D. Statement of Authority

This subchapter is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8116, 8332, 8337, 8344, 8411, 8464a, and 8468
 - Code of Federal Regulations: 5 CFR Parts 831 and 842
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Section 102A.1-2 Workers' Compensation Benefits--General

A. General

Workers' compensation benefits are paid under the Federal Employees' Compensation Act (FECA) to employees of the United States who become disabled due to an employment-related disease or injury sustained in the performance of duty. This law also provides for the payment of compensation benefits to dependents, if the disease or injury causes the employee's death. FECA is administered by the Office of Workers' Compensation Programs (OWCP) of the U.S. Department of Labor.

NOTE: See title 5 U.S.C. chapter 81 for a discussion of the rules and procedures that govern the payment of workers' compensation benefits.

B. Benefits Payable

FECA provides for both scheduled and nonscheduled lump-sum benefits and payments based upon permanent, total, or partial disabilities.

1. Scheduled Awards

Scheduled awards are benefits paid for a specified period in the event of permanent impairment of certain members or functions of the body, including certain internal and external organs (such as loss of use of an eye, arm, or loss of function or removal of kidney due to injury); or for serious disfigurement of the head, face, or neck.

2. Compensation for Loss of Wages (Nonscheduled Awards)

Compensation for loss of wage-earning capacity (that is, a nonscheduled award) may be payable for the period an employee is unable to resume regular work because of injury or disease-related (total or partial) disability. This compensation is paid on the basis of the difference between the employee's capacity to earn wages and the wages of the job he or she held when injured.

See 5 U.S.C. chapter 81 for basic information about OWCP benefits.

C. Survivor Benefits

The survivor of a Federal employee whose death is caused by work-related injury or disease may be entitled to benefits under FECA. See 5 U.S.C. chapter 81 for information about the payment of survivor benefits.

Section 102A1.1-3 Bar Against Dual Compensation

A. General Rule An individual who is eligible for an annuity under CSRS or FERS and compensation benefits under FECA may not receive both benefits concurrently. The bar includes nonscheduled compensation that has been commuted to a lump-sum payment under 5 U.S.C. 8135.

NOTE: Individuals who have received a lump-sum payment in commutation of a nonscheduled compensation award may elect to receive a CSRS or FERS annuity. However, they must refund to the Office of Workers' Compensation Programs, Department of Labor, any portion of the lump sum that is based on any period extending beyond the effective date of election to receive an annuity. (The Department of Labor determines the applicable amount.)

B. Exceptions The general bar against the receipt of concurrent annuity and compensation benefits is subject to the following exceptions.

1. An individual receiving an annuity may also receive a scheduled award.
2. An individual receiving an annuity may be furnished medical services under FECA.
3. An individual receiving compensation benefits on account of the death of another person may also receive an annuity on the basis of his or her own service.
4. A person eligible for both a disability retirement annuity and compensation for work injuries, whose compensation is suspended because he or she has received financial settlement from a third party directly responsible for the injury, may, since he or she is not in receipt of compensation, be paid an annuity during the suspension period.

Part 102A2 Electing Between Workers' Compensation Benefits and Annuity**Section 102A2.1-1 Electing Between Workers' Compensation Benefits and Annuity**

A. Employees Must Apply for Both OWCP and Disability Annuity to Preserve Rights

Separated employees who have applied for workers' compensation must also apply for retirement benefits to preserve their rights under CSRS or FERS. If the employee is eligible for both benefits, he or she must then choose between them. Applying for retirement benefits is the only way in which the employee's (and his or her survivor's) future annuity rights will be protected.

NOTE 1: If an employee applies for both benefits, OPM will begin annuity payments if OWCP has not awarded benefits by the time the retirement claim has been adjudicated. If OWCP subsequently awards benefits, the annuitant must reimburse OPM for annuity that has been paid. Normally, OWCP withholds the amount of annuity paid from benefits payable to reimburse OPM.

NOTE 2: If a separated employee is eligible for an annuity based on age and service, filing an application for annuity is not necessary to protect the employee's right to an annuity, but is necessary to preserve survivors' rights to survivor annuity benefits and continued health insurance coverage in the event the employee dies and workers' compensation benefits are not payable to the survivor on a continuing basis.

B. Election of OWCP Benefits Over an Annuity

If an annuitant elects to receive workers' compensation benefits, OPM suspends payment of his or her annuity during the period that compensation benefits are paid. However, if the compensation benefits end for any reason, OPM will reinstate the annuity, if the individual remains entitled.

NOTE: An election between workers' compensation benefits and annuity is not irrevocable. The individual may switch between the two benefits whenever it is to his or her advantage to do so.

C. Disadvantage of Applying for Annuity

An individual who files an application for retirement with OPM and who is entitled to an annuity, but who elects to receive OWCP benefits for loss of wage-earning capacity in lieu of annuity, is considered an annuitant. Unless the person's entitlement to an annuity ends (for example, because of recovery from the disabling condition), upon reemployment he or she is subject to the rules governing reemployed annuitants. Being subject to these rules may be disadvantageous if the individual is reemployed at a

Section 102A2.1-1 Electing Between Workers' Compensation Benefits and Annuity (Cont.)

- C. Disadvantage of Applying for Annuity (Cont.)** lower grade, on a part-time basis, or does not work long enough to be eligible for a supplemental annuity. For further information, see section 102A3.1-2. Reemployed Annuitants.
- D. Time Limit for Applying for Disability Retirement** Except in the case of mental incompetency, the disability retirement application of a separated employee **must** be received by OPM within 1 year of the date of separation from Federal service.
- If the former employee does not file a timely application, he or she will not be eligible for disability retirement benefits if and when compensation payments stop. (The former employee also will not be eligible to temporarily continue health benefits coverage under 5 U.S.C. 8905a.) In addition, the rights of survivors to death benefits would not be established.
- NOTE: The 1-year limit does not apply to applications for nondisability benefits.
- E. Payment of a Refund** A separated employee who is not entitled to receive an annuity, including an individual who had elected to receive workers' compensation benefits in lieu of a disability annuity, may receive a refund of his or her retirement contributions. However, before applying for the refund, the employee should be aware of the following:
1. If a separated CSRS employee receives a refund, he or she forfeits all annuity rights based on the service covered by the refund (including survivor benefits) unless the individual is later reemployed in a position subject to CSRS.
 2. Payment of a refund under FERS permanently voids any retirement rights based on the period of FERS service that the refund covers. Thus, the employee cannot repay the money in the future to recredit the refunded service.
 3. While an employee may believe that his or her compensable injury is permanent, and that OWCP benefits will continue for his or her lifetime, frequently OWCP benefits are interrupted or terminated because of (1) a change in the employee's medical condition, (2) the availability of work, or (3) rehabilitation.
- F. Agency Responsibility** Because of the importance of a decision whether or not to apply for retirement, the employing agency needs to inform separating employees of the rules governing receipt of OWCP benefits and annuity so that employees can make decisions based on what they expect their future employability to be.
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Section 102A2.1-2 When OWCP Benefits Terminate

- A. General** Many former employees who are eligible for both workers' compensation and retirement benefits initially elect to receive workers' compensation because it generally is the higher benefit. If workers' compensation benefits later terminate or are reduced, the former employee may then elect to receive the annuity (unless entitlement has terminated).
-
- B. Reverting to Annuity** If workers' compensation benefits terminate, or the former employee elects to receive an annuity in lieu of compensation, the time spent in receipt of workers' compensation after the date of retirement is not counted in computing the disability annuity or, if eligible, an annuity based on age and service. Instead, the annuity computed based on the individual's service and high-3 average salary as of the date of separation, plus all applicable cost-of-living adjustments, may be reinstated.

NOTE: A disability annuity may terminate if the former employee is found medically or administratively recovered or restored to earning capacity. (See Chapter 60.)

Section 102A2.1-3 Survivor Benefits

A. General Rule The surviving spouse and/or children of an individual who died as a result of a job-related disease or injury may be eligible for both death compensation benefits from OWCP and CSRS or FERS survivor benefits. However, the law prohibits concurrent payment of workers' compensation death benefits and a survivor annuity. Like the employee, the survivor must elect which of the two benefits he or she wishes to receive.

NOTE: If the surviving spouse elects workers' compensation death benefits, he or she is not eligible for the FERS basic employee death benefit. (See Chapter 70.)

Part 102A3 Credit for Service for Time Spent in Receipt of Workers' Compensation Benefits**Section 102A3.1-1 General Rules**

- A. When Employee is in a LWOP Status** An employee who is in a leave-without-pay (LWOP) status while in receipt of FECA benefits will receive full credit for the LWOP period in the computation of annuity and for high-3 average salary purposes. LWOP while in receipt of FECA benefits is not subject to the limitation of 6 months credit in each calendar year, as is other LWOP.
- B. When a Separated Employee Returns to Federal Service** When a separated employee (not annuitant) returns to Federal service, that portion of the period of separation during which the employee received FECA benefits is deemed to be a period of LWOP during which the employee is receiving FECA benefits, and is fully creditable for computation and high-3 average salary purposes.

NOTE: No period of separation, even one in which the employee received FECA benefits, may be credited in meeting the requirement that a CSRS employee complete 1 year of covered service in the 2-year period immediately preceding a non-disability retirement.

Section 102A3.1-2 Reemployed Annuitants

A. General

An individual who files an application for retirement with OPM and who is entitled to an annuity, but who elects to receive OWCP benefits for loss of wage-earning capacity in lieu of annuity, is considered an annuitant. This is because he or she may, at any time, reverse his or her election and choose to receive an annuity in lieu of OWCP benefits. Thus, in the case of reemployment, the individual's future benefits must be computed on the basis of statutory provisions governing reemployed annuitants.

B. Non-Disability Annuitant

The reemployment status of a non-disability annuitant is determined by the provisions of 5 U.S.C. 8344 or 8468. (See Chapter 100.)

1. If the individual's right to annuity continues during reemployment, the individual will not be able to credit a period of separation during which he or she received OWCP unless he or she is reemployed for 5 continuous full-time years (or the part-time equivalent) and elects a redetermined annuity.
2. If the individual's right to annuity ceases upon reemployment in a covered position, the period of separation during which he or she received OWCP benefits is not creditable unless he or she establishes a new annuity right based on reemployment service. (Under CSRS, this would require that the employee meet the "1-out-of-2 requirement.")

EXAMPLE: A voluntary nondisability retiree who has elected to receive compensation in lieu of annuity is reemployed several years later in a part-time position (20 hours per week) at the same grade. After working in that position for 5 years and 6 months, the employee separates.

Is the reemployed annuitant entitled to a recomputed annuity?

No. Because the previous retirement was voluntary and nondisability, the right to receive annuity continues during the period of reemployment, and the individual is a reemployed annuitant. Also, because the part-time reemployment service is not equivalent to 5 years of full-time reemployment service (5 years and 6 months at 20 hours per week is equivalent to 2 years and 9 months of full-time service), the employee is not entitled to a redetermined annuity. Consequently, the reemployed annuitant cannot receive credit for a recomputed annuity for the period of separation during which he or she received OWCP benefits.

Section 102A3.1-2 Reemployed Annuitants (Cont.)**B. Nondisability
Annuitant (Cont.)****To what annuity benefit is the reemployed annuitant entitled?**

The reemployed annuitant is entitled only to a supplemental annuity added to the previous annuity. The supplemental annuity would be based only on the actual period of reemployment. No credit would be given for the period of separation during which the annuitant received OWCP benefits.

See Chapter 100, Reemployed Annuitants, for additional information.

**C. Disability
Annuitant**

The reemployment status of a disability annuitant is determined by the continuing nature of his or her disability annuity. A reemployed disability annuitant can receive service credit for the time spent on OWCP's rolls if he or she:

1. Subsequently returns to work in a position with retirement coverage;
2. Is found by OPM to be either:
 - Recovered from disability; or
 - Restored to earning capacity; and
3. Establishes new title to annuity.

EXAMPLE: A disability annuitant who retired from a GS-9 full-time position is awarded OWCP benefits. Later, the annuitant is reemployed in a permanent, full-time GS-9 position, and the OWCP benefits are terminated. OPM finds the reemployed annuitant recovered from his or her disability 3 months after reemployment. Ten months later (sufficient time for a CSRS employee to meet the 1-year-out-of-2 requirement) the employee resigns.

To what annuity benefits is the employee entitled?

Immediate Annuity - If the employee meets the age and service requirements for an immediate voluntary annuity [30 years of service at age 55, 20 at 60, or 5 at 62, and, in addition, for FERS, 10 at the minimum retirement age (MRA)], he or she is entitled to that benefit.

Deferred Annuity - If there is no immediate entitlement, the employee would be entitled to a deferred annuity at age 62, or, at the MRA, with 10 years of service under FERS.

Section 102A3.1-2 Reemployed Annuitants (Cont.)

C. Disability Annuitant (Cont.)

Disability Annuity - Because the employee has title to annuity (either immediate or deferred) based on the new separation, he or she would not be entitled to have the prior disability retirement reinstated. However, if the employee is once again found disabled by OPM at the time of separation, a new disability retirement may be awarded.

Service Credit - In all three situations, the period of separation spent in receipt of OWCP benefits is creditable in determining entitlement to, and the amount of, the benefit.

If the disability annuitant/OWCP recipient is not found by OPM to be recovered or restored, he or she is treated differently when reemployed. In these instances, the reemployment service is governed by the provisions of law covering reemployed annuitants. Thus, the period of separation during which the individual was in receipt of OWCP (in lieu of a disability annuity) is not creditable unless he or she is reemployed for 5 continuous full-time years (or the part-time equivalent) and elects a redetermined annuity.

NOTE: Upon receipt of verification of an annuitant's reemployment, OPM reviews the records to determine the effect, if any, on the individual's continuing eligibility for benefits based on disability. However, continued payment from OWCP for loss of wage-earning capacity is prima facie evidence that the person is not recovered. In such cases, OPM will not make a finding of recovery unless there is contravening medical evidence.

EXAMPLE: A disability annuitant who retired from a GS-9 full-time position is awarded OWCP benefits. Later, the annuitant is reemployed in a GS-9 position on a part-time basis, with a tour of duty of 20 hours per week. The annuitant continues to receive partial OWCP payments for loss of wage-earning capacity. The reemployed annuitant resigns after 13 months and elects to receive retirement benefits in lieu of OWCP benefits.

May the disability annuitant be found recovered from his or her disability?

Generally not. Reemployment in a position of the same grade, but with a lesser tour of duty, is not considered equivalent employment for recovery purposes. Also, continued receipt of OWCP benefits

Section 102A3.1-2 Reemployed Annuitants (Cont.)

- C. Disability Annuitant (Cont.)** for loss of wage-earning capacity is prima facie evidence of nonrecovery. Either of these two factors would generally prevent OPM from making a recovery finding. OPM would only make a finding of recovery in this case if recovery was demonstrated by medical evidence.

To what annuity benefit is the annuitant entitled?

The annuitant is only entitled to have the original disability annuity reinstated, with the cost-of-living adjustments that had accrued since the original separation. No supplemental annuity is payable, because the 13 months of part-time reemployment service is not equivalent to 1 year of actual, continuous, full-time service, and the period of separation spent in receipt of OWCP benefits cannot be credited in computing a supplemental annuity.

- D. Supplemental Annuity** Service performed prior to the individual's reemployment as an annuitant does not enter into the supplemental annuity computation. Therefore, time spent in receipt of OWCP benefits prior to the employment as an annuitant also has no effect on the supplemental annuity computation. Like a non-disability annuitant, a non-recovered disability annuitant must earn a redetermined annuity to credit post-retirement time spent on the rolls of OWCP.
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Section 102A3.1-3 Miscellaneous

A. Alternative Annuity and Workers' Compensation

1. The Department of Labor has ruled that an employee who elects to receive nonscheduled workers' compensation is not entitled to the lump-sum payment under the alternative annuity provisions (see Chapter 53). Receipt of both benefits is considered prohibited dual compensation under the Federal Employees' Compensation Act.
2. If an eligible employee retires, elects the alternative annuity and later becomes eligible for and elects workers' compensation benefits, the Department of Labor will require that all retirement payments, including the alternative annuity lump-sum, be returned to OPM, either by direct repayment, or withholding from compensation.

EXAMPLE: William retires and may elect the alternative annuity. He receives a reduced annuity of \$1,500 per month and a lump-sum payment of \$30,000. One year later, William is awarded and elects workers' compensation benefits that total \$2,000 per month.

During a 1-year period of retirement, William would have received \$48,000 ($\$1,500 \times 12$ months + \$30,000 lump sum) in retirement benefits. Workers' compensation benefits for the same period of time would be \$24,000 ($\$2,000 \times 12$ months). Consequently, William has been overpaid \$24,000 ($\$48,000 - \$24,000$).

B. Salary Supplemented by Workers' Compensation

When computing the high-3 average salary for an employee whose salary is being supplemented by workers' compensation benefits, use only the basic salary rate of the position. Do not include any payments from OWCP. See Chapter 50, Computation of Annuity, for guidance in computing basic rates; see Chapter 55, Computation for Part-Time Employees, for guidance in computing the average salary for part-time employees; and, see Chapter 100, Reemployed Annuitants, section 100A4.1-1, for computing the basic rate when an offset is involved.

EXAMPLE: Dick retires on disability from a GS-13 position. His high-3 average salary was \$37,000.00. He receives OWCP benefits for 3 years. He is then reemployed in a GS-5 position. OWCP pays benefits equal to the difference between the GS-5 pay and 75 percent of the GS-13 pay. Because the GS-5 position is not equivalent to the GS-13 position, OPM does not find Dick recovered from his disability. Therefore, his reemployment falls under reemployed annuitant rules. Also, because the

Section 102A3.1-3 Miscellaneous (Cont.)**B. Salary
Supplemented by
Workers'
Compensation
(Cont.)**

GS-5 pay does not equal or exceed 80 percent of the GS-13 pay, Dick is not found restored to earning capacity during the period of reemployment.

Dick works full-time for 5 continuous years, and then separates. He is entitled to either a supplemental annuity or a redetermined annuity. The supplemental annuity would be based on the 5 years of reemployment service, and the average salary for those 5 years, and will be added to the disability annuity he was previously awarded. The redetermined annuity would be based on all of Dick's service, including the period of separation during which he received OWCP benefits, and would replace the disability annuity he was previously awarded.

However, because Dick's GS-5 salary for the last 5 years was significantly below the GS-13 salary he was previously paid (the OWCP payments that supplemented the salary cannot be counted as salary), his high-3 period would be from a period prior to the date of reemployment. Therefore, the disability annuity plus supplemental annuity may be the greater benefit.

Section 102A4.1-1 Job Aids

A. Chart -- Reemployment Status and Future Annuity Rights of Annuitants Reemployed After Receiving OWCP Benefits

TYPE OF ANNUITY	ANNUITY STATUS	BENEFITS ON SEPARATION	SERVICE CREDITED
Voluntary Non-Disability; disability <u>not</u> recovered or restored to earning capacity.	Right to annuity continues. Any annuity paid during the period of reemployment must be deducted from salary.	Original Annuity	No Additional Service Credited
		Plus, a supplemental annuity, if reemployment equals or exceeds 1 year of actual full-time continuous service, or its part-time equivalent.	Only the actual period of reemployment is credited in the computation of the supplemental annuity.
Involuntary CSRS annuity (non-covered appointment).	Right to annuity ceases on reemployment.	If reemployment equals or exceeds 5 years of actual full-time continuous service, or its part-time equivalent, then the annuitant may elect a redetermined annuity in lieu of the original annuity plus the supplemental annuity.	All prior creditable service, plus periods of separation during which the annuitant was in receipt of OWCP benefits, may be credited in the computation of the redetermined or new annuity.
Involuntary FERS annuity.		A new annuity is payable if the latest separation is qualifying (CSRS employees must meet the 1-year out of 2 rule for nondisability annuity).	Only service associated with the prior annuity is credited when that annuity is reinstated.
FERS MRA + 10 or early deferred ¹			
Mandatory			
Involuntary CSRS annuity (covered appointment).			
Disability annuity - Annuitant found recovered or restored to earning capacity.			

¹ When the individual is reemployed before the commencing date of annuity, the right to annuity terminates.

Chart displaying the rules governing the reemployment of an annuitant who has received OWCP benefits, and the computation of future benefits based on that reemployment.

Section 102A4.1-1 Job Aids (Cont.)**B. Commonly Asked Questions and Answers on Retirement Credit for Time Spent in Receipt of OWCP Benefits:****I. Service Credit Generally****Q-1. Do retiring employees receive full credit in their retirement computation for periods of LWOP and separation during which they received OWCP benefits?**

A-1. Yes. So long as the period(s) involved occurred prior to the separation on which title to annuity is based, this service is available as service credit for title, average salary, and length of service purposes.

Q-2. Is there any purpose for which a period of separation during which the employee received OWCP benefits cannot be credited?

A-2. Yes. A period of separation cannot be credited in meeting the 1-year-out-of-2 provision of 5 U.S.C. 8333(b), irrespective of the separated employee's entitlement to OWCP benefits.

Q-3. What is the 1-year-out-of-2 provision?

A-3. Under the 1-year-out-of-2 provision, a CSRS employee must complete 1 year of creditable service subject to retirement deductions in the 2 years immediately preceding his or her separation before being eligible for a nondisability retirement based on that separation. FERS does not have the same requirement.

II. Employees and Annuitants**Q-4. What is the difference between a separated employee and an annuitant?**

A-4. A separated employee is a former Federal employee who was covered by either CSRS or FERS. An annuitant is a separated employee whose application for either a CSRS or FERS annuity has been received by OPM (or, when appropriate, the employing agency) and who meets the requirements for that benefit. For individuals who are applying for a regular benefit based on age and service, "meeting all the requirements" means the person 1) has separated from his or her employing agency; 2) meets the appropriate age and service requirements; and 3) has filed an application for annuity with OPM (or, when appropriate, the employing agency). For an applicant for disability annuity, however, OPM must make a finding of disability before annuitant status can be established.

Q-5. Is an annuitant who elects to receive OWCP benefits for loss of wage-earning capacity in lieu of annuity still considered an annuitant?

A-5. Yes. This is because he or she may, at any time, reverse his or her election and choose to receive annuity in lieu of OWCP benefits.

Section 102A4.1-1 Job Aids (Cont.)

Q-6. How can annuitants receive retirement credit for periods of separation after retirement during which they received OWCP benefits in lieu of civil service annuity?

A-6. An annuitant can credit periods of separation during which they received OWCP benefits in lieu of annuity by earning new title to annuity based on a separation which occurs after the period of receipt of OWCP benefits.

III. Reemployed Annuitants

Q-7. How does an annuitant earn a new title to annuity?

A-7. A new title to annuity can only be earned through reemployment. When the right to annuity ceases on or during reemployment, a new right to an immediate or deferred annuity will accrue on the next separation, presuming that title to annuity is not barred by the 1-year-out-of-2 provision under CSRS. When the right to annuity continues during reemployment, a new title to annuity is earned only when the reemployed annuitant completes 5 years of actual, continuous, full-time service, or the part-time equivalent, and earns a right to a redetermined annuity.

Q-8. What kinds of annuities terminate on or during reemployment?

A-8. Under CSRS, a discontinued-service annuity terminates when the employee is reemployed in a position which would be covered by CSRS. Other CSRS annuities terminate when the annuitant is reemployed under special circumstances, such as a Member of Congress or a Presidential appointee. All other annuities, and the right to receive annuity, are not directly affected by reemployment. However, special rules apply to disability annuities which terminate during reemployment.

Q-9. What are the special rules which apply to disability annuities that terminate during reemployment?

A-9. When a CSRS or FERS disability annuitant is found recovered or restored to earning capacity by OPM, the normal termination date can be affected by reemployment. A disability annuity usually terminates 1 year after the date of a finding of recovery, or 6 months after the end of the calendar year for which the disability annuitant was found restored to earning capacity. When a disability annuitant who has been found recovered or restored to earning capacity is reemployed in any Federal position prior to the ordinary termination date of annuity, the annuity terminates on the later of (1) the date of reemployment or (2) the date of OPM's finding.

Q-10. On what basis can a disability annuitant be found recovered?

A-10. OPM will find a disability annuitant recovered from his or her disability if (1) medical evidence shows that the medical condition that initially caused the disability has ameliorated to the point that the annuitant is no longer disabled for the position from which he or she retired, or (2) the annuitant is permanently reemployed, under CSRS or FERS, in a position of the same, or higher, grade or pay level as the position from which he or she retired. For this purpose, pay level means current basic pay, and is the hourly rate times the number of hours in the tour of duty.

Section 102A4.1-1 Job Aids (Cont.)**Q-11. What circumstances will prevent OPM from making a recovery finding on the basis of reemployment?**

If the disability annuitant is age 60 or over, he or she may only be found recovered at his or her own request. Also, if the reemployed disability annuitant continues to receive OWCP benefits on the basis of loss of earning capacity, a recovery finding on the basis of reemployment normally is inappropriate.

Q-12. May a reemployed disability annuitant request OPM to make a finding of recovery from disability, and what effect does the request have?

A-12. Yes. A reemployed disability annuitant may request to be found recovered from his or her disability. A disability annuitant age 60 or over may only be found recovered on his or her own request.

Q-13. On what basis may a disability annuitant be found restored to earning capacity?

Q-13. A disability annuitant is deemed restored to earning capacity when, in any calendar year in which the annuitant is under age 60 (on December 31), the annuitant's earnings equal or exceed 80 percent of the current pay of the position from which the annuitant retired.

Q-14. Are OWCP benefits counted as part of a disability annuitant's earnings for restoration to earning capacity purposes, or as part of his or her salary for average salary purposes?

A-14. No.

Q-15. How is average salary computed, especially when the employee is working a part-time schedule?

A-15. Average salary is computed on the rate of basic pay of the position, not on how much the employee is actually paid. For part-time service prior to April 7, 1986, the full-time annual rate of the position is prorated by the employee's part-time work schedule. Part-time service on or after that date is credited at the full-time salary rate, but the amount of service is prorated.

Q-16. What CSRS or FERS benefits are payable if the reemployed annuitant (whose annuity terminated on or during reemployment) separates without new title to either immediate or deferred annuity?

A-16. If a nondisability annuity terminated on or during reemployment, it may be reinstated as of the date of separation. If a disability annuity terminated on or during reemployment, and the employee is (1) still, or once again, disabled by the same medical condition, and (2) under age 62, the disability annuity may be reinstated. If a disability annuity terminated on or during reemployment, but the employee does not meet the above, he or she may be entitled to discontinued-service annuity based on the termination of the disability annuity. To meet this requirement, he or she would need to have had

Section 102A4.1-1 Job Aids (Cont.)

25 years of service when he or she initially retired, or 20 years of service, and be age 50 or over when the disability annuity terminated. If none of the above circumstances apply to the employee, he or she will be entitled to a deferred annuity based on a prior separation.

Q-17. What benefits would be payable to a reemployed annuitant (whose annuity did not terminate during reemployment) if he or she is not entitled to a redetermined annuity?

A-17. If the annuitant completed at least 1 year of actual, continuous full-time reemployment service, or its part-time equivalent, he or she would be entitled to a supplemental annuity. A supplemental annuity is added onto the regular annuity.

Q-18. Can periods of separation during which the annuitant received OWCP benefits be included in the computation of the supplemental annuity?

A-18. No. Only actual reemployment service may be used in the computation of a supplemental annuity.