

EMPLOYEE BENEFITS

1. **REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding employee benefits.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive contains VA policy on the provision of employee benefit program information. This revision establishes VA policy regarding the phased retirement program. The pages in this issuance replace the corresponding page numbers in VA Directive 5009. Revised text is contained in [brackets]. This change will be incorporated into the electronic version of VA Directive 5009 that is maintained on the [Office of Human Resources Management Web site](#).
3. **RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.
4. **RELATED HANDBOOK:** VA Handbook 5009, Employee Benefits.
5. **RESCISSIONS:** None.

CERTIFIED BY:

/s/
LaVerne H. Council
Executive in Charge and Chief Information Officers
Office of Information and Technology

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Gina S. Farrissee
Assistant Secretary for
Human Resources and Administration

EMPLOYEE BENEFITS

1. PURPOSE. The purpose of this directive is to issue Department of Veterans Affairs (VA) policy on employee benefits.

2. POLICY

a. Retirement Programs

(1) VA will utilize the Office of Personnel Management's (OPM) Operating Manual, "The Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) Handbook for Personnel and Payroll Offices", which contains instructions for agency personnel and payroll offices for carrying out their responsibilities for basic benefits under the CSRS and FERS.

(2) 5 CFR, part 831, subpart L prescribes the procedures to be followed when an agency files an application for disability retirement in the course of removing an employee. When the criteria in Section 831.1203 are met:

(a) Administration Heads, Assistant Secretaries, and Other Key Officials are authorized to recommend disability retirement for all employees occupying positions under their respective jurisdictions except for those which the Secretary retains prior approval authority.

(b) Heads of field facilities are authorized to recommend disability retirement for all employees occupying positions under their respective jurisdictions, except prior approval is required for positions centralized to an administration, assistant secretary, or other key official.

(c) Where prior approval of the Secretary is necessary, it will be obtained through the Deputy Assistant Secretary for Human Resources Management (HRM).

(d) Consistent with 3(b), VA Central Office, Worklife and Benefits Service (058), is responsible for the development and dissemination of guidance, operating instructions, educational tools, and resources to VA Human Resources offices on VA's Retirement Financial Literacy and Education Program and other applicable benefit programs.

(3) At a minimum, servicing Human Resources (HR) offices should provide their employees one annual seminar covering financial literacy and education information. These financial literacy and educational fairs should provide general, rather than specific, financial information and target employees at three career points; new employee, mid-career and pre-retirement. It is suggested that these financial literacy and educational fairs be conducted in conjunction with new employee orientation and retirement seminars. In addition HR offices should consider using guest speakers, web-based training, webinars, etc. on an on-going/annual basis. HR offices will be required to provide VA Headquarters an annual report on the activities conducted under their retirement financial education programs to facilitate an agency report to OPM.

[]

b. Special Retirement Provisions for Law Enforcement Officers and Firefighters

(1) Retirement eligibility requirements for law enforcement officers (LEO) and firefighters (FF) fall under two separate retirement systems. Under the Civil Service Retirement System (CSRS), LEOs and FFs may retire voluntarily or involuntarily at an early age with entitlement to a special annuity computation if all requirements are met. Under the Federal Employees Retirement System (FERS), LEO and FF retirement may be triggered by mandatory separation based on age.

(2) LEO and FF special retirement provisions, including exemptions from mandatory separation age for CSRS and FERS are located in VA Handbook 5009, Part II, Special Retirement Provisions for Law Enforcement Officers and Firefighters.

c. Federal Employees Health Benefits (FEHB) Program. VA will utilize the FEHB policies, procedures, and guidance contained in OPM's Operating Manual, "The Federal Employees Health Benefits Program Handbook: A Handbook for Enrollees and Employing Offices".

[d. Affordable Care Act (ACA) and Marketplace Notice. ACA Marketplace Notice procedures and guidance are located in VA Handbook 5009, Part III.

e.] Federal Employees' Group Life Insurance (FEGLI) Program. VA will utilize the FEGLI policies, procedures, and guidance contained in OPM's Operating Manual, "The Federal Employees' Group Life Insurance Handbook: A Handbook for Employees, Annuitants, Compensationers and Employing Offices".

[f.] Thrift Savings Plan (TSP) Program. VA will utilize the TSP policies contained in the TSP Booklet, "Summary of the Thrift Savings Plan for Federal Employees".

[g.] Federal Employees Dental and Vision Insurance Program (FEDVIP). VA will utilize the FEDVIP policies, procedures, and guidance as published and distributed by OPM.

[h.] Federal Flexible Spending Accounts (FSAFEDS) Program. VA will utilize the FSA policies, procedures, and guidance as published and distributed by OPM and the Federal Program Administrator for FSAFEDS, Sykes Health Plan Services, Inc. (SHPS).

[i.] Federal Long Term Care Insurance Program (FLTCIP). VA will utilize the FLTCIP policies, procedures, and guidance as published and distributed by OPM and the Federal Program Administrator for FLTCIP, Long Term Care Partners, LLC.

[j.] Professional Liability Insurance

(1) In accordance with Public Law 106-58 dated, September 29, 1999, the Department will reimburse professional liability insurance premiums to VA supervisors, management officials, and law enforcement officers for up to one-half the cost incurred by qualified employees not to exceed \$150.00 per year.

(2) The reimbursement cost will be the responsibility of the organization in which the employee works using local vouchering procedures.

(3) Supervisors and management officials have the meaning given them by section 7103(a) of title 5.

(a) Supervisors are defined as individuals employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that with respect to any unit which includes firefighters or nurses, the term supervisor includes only those individuals who devote a preponderance of their time to exercising such authority.

(b) Managers are individuals employed by the agency in positions the duties and responsibilities of which require or authorize the individuals to formulate, determine, or influence the policies of the agency.

(4) Law enforcement officers are employees, the duties whose positions are primarily in the investigation, apprehension, prosecution or detention of individuals suspected of, or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of title 5, or under section 4823 of title 22, United States Code.

[k.] Death Gratuity Payment

(1) The Department will make a payment of \$10,000 minus any payments authorized under 5 U.S.C. 8133(f), 8134(a) and section 312 of Public Law 103-332 to the personal representative of any employee who dies from an injury in the line of duty. This payment also covers an employee no longer on the rolls if the death is the result of an injury sustained in the line of duty. Any other payments, to include other benefits payable under the Federal Employees' Compensation Act (FECA) do not affect the \$10,000 limit.

(2) The above payment authorization will not be paid if the Department determines that the employee's death was the result of willful misconduct.

(3) A personal representative will generally be the formally designated executor or administrator of the employee's estate under State law. The Secretary will determine who is the personal representative in any particular case.

[l.] VA Child Care Subsidy Program

(1) VA may authorize a subsidy payment to assist lower income employees with their child care costs per Public Law 107-67, Section 630, and 5 CFR, part 792. The threshold for determining who qualifies as a lower income employee is provided on the [VA Child Care Subsidy Program Web site](#).

(2) Payment will only be authorized if the employee uses a qualified child care provider (center-based care family child care home, and/or before/after care) that is licensed and/or regulated to provide child care services in the state or location in which they operate.

(3) Employees who misuse child care subsidies will be subject to appropriate administrative action, including discipline and disqualification for future VA child care subsidy benefits.

m. U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees. U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees procedures and guidance are located in VA Handbook 5009, Part IV. The Department will issue a U.S. Flag to the Beneficiary of a deceased VA employee who dies of injuries incurred in connection with his/her employment under certain circumstances as a result of a criminal act, an act of terrorism, a natural disaster, or other circumstances as determined by the President.

[n. Phased Retirement. Phased retirement procedures and guidance are located in VA Handbook 5009, Part V.

(1) Phased retirement is a workforce management tool designed to assist the VA with knowledge management and continuity of operations in the short term, and prepare the next generation of experts for success.

(2) Phased retirement allows an employee to work a part time schedule while receiving a partial annuity.

(3) Phased retirement is not an employee right. Elections to enter into, or opt out of, phased retirement status require the mutual consent of both the employee and the VA.]

3. RESPONSIBILITIES

a. Responsibilities are contained in each of the Program Operating Manuals mentioned in the Policy section. The TSP responsibilities are contained in the TSP Booklet, “Summary of the Thrift Savings Plan”.

b. In addition to the responsibilities listed in the Manuals and TSP Booklet, Staff Office and field facilities staff must also follow the standard operation procedures or other guidance that has been or will be established by VA Central Office, Worklife and Benefits Service (058) and the [Chief Business Office (CBO)]. If there are any concerns regarding matters involving field facility staff responsibilities, facility staff should consult with the Worklife and Benefits Service (058) or the [CBO], as appropriate for resolution.

c. The Assistant Inspector General for Management and Administration is responsible for administering retirement programs for the Office of Inspector General employees. The Inspector General Reform Act of 2008, Section 14 (a), designates each Office of Inspector General as a separate agency with the Inspector General assuming the functions, powers, and duties of an agency head..

4. REFERENCES

a. Retirement

(1) Inspector General Act of 1978

(2) Inspector General Reform Act of 2008, §6(d)(1)(B)(ii)

- (3) OPM Operating Manual, “CSRS and FERS Handbook for Personnel and Payroll Offices”;
- (4) OPM Benefits Administration Letters;
- (5) 5 CFR, parts 831, 835, 837, 838, 841, 842, 843, 844, 845, 846, and, 847; and
- (6) 5 U.S.C., chapters 83 and 84.

b. FEHB

- (1) OPM Operating Manual, “The Federal Employees Health Benefits Program Handbook: A Handbook for Enrollees and Employing Offices”;
- (2) OPM Benefits Administration Letters;
- (3) 5 CFR, part 890; and
- (4) 5 U.S.C., chapter 89.

c. FEGLI

- (1) OPM Operating Manual, “The Federal Employees Group Life Insurance Handbook: A Handbook for Employees, Annuitants, Compensationers and Employing Offices”;
- (2) OPM Benefits Administration Letters;
- (3) 5 CFR, part 870; and
- (4) 5 U.S.C., chapter 87.

d. TSP

- (1) TSP Booklet, “Summary of the Thrift Savings Plan”;
- (2) TSP Bulletins;
- (3) 5 CFR, part 1600; and
- (4) 5 U.S.C., chapter 84.

e. FEDVIP

- (1) OPM Benefits Administration Letters;
- (2) 5 CFR, part 894;
- (3) 5 U.S.C., chapter 89A (Enhanced Dental Benefits); and

(4) 5 U.S.C., chapter 89B (Enhanced Vision Benefits).

f. FSAFEDS

(1) FSAFEDS Booklet, “FSAFEDS Summary of Benefits with Frequently Asked Questions”;

(2) OPM Benefits Administration Letters; and

(3) 26 U.S.C. § 125.

g. FLTCIP

(1) FLTCIP Booklet, “Benefit Booklet: The Federal Long Term Care Insurance Program”;

(2) OPM Benefits Administration Letters;

(3) 5 CFR, part 875; and

(4) 5 U.S.C., §§ 9001-9008.

h. VA Child Care Subsidy Program

(1) Public Law 106-58, Section 643;

(2) Public Law 107-67, Section 630; and

(3) 5 CFR, part 792.

i. U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees

(1) 5 CFR, part 550, subpart O;

(2) 5 U.S. C. § 2105;

(3) 5 U.S.C. § 5570;

(4) Civilian Service Recognition Act of 2011, Public Law 112-73; December 20, 2011; and

(5) Department of Veterans Affairs Use of Flag and Correct Folding Method, VA Form 100825.

[j. Phased Retirement

(1) 5 CFR, part 831, subpart Q;

(2) 5 CFR, part 848;

(3) 5 U.S.C. § 8336a;

(4) 5 U.S.C. § 8412a;

(5) OPM Benefits Administration Letters 14-106, 14-108, 14-109, 14-110; and

(6) Public Law 112-141.]

EMPLOYEE BENEFITS

1. **REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) procedures on employee benefits.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory procedures on employee benefits. This revision establishes VA procedures regarding the phased retirement program. This change will be incorporated into the electronic version of VA Handbook 5009 that is maintained on the [Office of Human Resources Management Website](#).
3. **RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management.
4. **RELATED DIRECTIVE:** VA Directive 5009, Employee Benefits.
5. **RESCISSIONS:** None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
LaVerne H. Council
Assistant Secretary for
Information and Technology and
Chief Information Officer

/s/
Gina S. Farrisee
Assistant Secretary for
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BENEFITS

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PART I

EMPLOYEE BENEFITS

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PART I. VA CHILD CARE SUBSIDY PROGRAM I-1

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PART I. VA CHILD CARE SUBSIDY PROGRAM

1. **PURPOSE.** This handbook establishes Department of Veterans Affairs (VA) procedures for the VA Child Care Subsidy Program (CCSP), which permits the use of appropriated funds, including revolving funds otherwise available for salaries, to subsidize child care costs for lower income employees.
2. **RESPONSIBILITIES.**
 - a. The Assistant Secretary for [Human Resources and Administration/Operations, Security, and Preparedness (HRA/OSP)] has overall responsibility for the VA CCSP.
 - b. The [Chief Human Capital Officer (CHCO), HRA/OSP], has responsibility for the administration of the program and issuing departmental policy.
 - c. The [Executive Director, Management, Planning & Analysis (MP&A), HRA/OSP,] is responsible for oversight of the operational component of the CCSP.
 - d. The Director, Worklife and Benefits Service (WLB), [OCHCO, HRA/OSP], shall provide oversight of the VA CCSP policy, provide advisory service to the CCSP Service on the interpretation and application of the CCSP policy, and submit the [] CCSP Data Call Report to the Office of Personnel Management (OPM) [upon request].
 - e. [The Director, CCSP Service, MP&A, HRA/OSP,] is responsible for administering day-to-day operations of the CCSP [and] tracking the utilization of child care subsidy funds [].
 - f. Field HR offices are responsible for informing and advising their employees about the CCSP and certifying the submission of completed applications to the CCSP Service via the Child Care Records Management System (CCRMS).
 - g. VA Employees shall:
 - (1) Complete the online CCSP application via the CCRMS which includes the submission of all required and supporting documents electronically;
 - (2) Report accurate information on all VA forms and any additional supporting documents in connection with their application to participate in the CCSP. Employees are responsible for reporting any changes, such as marriage, divorce, family income, child care provider, a change in appointment, or any information for which the CCSP Service will need to update the participant's file;

- (3) Pay the full amount of the monthly child care costs for which they are billed by their child care provider;
- (4) Timely submit child care provider invoices to align with the computer-generated VA Form 0730h, VA Child Care Subsidy Program Benefit Payment Request, via CCRMS for payment of CCSP benefits;
- (5) Certify and returning the VA CCSP Award Agreement and the VA CCSP Tax Implication Agreement to the CCSP Service within the required time; and
- (6) Recertify annually by [April 30] to determine their eligibility for continued participation in the VA CCSP for the period of May 1- April 30 of each year.

3. REFERENCES.

- a. Public Law 106-58, Treasury and General Government Appropriations Act, 2000, Section 643, September 29, 1999.
- b. Public Law 107-67, Treasury and General Government Appropriations Act, 2002, Section 630, November 12, 2001.
- c. 5 Code of Federal Regulations (CFR) 792, subpart B, Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees.
- d. 26 United States Code (U.S.C.) 129, Dependent Care Assistance Programs.

4. DEFINITIONS.

- a. **Affidavit.** A written declaration made under oath before a Notary Public or other public officer authorized to administer oaths and affirmations that the statements in the document are true.
- b. **Adoption.** The official transfer through the court system of all the parental rights that a biological parent has to a child, along with an assumption by the adopting parent of all of the parental rights of the biological parents that are being terminated and assumed in their entirety by the adoptive parents, including the responsibility for the care and supervision of the child, its nurturing and training, its physical and emotional health, and its financial support.
- [c. **Adopted Child.** Applicable state law governs whether a child has been adopted. A child is considered adopted once the adoption decree is final. The child is also considered adopted if the adoption decree is interlocutory or provisional, and state law provides that the rights of the child generally are the same as those of an adopted child.]
- d. **Child.** For the purposes of this part, a child is someone who bears any of the following relationships to the employee, the employee's spouse, [the employee's civil union partner,] or the employee's domestic partner:

- (1) A biological child who lives with the VA employee;
 - (2) An adopted child who lives with the VA employee;
 - (3) A stepchild who lives with the VA employee;
 - (4) A foster child who lives with the VA employee;
 - (5) A child for whom a judicial determination of support has been obtained [and who lives with the VA employee;] or
 - (6) [A child who lives with the VA employee,] and, wherein, the child's primary financial support (via regular and substantial contributions) is provided by the VA employee's spouse or the VA employee's civil union and/or domestic partner.]
- e. **Child Care Provider.** An individual or entity providing child care services for which Federal employees' families are eligible. The provider must be licensed and or regulated, and the provider's services can be provided in a Federally sponsored child care center, a non-Federally sponsored child care center, or a family child care home.
- f. **Child Care Provider Invoice.** An itemized statement of fees or written account for charges or costs of child care provider services rendered during the month for which the employee is requesting payment of a CCSP Benefit payment. The invoice must include the following:
- (1) Date of invoice;
 - (2) Names and addresses of employee and provider;
 - (3) Description of services purchased;
 - (4) The amount due for the month services was provided; and
 - (5) Tax Identification number or Employer Identification Number (EIN) of provider.
- g. **Child Care Records Management System (CCRMS).** The VA automated system through which employees must submit their CCSP application and child care provider invoice(s) supporting the on-line benefit payment requests for processing and approval.
- h. **Child Care Subsidy Program (CCSP).** The program established by VA using appropriated funds, as provided for by this part, to assist lower-income employees with child care costs. The program includes such activities as determining the eligibility criteria, income threshold, subsidy amounts, application procedures, approval of participation, and the establishment of procedure for

making payments. The CCSP is not intended to support an employee's obligation to meet their child support payment responsibilities.

- i. [**Civil Union.** A legal relationship between two people that provides legal protection to the couple only at the state level. A civil union is not a marriage.]
- j. [**Couple.** A spouse, civil union partner, or unmarried parent living in the same household as the VA employee.]
- k. **Disabled Child.** A child who is unable to care for himself or herself because of a physical or mental condition as determined by a physician or licensed or certified psychologist.
- l. **Domestic Partner.** [A person of the opposite or same-sex to whom the VA employee is in a domestic partnership with.]
- m. **Domestic Partnership.** [A committed relationship between two adults of the opposite or same-sex in which the partners:
 - (1) Are each other's sole domestic partner and intend to remain so indefinitely;
 - (2) Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment-related, financial, or similar obstacle);
 - (3) Are at least 18 years of age and mentally competent to consent to a contract;
 - (4) Share responsibility for a significant measure of each other's financial obligations;
 - (5) Are not married or joined in a civil union to anyone else;
 - (6) Are not the domestic partner of anyone else;
 - (7) Are not related in a way that would prohibit legal marriage in the United States jurisdiction in which the domestic partnership is formed;
 - (8) Are willing to certify that they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification as well as constitute a criminal violation under 18 U.S.C. § 1001, and that the method for securing such certification, if required, will be determined by VA; and
 - (9) Are willing promptly to disclose, if required by VA, any dissolution or material change in the status of the domestic partnership.]
- n. **Electronic Funds Transfer (EFT).** A system of transferring money from one bank account directly to another without the exchange of paper money. With

EFT, CCSP benefit payments are made by direct deposit to the bank of the employee's designated child care provider [upon completion of the VA Form 10091, Financial Services Center Vendor File Request Form].

- o. **Eligible Child Care Expenses.** Fees paid to a qualifying child care provider for services rendered to care for an eligible child so that the employee can earn income from employment with VA. Qualifying services do not include; administrative fees, art fees, movie fees, field trip fees, tutoring/educational learning or study skill fees, language classes fees, clothing fees, diaper and book fees, registration fees, deposits, late payment fees, enrollment/reservation fees, safe arrival fees, non-sufficient fund fees, kindergarten tuition fees, school tuition fees, dance or piano lesson fees, transportation to and from eligible care (not provided by eligible child care provider), or returned check fees.
- p. **Employee.** For the purposes of this part, an employee means all appointive positions in the Department of Veterans Affairs (5 U.S.C. § 2105). Private contractors are not employees.

[q. **Foster Child**

(1) A child is considered a foster child when placed in the employee's home by a welfare or social service agency or other regulatory jurisdiction under an arrangement in which the employee retains a regular parent-child relationship with the child. This means that the employee exercises authority, responsibility and control over the child by caring for, supporting, disciplining and making decisions about the child's education and health care. This excludes employees who are grandparents unless they are serving as court appointed custodians or legal guardians.

(2) A child who has been placed in the employee's home by a welfare or social service agency under an agreement where the agency retains control of the child or pays for maintenance does not qualify as a foster child because there is no regular parent-child relationship.]

(3) A child living temporarily with the employee as a matter of convenience does not qualify as a foster child. For example, a child who lives with the employee only while attending school normally does not qualify as a foster child because this is considered an arrangement of convenience.

- r. **Foster Parent.** An adult who is licensed by the state, county, or regulatory jurisdiction to provide a temporary home or foster care for children whose biological or adoptive parents or legal guardians, whether male or female, are unable to care for them. For this part, the employee must be 18 years of age and approved by the regulatory authority as a licensed or certified foster parent.
- s. **Fraud.** The knowing and intentional misrepresentation, omission, deception or suppression of truth in order to receive services one is not eligible to receive.

t. **Full-Time.** Regularly scheduled work activities that engage an employee in a 40-hour tour of duty during an administrative workweek/80 hours a pay-period, excluding overtime hours. This definition is inclusive of employees deemed to be full-time by expressed provision of law for nurses with special work schedules under 38 U.S.C. § 7456 or 7456A (72/80 Alternate Work Schedules for Nurses, and Baylor Plan Nurses).

[u. **Grandchild.** Grandchild(ren) do not meet the eligibility criteria as an employee's child. However, a grandchild may qualify as a foster child if the requirements listed below are met:

(1) The child must be under the age of 13, or under the age of 18 if disabled;

(2) The child must currently live with the employee;

(3) The parent-child relationship must be with the employee who is the grandparent, not the child's biological or adoptive parent;

(4) The grandparent (VA employee) must be the primary source of financial support for the grandchild; and

(5) The grandparent (VA employee) has legal custody of the grandchild.]

v. **Legal Guardian.** An individual, who by written court appointment, is charged with the legal responsibility for the care and management of a minor child.

w. **Lower Income Employee.** Employees whose annual total family income falls within the lower income criteria established by VA to qualify for child care subsidy benefits.

x. **Parent.** An individual who lives with the VA employee and is the biological, adoptive, step, or foster parent or the legal guardian of a child eligible to participate in the CCSP.

y. **Parent-Child Relationship.** A regular parent-child relationship means that the employee is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and health care. This excludes employees who are grandparents unless they are serving as court appointed custodians or legal guardians.

z. **Qualifying Child.** Child(ren) of an employee from birth under the age of 13 and child(ren) with disabilities under the age of 18 [who meets the definition of Child in 4(d) of this part.]

aa. **Qualified Child Care Center.** A qualified child care center and qualified day care center are used interchangeably and are centers that:

- (1) Comply with all applicable laws and regulations of the state and town, city or village in which it is located; and
- (2) Are licensed and/or regulated to provide child care services in the state or location in which the child care center operates; and
- (3) Provide care for more than five individuals (other than individuals who reside at the child care center); and
- (4) Receive a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether the facility is operated for a profit).

bb. Qualifying Child Care Services

- (1) Qualifying child care services are services:
 - (a) [Performed at a qualified child care center as defined in this part.]
 - (b) Performed to enable the participant and participant's spouse, civil union partner, or unmarried parent living in the same household as the VA employee to remain gainfully employed.
 - (c) Performed for the primary purpose of assuring the qualifying child's well-being and protection.
- (2) Qualifying services do not include services performed at a camp where the qualifying child stays overnight.

cc. Regular and Substantial. Actively providing financial care and support on a frequent and routine basis and in an amount, that equals at least 50 percent or more of the child's annual dependent care cost.

dd. Spouse. [The person to whom the VA employee is legally married, including a valid common-law marriage.]

[**ee. Stepchild.** In general, the child (biological or adopted) of an employee's domestic partnership is the employee's stepchild. However, the child of the employee's spouse through a previous marriage, domestic partnership or civil union is not your stepchild when the relationship is terminated. NOTE: for purposes of the CCSP, an employee's stepchild remains a stepchild and an eligible child after divorce from, or the death of the natural or adopted parent, provided that the stepchild continues to live with the employee in a regular parent-child relationship. If the stepchild stops living with the employee in a regular parent-child relationship, the child no longer meets the eligibility criteria for the CCSP.]

ff. Total Family Income (TFI). The combined annual family income of both child's

parents/guardians ([] [couple,] or domestic partner) listed on their Internal Revenue Service (IRS) tax forms as Adjusted Gross Income. For purposes of this part TFI also includes the combined family income in the household of unmarried parents living in the same household.

5. CHILD CARE PROVIDERS.

- a. Child care providers must be licensed and/or regulated to provide child care services in the state or location in which they operate.
- b. Coverage applies to child care providers in the United States and in overseas locations.
- c. Some foreign countries and localities have their own set of regulations for child care. If a country or locality requires that child care be regulated, local licensure or proxy for licensure may be accepted.
- d. Employees may choose among accredited and non-accredited licensed and or regulated child care providers to ensure the widest possible choices in child care providers.
- e. It is the responsibility of the employee to ensure a child care provider is willing to accept payment of their child care subsidy benefit via EFT. If the child care provider refuses to accept payment via EFT, no subsidy benefit payment can be otherwise made (i.e., paper check) to the designated child care provider or the employee.
- f. The following requirements apply to child care subsidy applicants and participants who utilize regulated child care providers:
 - (1) The child care provider regulatory documentation must be issued by the state's child care regulatory authority;
 - (2) A copy of established state legislation that governs facilities in that area must be provided with the application for subsidy benefits;
 - (3) The documentation must clearly reflect that the child care provider is in compliance with the provisions of the regulations of the state, or where applicable, by local authorities where the child care service is delivered; and
 - (4) The documentation must be up to date and not expired.

NOTE: A signed statement provided by the child care provider or VA employee that the child care provider meets all of the state regulatory requirements to provide child care services will not be accepted as regulatory documentation.
- g. To receive payments electronically, the provider must complete [VA Form 10091, FSC Vendor File Request Form]. Employees are responsible for providing the

[VA Form 10091, FSC Vendor File Request Form], to the child care provider to complete. The child care provider is responsible for [faxing, emailing or mailing the VA Form 10091] to the VA CCSP Service.

- h. Child care subsidy benefit payments are made directly to the employee's designated child care provider via EFT. No payments will be made directly to the employee.

6. ELIGIBILITY.

- a. Employees. Full-time VA employees are eligible to participate if:
 - (1) Their TFI does not exceed the income threshold provided on the VA CCSP in Appendix A of this part; and
 - (2) They are employed at VA a minimum of 60 calendar days before the employee is eligible to participate in the program. Applications will be accepted 15 calendar days prior to the eligibility date; and
 - (3) Their qualifying child is enrolled in the care of a licensed and/or regulated child care provider. Child care providers must be licensed and/or regulated to provide child care services in the state or location in which they operate.
- b. Exclusions
 - (1) Employees in part-time and intermittent appointments are not eligible to participate in the VA CCSP.
 - [(2) Contractors hired by VA are not eligible to participate.]
 - (3) VA employees whose TFI exceeds the income threshold established by VA are not eligible to participate in the program. No exceptions will be made to this policy.
 - (4) A subsidy cannot be awarded by more than one Federal agency. When more than one parent works for the Federal government, only one parent may receive the subsidy.
 - (5) The benefits from the VA CCSP will be reduced by the amount of other state or local child care subsidies received by the participant [and/or received by the child from the non-custodial/custodial parent.] Employees are responsible for determining whether acceptance of the VA child care subsidy benefit affects their eligibility for child care subsidies from any other source.

7. PARTICIPATION DETERMINATIONS.

- a. General

- (1) Approval to participate in the VA CCSP does not constitute a financial arrangement with the employee or the employee's child care provider(s). [Child care subsidy benefit distribution is made after services are rendered by the daycare provider and/or facilities.] Employees are responsible for the payment of their total child care costs.
- (2) The employee's ([] [couple], domestic partner, or unmarried parent living in the same household, if applicable) TFI will be used to determine the percentage of total child care costs VA will pay. Waivers will not be approved to reduce the TFI for any reason.
- (3) VA may change the maximum monthly subsidy amount and/or the percentage of total child care costs paid by VA at any time. VA will provide at least 30 days advance notification to employees prior to increasing the monthly subsidy amounts and/or percentages and at least 60 days advance notification prior to implementing changes in eligibility criteria that may have a negative impact on their personal finances.

b. Eligibility Determinations

- (1) The CCSP Service will receive employee applications for enrollment and will evaluate applications to determine employee eligibility using the criteria provided on the [CCSP website](#). An individual must be employed by VA for a minimum of 60 continuous days before they are eligible to participate in the CCSP.
- (2) If the employee is eligible to participate in the program, the CCSP Service takes the required steps to facilitate appropriate payments, including notifying employees if their application has been approved.
- (3) If the application is incomplete, employees will be notified that they have ten calendar days to submit the missing/incomplete forms and/or supporting documents into the CCRMS. If forms and/or supporting documents are not received within the ten-day timeframe, the package will be denied on failure to submit complete supporting documents.

c. Reconsideration of Denials. If an application is denied, the applicant may request, in writing, that the CCSP Service review the application again. Upon receipt of a request for review, the CCSP Service will review the decision and respond to the employee within 30 calendar days of receipt of the written request. If the CCSP Service upholds the original denial of the application, the employee may submit a written request for reconsideration to the [CHCO]. The decision of the [CHCO] is final and there are no administrative rights for further review or appeal.

d. Employee Participation. Participation in the CCSP shall be in effect from the time the employee is notified in writing that they have been approved to participate in the program until one of the following occurs:

- (1) The qualifying child(ren) is no longer enrolled in the program [with the licensed child care facility or certified child care provider that is listed on the application;]
- (2) The employee is no longer employed by VA;
- (3) The employee no longer qualifies as a lower income employee;
- (4) [The qualifying child(ren) reaches age 13 or if disabled, reaches the age of 18;]
- (5) [The qualifying child(ren) ceases to meet the definition of Child in Definitions 4(d) of this part;]
- (6) [The employee changed their name; position or position location;]
- (7) [The employee is going on planned or unplanned Family Medical Leave Act (FMLA) /Leave Without Pay (LWOP); exceptions as noted in 8a(5)(a) and (b)]
- (8) [The employee receives subsidy from any other source (state, city, etc.);]
- (9) The employee does not submit an invoice to the CCSP Service for two consecutive months; and/or
- (10) The VA no longer administers the CCSP.

8. PAYMENTS.

a. Payments

- (1) Employees are responsible for ensuring the information provided on the CCRMS online benefit payment request form matches information on invoices before submission for payment to the CCSP Service. Benefit payment requests must be submitted through the CCRMS not later than the [15th of each month] of each month following the month for which a benefit payment is requested. For example, [if payment is requested for June, the invoice must be received no later than the 15th of July of the same year.] Invoices that are not received within this timeframe will not be paid. Exceptions to this timeframe will not be approved for any reason [except for employees on approved FMLA or on military duty.] Invoices will not be mailed by HR offices, participants or child care providers. Faxed or email submissions will not be accepted unless they have been requested by the CCSP office.
- (2) Payments will be made to child care providers by EFT through [VA Form 10091, FSC Vendor File Request Form] for vendor payments based on information provided in the invoices. The child care provider can enroll into EFT by using the [VA Form 10091, FSC Vendor File Request Form]. If the child care provider does not enroll into EFT no payments for child care

services will be paid or transferred to another daycare for payment of benefits.

- (3) Employees are responsible for the payment of the full amount of their child care bill but will receive credit towards future bills each time a subsidy payment is received by the child care provider. Participation in the CCSP does not constitute an agreement between VA and an employee's child care provider.
- (4) In overseas situations where child care costs are paid in foreign currency, and with approval by the Office of Personnel Management (OPM), VA may choose to pay the subsidy directly to the employee. However, prior to issuing payment, VA will verify the child care provider service arrangement identified on the employee's application during the period covered by the subsidy award.
- (5) VA will pay child care subsidies for eligible employees during extended periods of LWOP (30 or more consecutive days) only in the following instances:
 - (a) When serving as a Reservist and member of the National Guard using LWOP to perform military service; and
 - (b) When invoking their entitlement to FMLA leave under the provisions of 5 CFR 630.1203(a).

- b. Automatic Withdrawal from the Program. If an employee does not submit an invoice for payment to the CCSP Service for [four] consecutive months, the employee will be automatically withdrawn from the program. The CCSP Service will issue a letter to the employee within [ten] business days after the deadline submission of the [fourth] consecutive month for which no invoice has been received stating that the employee has been withdrawn from the program. Employees who are automatically withdrawn from the program must reapply.

9. MISUSE OF SUBSIDIES.

- a. Employees who misuse child care subsidies will be subject to appropriate administrative action, including discipline and disqualification for future VA child care subsidy benefits. Depending on the severity of the abuse, disciplinary penalties could range from a letter of admonishment to removal from Federal service.
- b. Instances of fraud or possible fraud will be referred to the VA Office of Inspector General for investigation.

10. ANNUAL RECERTIFICATION REQUIREMENTS. Participants in the VA CCSP must recertify by April 30th each year. Failure to do so will result in removal from the program. Employees removed from the program due to failure to recertify by April

30th will be notified by the CCSP Service and must reapply by submitting a complete initial application. Employees will not be reinstated retroactively. Documentation requirements for recertification packages are contained in paragraph 12c of this part. No exceptions will be made for this requirement.

11. TAX IMPLICATIONS. There are tax implications for employees receiving child care subsidy greater than \$5,000 per year and/or a combination of Dependent Care Flexible Spending Account and Child Care Subsidy Benefits greater than \$5,000 per year. The benefits received under this plan (up to the amounts set forth above) may be excluded from gross income if an employee's child meets the IRS definition of a dependent. If the child does not meet the IRS' definition, the employee may still receive the subsidy, but the subsidy will be treated as taxable income.

- a. If employee applies for both the CCSP and Dependent Care Flexible Spending Account (DCFSA) during the same calendar year, part or all the CCSP benefits received will be treated as taxable income.

12. FORMS AND APPLICATION PACKAGES.

- a. **Forms.** Child care subsidy forms/automated application can be accessed at: <http://vaww.va.gov/OHRM/ccsp/Application.asp> and the VA Child Care Subsidy Program Website that outlines the procedures can be accessed at: <http://vaww.va.gov/OHRM/ccsp/Application.asp>.
- b. **Initial Applications.** The following online forms and supporting documents must be submitted online using the CCRMS. No paper or faxed applications will be accepted by the CCSP Service. Application packages will not be processed until all required documents are provided:
 - (1) VA Form 0730a, VA Child Care Subsidy Employee Application Form;
 - (2) VA Form 0730b, Child Care Provider Information (for the Child Care Subsidy Program);
 - (3) Copy of provider(s) license and schedule of fees;
 - (4) Copy of most recent SF-50, Notification of Personnel Action;
 - (5) Copy of W-2 forms for the previous year for applicant and [] couple, domestic partner, and/or unmarried parent living in the same household;
 - (6) Copy of last two Leave and Earning (L&E) Statements. New employees may provide a copy of their Appointment Letter in lieu of the L&E Statements in their application package. Employees who provide a copy of their Appointment Letter must provide copies of their last two L&E Statements to the CCSP Service as soon as the L&E Statements are available;

- (7) Signed and dated copy of most recent Federal income tax return or notarized affidavit of unemployment if [] [couple], domestic partner, or unmarried parent who resides in home was unemployed during the taxable year. If married filing separately, include signed and dated copy of [], [couple's,] or domestic partner's Federal income tax return;
- (8) Copy of birth certificate with a raised seal or a certified copy for each child. HR offices will validate that the birth certificate(s) contains a raised seal or is certified and will photocopy for inclusion in initial application packages. Employees should be instructed to contact their local or state office of vital records to obtain a certified copy of their child(ren)'s birth certificate if the employee does not have an original or certified copy;
- (9) Copy of Marriage License, Domestic Partner Registration, or Civil Union Registration with a raised seal. HR offices will validate that documents contain a raised seal or is certified by governing state or local jurisdictions, and photocopy for inclusion in the application package; and
- (10) Copy of Medical Certification of disabled child who is between 13 and 18 years of age.

NOTE: Where it is illegal under state law to photocopy birth certificates from that state, HR offices will enter the following statement in the Comments area on VA Form 0730d in lieu of the requirement to provide a copy of the birth certificate.

The HR Specialist will sign and date the document and clearly print or type their name directly underneath their signature.

I certify that I have seen the birth certificate for (child's name), the child of (employee's name). The child's date of birth as indicated on the birth certificate is _____ and the child's gender is. I attest that the birth certificate has a raised seal. It is illegal to photocopy birth certificates from the state of (state).

- c. Annual Recertification. Employees must submit the following in their annual recertification package:
 - (1) Copy of the most recent Federal income tax return(s) and /or tax transcript(s), these returns must have either a hard or digital signature, tax id numbers etc. are not valid signatures; the form must be dated; joint filers require both signatures;
 - (2) Copy of last two L&E Statements;
 - (3) Copy of most recent SF-50, Notification of Personnel Action;
 - (4) Copy of provider's state child care license or regulated documentation (only if the license or regulated documentation currently on file has expired); and

- (5) Copy of updated Medical Certification for child between the ages of 13 and 18 with disability.
- d. Change in Child Care Provider. Employees must submit the online version of VA Form 0730i, Change in Child Care Provider Form in the CCRMS to the CCSP Service for each child when changing child care providers. The following information also must be uploaded via CCRMS:
- (1) VA Form 0730i, Change in Child Care Provider Form (completed by the new child care provider for each child);
 - (2) Copy of the new provider's state child care license or regulated documentation; and
 - (3) Copy of the schedule of fees from the new child care provider for each child.
- e. Life Cycle Events/Change in Family Status. It is the responsibility of employees who have been approved to participate in the CCSP to notify the CCSP Service of the occurrence of certain events that result in a change in the employee's family status either during or after enrollment in the CCSP. Such events may reflect a change in the employee's eligibility for participation in the program. The following life cycle events are considered a change in family status for child care subsidy benefit purposes:
- (1) Marriage, including a valid common law marriage, Domestic Partner Registration, or Civil Union Registration (in accordance with applicable state law);
 - (2) Birth of a child (the child must live with the employee in a parent-child relationship) for which an additional subsidy benefit is requested;
 - (3) The legal adoption of a child under the age of 13 or the acquisition of a foster child and for which an additional subsidy benefit is requested. The child must meet the age limit requirements and live with the employee in a parent-child relationship;
 - (4) Child no longer meets age limit criteria;
 - (5) [Child no longer meets definition of Child in Definitions 4(d) of this part;]
 - (6) Issuance or termination of a court order granting a final divorce, interlocutory/provisional divorce, or limited divorce;
 - (7) Issuance of a court decree of annulment; or
 - (8) The death of spouse, domestic partner, including a declaration by a court that the employee's missing spouse or individuals that are in a domestic partnership is presumed dead;

- (9) [The unemployment of a married spouse, including a valid common law marriage or a domestic partner with domestic partner registration or civil union registration (in accordance with applicable state law); must provide valid certification of unemployment in July, January, and April of each year to maintain subsidy benefits.]
- f. **Withdrawals.** Employees may withdraw from the program at any time by submitting a termination request through CCRMS to the CCSP Service. Employees who request withdrawal must submit a complete application package to again participate in the program.
- g. **Steps for Completing and Submitting Initial Application Packages**
 - (1) The employee will use the online automated CCRMS for submission of all application packages through the employee's local HR office using their VA Network Identification. If the employee does not have a VA Network Identification, the employee will use the Social Security Number slot to create an application in the system and contact their local HR office for assistance with entering information into the system on the employee's behalf.
 - (2) The local servicing HR office will review all applications submitted through the CCRMS pending verification process.
- h. **Returned VA CCSP Application Packages.** CCSP application packages that are submitted directly to the CCSP Service without the use of the CCRMS will be returned to the employee with instructions to submit the package through the [CCRMS.]

13. DOCUMENTATION/PROOF OF RELATIONSHIP. In applying for participation in the VA CCSP, employees are required to submit one of the following documents from each applicable category:

- a. **Couple and Domestic Partnership**
 - (1) Certified copy of state marriage license/certificate (includes those issued in other countries) an English translation may be requested if necessary;
 - (2) Certified copy of partnership affidavit (as defined and/or required by governing state or local jurisdiction);
 - (3) Certified copy of state or municipal domestic partnership certificate/registration;
 - (4) Certified copy of domestic partner agreement (may be used by unmarried couples, whether of the opposite or same sex); or
 - (5) Certified copy of state civil union license/certificate.

b. Child

- (1) Certified copy of Birth Certificate of child for which child care subsidy benefits are requested;
- (2) Certified copy of Adoption Decree or Legal Custody Decree if custody occurred before the adoption. This should include a statement showing dates the child resided with the employee prior to issuance of the final adoption decree; or
- (3) Certified copy of Legal Custody Decree of child for which employee is applying for benefits and the employee is not the child's biological or adoptive parent. This should include a statement reflecting that the child for whom the child care subsidy benefit will be made currently resides with the employee.

c. Termination/Dissolution of Relationship. Employees must submit one of the following documents to support the termination or dissolution of a relationship of a [] [couple,] [], or domestic partnership:

- (1) Copy of Affidavit of Termination of Domestic Partnership (as defined and/or required by state or local jurisdiction);
- (2) Copy of Final Divorce Decree;
- (3) Copy of Decree of Annulment; or
- (4) Certified copy of Death Certificate.

d. Medical Certification of Child's Disability

- (1) The child's doctor must complete a medical certificate for the CCSP Service to make a determination of disability for participation in the program up until the child turns age 18. The certificate must state that a physical or mental disability existed before the child's 18th birthday, and that the disability can be expected to continue for more than one year.
- (2) The medical certificate must reflect the following:
 - (a) The child's name and birth date;
 - (b) The nature of the disability;
 - (c) The period of time the disability has existed and the date the impairment began;
 - (d) The probable future course and duration of the disability including an estimate of the expected date of full or partial recovery;

- (e) The special supervisory, physical assistance, or custodial care requirements of the child;
 - (f) Any treatments, rehabilitation programs, educational training or occupational accommodations that would result in the child becoming self- supporting; and
 - (g) The doctor's name, signature, office address, and telephone number.
- (3) At the time of annual recertification, employees must resubmit updated medical certification for a child with a disability. Failure of the employee to renew the medical certification for a disabled child will result in a change in the child's eligibility status for participation in the CCSP up until age 18.
- (4) It is the responsibility of the employee to submit timely documents regarding the disability status of their child for continued participation in the VA CCSP up until age 18. If the employee submits a medical certificate for a child after a previous certificate has expired, there will be no retroactive payment of child care subsidy benefits for the period between the expiration date of the previous certificate and the date of submission and approval of the updated medical certificate.

14. CHILD CARE RECORDS MANAGEMENT SYSTEM [(CCRMS)]

- a. The CCRMS provides a mechanism for VA employees to apply for the CCSP using an online form to reduce the time for processing applications and increase the security of information provided by employees. The CCRMS application function is available to all VA employees and allows them to scan and upload all required supporting documentation with the submission of their application for participation in the VA CCSP.
- b. The CCRMS User Manual is available to all employees and HR Specialists to assist with operational aspects of the system.
- c. The CCRMS application contains personal identifiable information. The application system protects all sensitive information by incorporating the following security controls:
 - (1) Access to data is role based and authorized by the [Director, CCSP Service;]
 - (2) Account login [will] allow access to only VA employees with an active VA Network Identification; and
 - (3) The CCRMS data [will] be encrypted while in transit and at rest. All scanned and uploaded paper documents [will] be encrypted and stored in the data base.

APPENDIX A

APPENDIX A. VA CHILD CARE SUBSIDY PROGRAM (CCSP) BENEFIT PLAN

A Child Care Subsidy Program Benefit Plan

Employee’s Total Family Income*	Percentage of Total Child Care Costs VA Will Pay**
More than [\$149,000]	0
\$80,000 – [\$149,000]	25
\$60,000 – \$79,999	30
\$50,000 – \$59,999	35
\$35,000 – \$49,999	40
Under \$34,999	45

*Refers to total adjusted gross income on IRS Tax Forms.

**This program includes a benefit cap of \$5,000.00 per year. [A participating employee can receive the percentage listed above up to a maximum of \$416.66 per month. This maximum eliminates VA employees from facing end of year tax implications from using the program.] Participant’s benefits under this plan will be reduced by the amount of other state or local care subsidies received by the employee or the other parent on behalf of the child to reduce the cost of daycare. Employees are responsible for determining whether acceptance of the VA CCSP benefit affects their eligibility for child care subsidies from other sources.

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[EMPLOYEE BENEFITS

PART II. SPECIAL RETIREMENT PROVISIONS FOR
LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

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PART II. SPECIAL RETIREMENT PROVISIONS FOR LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

1. PURPOSE. This part establishes Department of Veterans Affairs (VA) procedures for special retirement provisions for law enforcement officers (LEO) and firefighters (FF), who are subject to mandatory retirement separation at age 57, unless they have not yet completed 20 years of Federal civilian service or an exemption is granted.

2. RESPONSIBILITIES

a. The Assistant Secretary for Human Resources and Administration is responsible for issuing determinations approving special retirement coverage for LEO and FF.

b. Facility directors are responsible for issuing determinations denying special retirement coverage.

c. Veterans Health Administration (VHA), HR Officers are responsible for:

(1) Notifying the employee in writing of the date of mandatory separation 60 days prior to the LEO and FFs mandatory separation/retirement date.

(2) All correspondences to LEO and FFs and VHA Management regarding an exception to the mandatory separation/retirement date.

d. LEO and FFs are responsible for notifying their HR office in writing in response to memos received regarding their mandatory separation/retirement date.

3. REFERENCES

a. OPM Operating Manual, “CSRS and FERS Handbook for Personnel and Payroll Offices”;

b. OPM Benefits Administration Letters;

c. 5 CFR, parts 831, 835, 837, 838, 841, 842, 843, 844, 845, 846, and, 847; and

d. 5 U.S.C., Chapters 83 and 84.

4. DEFINITIONS

a. **Firefighters (FF).** Firefighters are employees in a position whose duties are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. []

b. **Law Enforcement Officers (LEO).** Law enforcement officers are employees, the duties whose positions are primarily in the investigation, apprehension, prosecution or detention of individuals suspected of, or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of title 5, or under section 4823 of title 22, United States Code. []

5. DETERMINATION FOR SPECIAL RETIREMENT COVERAGE FOR LEOs AND FFs

- a. The Assistant Secretary for Human Resources and Administration has the authority to issue determinations approving special retirement coverage for LEO and FF.
- b. Facility directors are authorized to issue determinations denying special retirement coverage.
- c. If a facility director determines that coverage may be appropriate, all relevant information including the rationale for concluding that coverage may be appropriate will be forwarded to the Deputy Assistant Secretary for Human Resources Management (05) or designee for review and recommendation. If it is determined that coverage is not appropriate, the case will be returned to the facility director for completion as a denial.
- d. Coverage decisions will be based on the guidance contained in Chapter 46 of the Office Personnel Management (OPM) CSRS and FERS Handbook for Personnel and Payroll Offices. The handbook provides a Statement of Authority listing the statutory and regulatory provisions covering the special retirement coverage rules.

6. MANDATORY SEPARATION REQUIREMENT

- a. All LEO and FF for the Department are subject to mandatory separation based on age. The mandatory retirement age does not apply to individuals who have not yet completed 20 years of credible Federal civilian service as a LEO or FF. Mandatory separation does not apply to employees who are eligible for retirement under the special provisions but who are not currently occupying a LEO or FF position.

NOTE: *For retirement purposes, an employee is considered to reach a year of age on the day before his or her birthday.*

- b. The standard mandatory separation age for LEO and FF is age 57. Rules for exemptions are provided under paragraphs 7, 8, and 9 below. The mandatory separation is effective as follows:

1. If the LEO or FF has completed 20 years of service under the special provisions, he/she must be separated on the last day of the month in which he/she reaches the standard mandatory separation age of 57.

2. If the LEO or FF attains the standard mandatory separation age of 57 and has not yet completed the required 20 years of service under the special provisions, he/she must be separated on the last day of the month in which he/she completes the 20 years of service.

- c. The employing office must notify the employee in writing of the date of mandatory separation 60 days prior to the LEO or FF's 57th birthday to inform him or her of their mandatory separation/retirement date. Sample memorandum from Human Resources (HR) officers to a LEO or FF regarding mandatory retirement is provided in Appendix A.

- d. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires. If the employee does not consent to the action to

separate, the LEO or FF will be separated on the expiration of the 60-day notice sent by his/her Human Resources (HR) office. If the 60-day notice is not sent to the employee in a timely manner, the employee will still face mandatory separation/retirement on the last day of the month in which he/she reaches the standard mandatory separation age of 57. Please refer to Chapter 46 of the OPM CSRS and FERS Handbook for Personnel and Payroll Offices for additional information.

7. EXEMPTION FROM MANDATORY SEPARATION UNTIL AGE 60. The Secretary of Veterans Affairs may exempt LEO and FF from mandatory separation until age 60 if it is determined to be in the public interest. Once the decision has been made to retain the LEO or FFs, the following procedures and timelines must be adhered to:

a. A memorandum must be sent to the LEO or FF, as applicable, by the servicing HR office 60 days prior to the LEO or FF's 57th birthday to inform him/her of their mandatory separation based on age. The memorandum will establish dates for mandatory retirement and initiation of the Retirement Application.

b. If the facility plans to request an exemption from mandatory separation, a memorandum must be sent to the LEO or FF requesting the employee to remain in his/her LEO or FF position until age (*not to exceed age 60*). This exemption must be approved by the Secretary of Veterans Affairs. The employee must notify the servicing HR office in writing within 10 days of receipt that he/she is willing to remain in service. Sample memorandum for HR officers to LEO or FF regarding the exemption of mandatory separation up to age 60 is provided in Appendix B.

c. The facility director must provide a memorandum to the Secretary which provides documentation that supports the finding that the employee's retention would be in the public interest and indicates the period (up to age 60) for which the exemption is desired. This recommendation must be accompanied by a medical certificate showing the physical fitness of the employee to perform his/her work. Sample memorandum for Directors to the Secretary regarding the exemption of mandatory separation of LEO or FF until age 60 is provided in Appendix C.

d. Requests for exemptions must be forwarded to the Under Secretary for Health (10) within 10 days after receiving the employee's confirmation to remain in service. VHA will forward the approval package from the Under Secretary to the Office of Human Resources Management (OHRM) within 10 days of receipt. Recommended approvals from OHRM will be forwarded to the Office of the Secretary through the Office of the Assistant Secretary for Human Resources and Administration within 10 days of receipt.

e. The facility director will receive an approval or denial from the Office of the Secretary or his designee at least 5 business days prior to the employee's date of retirement.

8. EXEMPTION FROM MANDATORY SEPARATION AFTER AGE 60 (CIVIL SERVICE RETIREMENT SYSTEM - CSRS). If a VA facility wishes to secure an exemption from mandatory separation for one of its LEO or FF CSRS-covered employees (other than a Presidential appointee) beyond the employee's 60th birthday, the Secretary may submit a recommendation to that effect to the Office of Personnel Management (OPM). Once the decision has been made to retain the LEO or FFs, the following procedures and timelines must be adhered to:

a. A memorandum must be sent to the employee by the servicing HR office 90 days prior to the LEO or FF mandatory separation date informing him/her of their mandatory retirement/separation date at age 60. The memorandum will establish dates for mandatory retirement and initiation of the Retirement Application. Sample memorandum from Human Resources (HR) officers to a LEO or FF regarding mandatory retirement after age 60 is provided in Appendix D.

b. If the facility plans to request an exemption from mandatory separation, a memorandum must be sent to the LEO or FF requesting the employee to remain in his/her LEO or FF position up to and not to exceed 1 year. This exemption must be approved by the Secretary and the Office of Personnel Management. The employee must notify the servicing HR office in writing within 10 days of receipt that he/she is willing to remain in service.

c. The facility director must submit a request to the Secretary which provides documentation that supports the finding that the employee's retention would be in the public interest and indicates the period (not to exceed 1 year) for which the exemption is desired. The employee must provide a statement that he/she is willing to remain in service. This recommendation must be accompanied by a medical certificate showing the physical fitness of the employee to perform his/her work. Sample memorandum for Directors to the Secretary regarding the exemption of mandatory separation of LEO or FF after age 60 is provided in Appendix E.

d. The above memorandums and corresponding concurrence package must be forwarded to the Under Secretary for Health (10) within 10 days after receiving the employee's confirmation to remain in service. VHA will forward the approval package from the Under Secretary to the Office of Human Resources Management (OHRM) within 10 days of receipt. Recommended approvals from OHRM will be forwarded to the Office of the Secretary through the Office of the Assistant Secretary for Human Resources and Administration within 10 days of receipt and forwarded to OPM for consideration if approved by the Secretary. An exemption must be approved by OPM prior to the mandatory separation date applicable to the employee.

9. EXEMPTION FROM MANDATORY SEPARATION AFTER AGE 60 (FEDERAL EMPLOYEES RETIREMENT SYSTEM - FERS). If a VA facility wishes to secure an exemption from mandatory separation for one of its LEO or FF FERS-covered employees (other than a Presidential appointee) beyond the employee's 60th birthday, the Secretary may submit a recommendation to that effect to the Office of the President of the United States. The President by Executive Order may exempt an employee from automatic separation if the President determines it is in the public interest to do so. The following procedures and timelines must be adhered to:

a. A memorandum must be sent to the employee by the servicing HR office 100 days prior to the LEO or FF mandatory separation date informing him/her of their mandatory retirement/separation date at age 60. The memo will establish dates for mandatory retirement and initiation of the Retirement Application.

b. The memorandum must also inform the employee that if an exemption is approved by the Secretary and the President, he/she will have the option of remaining in his/her LEO or FF position up to and not to exceed 1 year. The employee must notify the servicing HR office in writing within 10 days of receipt that he/she is willing to remain in service.

c. The facility director must submit a request to the Secretary which provides documentation that supports the finding that the employee's retention would be in the public interest and indicates the period (not to exceed 1 year) for which the exemption is desired. This recommendation must be accompanied by a medical certificate showing the physical fitness of the employee to perform his/her work. Sample memorandum for Director's to the Assistant Secretary Human Resources and Administration regarding the exemption of mandatory separation of LEO or FF after age 60 is provided in Appendix D.

d. The above memorandums and corresponding concurrence package must be forwarded to the Under Secretary for Health (10) within 10 days after receiving the employee's confirmation to remain in service. VHA will forward the approval package from the Under Secretary to the Office of Human Resources Management (OHRM) within 10 days of receipt. Recommended approvals from OHRM will be forwarded to the Office of the Secretary through the Office of the Assistant Secretary for Human Resources and Administration within 10 days of receipt and forwarded to the Office of President for consideration if approved by the Secretary.

10. APPEAL RIGHTS

a. A mandatory separation is not an adverse action under 5 CFR Part 752 or a removal action under 5 CFR Part 359. In other words, a mandatory separation is not an appealable action.

[APPENDIX A. SAMPLE MEMORANDUM FOR HUMAN RESOURCES (HR) OFFICERS
TO LEO OR FF REGARDING MANDATORY RETIREMENT

Department of Veterans Affairs

Memorandum

Date:

From: Human Resources Officer () identify mail code

Subj: Mandatory Retirement

To: Name of Employee, *Law Enforcement Officer or Firefighter* () identify mail code

1. All law enforcement officers (LEO) or firefighters (FF) are subject to mandatory separation at age 57 due to the nature of the position. As a (*LEO or FF*) who has 20 (*plus*) years of creditable covered service as a (*LEO or FF*), and who will be reaching the mandatory retirement age on (*date*), you must be separated from Federal service as directed in Title 5 United States Code Section 8335(b). The general philosophy of the mandatory retirement age is directly related to the physical requirements of the position.

2. (*Use statement (a) or (b) to address the LEO or FF in your memorandum*):

(a) (*Mr. or Ms. Last Name*), since you have completed 20 (*plus*) years of service as a (*LEO or FF*) under the special provisions, you must be separated on the last day of the month in which you reach age 57; therefore your mandatory retirement date is (*date*).

(b) (*Mr. or Ms. Last Name*), since you have attained the standard mandatory separation age of 57 and have not yet completed the required 20 years of service under the special provisions, you must be separated on the last day of the month in which you complete the 20 years of service, therefore your mandatory retirement date is (*date*).

3. Please contact (*servicing HR representative*), at extension 0000, by close of business on (*indicate date – establish a 10 business days window*) to initiate the Retirement Application.

(Name of HR Officer)

*** Make necessary wording adjustments as needed.]

[APPENDIX B. SAMPLE MEMORANDUM FOR HR OFFICERS TO LEO OR FF
REGARDING THE EXEMPTION OF MANDATORY SEPARATION UP TO AGE 60

Department of Veterans Affairs

Memorandum

Date:

From: Human Resources Officer () identify mail code

Subj: Proposal - Exemption of Mandatory Retirement

To: Name of Employee, *Law Enforcement Officer or Firefighter* () identify mail code

1. All law enforcement officers (LEO) or firefighters (FF) are subject to mandatory separation at age 57 due to the nature of the position. As a (*LEO or FF*) who has 20 (*plus*) years of creditable covered service as a (*LEO or FF*), and who will be reaching the mandatory retirement age on (*date*), you must be separated from Federal service as directed in Title 5 United States Code Section 8335(b). The general philosophy of the mandatory retirement age is directly related to the physical requirements of the position.

2. (*Use statement (a) or (b) to address the LEO or FF in your memorandum*):

(a) (*Mr. or Ms. Last Name*), since you have completed 20 (*plus*) years of service as a (*LEO or FF*) under the special provisions, you must be separated on the last day of the month in which you reach age 57; therefore your mandatory date of retirement is (*date*). However, we are proposing that you remain in your current position until age (up to age 60) due to certain critical needs of the facility.

(b) (*Mr. or Ms. Last Name*), since you have attained the standard mandatory separation age of 57 and have not yet completed the required 20 years of service under the special provisions, you must be separated on the last day of the month in which you complete the 20 years of service, therefore your mandatory date of retirement is (*date*). However, we are proposing that you remain in your current position until age (up to age 60) due to certain critical needs of the facility.

3. You must notify (*servicing HR representative contact and mailing information*) in writing, within 10 days of receipt of this memorandum of your intention of remaining in service.

Name of HR Officer

** Make necessary wording adjustments as needed.]

[APPENDIX C. SAMPLE MEMORADUM FOR DIRECTORS TO THE SECRETARY
REGARDING THE EXEMPTION OF MANDATORY SEPARATION UNTIL AGE 60Department of
Veterans Affairs

Memorandum

Date:

From: Director, VA Name of Facility () identify mail code

Subj: Request for Exemption from Mandatory Separation for (*Law Enforcement Officer or Firefighter*)

To: Secretary (00)

Thru: Under Secretary for Health (10)

Thru: Assistant Secretary for Human Resources and Administration (006)

1. I am requesting an exemption for (name of *law enforcement officer (LEO) or firefighter (FF)*), who has completed 20 (plus) years of service under the special retirement provisions for (LEO or FF), from mandatory retirement on (date). (LEOs or FFs) are covered under special retirement provisions that establish a mandatory separation at age 57 as directed in Title 5 United States Code Section 8335(b). (LEOs or FFs) must also have met the 20 year service requirement as a (LEO or FF). The Secretary of Veterans Affairs (VA) has the authority to exempt these employees from mandatory separation up until age 60 if it's determined to be in the public interest.

2. The additional services of (Name of LEO or FF), who is currently a (*LEO or FF*) for the VA (*Name of facility, City, State*); are required by this facility as stated below. (He/She) has agreed to continue working until age (age) if approved (see attached LEO or FF request). (Name of LEO or FF) has successfully completed his/her annual physical and (*identify any other testing performed*) on (*indicate date*) (copies attached).

3. I believe that an exemption from the mandatory separation for (name of employee) would be in the best interest of the health care system. (*A statement must be included to justify why this employee should remain in service beyond his/her mandatory retirement age of 57. Samples provided below:*) I therefore request that you exempt (name of LEO or FF) from mandatory separation until age (*indicate age up to age 60*).

(*Sample Justification Statements ONLY – do not use bullets in your memorandum*):

- As stated by his/her supervisor, (employee name) has knowledge and experience that is critical to the education of newly hired (LEO or FF) and therefore critical to the protection of our Veterans and employees
- Due to budgetary constraints, it would be too costly at this time for the facility to train another (LEO or FF) with (employee's name) experience.
- All of the (LEOs or FFs) hired in the past year lack the training in this area due to our limited training budget during the past 2 years, therefore, retaining (employee's name) will allow our facility to conduct in-house training in this specialty area.

- (Employee's name) has knowledge and experience that is critical to our facility's safety and we have not been able to recruit anyone to replace him/her with the same type of experience.
- (Employee's name) is not interested in being a reemployed annuitant. The employee does not want to work as a reemployed annuitant due to the salary offset and the additional time worked will not be counted for retirement purposes.

4. We request that your decision be provided at least 5 business days prior to (employee's name) mandatory retirement date of (date). Questions regarding this request may be directed to (*Name of Contact*), (*Title*) and (*Telephone*).

(*Name of the Director*)

Attachments

Concur/ Do Not Concur: _____
Print Name Date

Signature
Under Secretary for Health

Concur/ Do Not Concur: _____
Print Name Date

Signature
Assistant Secretary for
Human Resources and Administration

Approved/Disapproved: _____
Print Name Date

Signature
Secretary of Veterans Affairs

** Make necessary wording adjustments as needed.]

[APPENDIX D. SAMPLE MEMORANDUM FOR THE DIRECTOR TO THE EMPLOYEE
REGARDING MANDATORY SEPARATION AFTER AGE 60

Department of Veterans Affairs

Memorandum

From: Human Resources Officer () identify mail code

Subj: Mandatory Retirement After Age 60

To: Name of Employee, *Law Enforcement Officer or Firefighter* () identify mail code

1. All law enforcement officers (LEO) or firefighters (FF) are subject to mandatory separation at age 57 due to the nature of the position. As a (*LEO or FF*) who has been working under an exemption up to age (not to exceed 60) or to age 60, and who will be reaching the end of your exemption period on (*date*), you must be separated from Federal service as directed in Title 5 United States Code Section 8335(b). The general philosophy of the mandatory retirement age including remaining in service is directly related to the physical requirements of the position.

2. (*Use statement (a) or (b) to address the LEO or FF in your memorandum*):

(a) (*Mr. or Ms. Last Name*), since you have worked up to age 60 (not to exceed 60) under an approved exemption, you must be separated on the last day of the month in which you complete the exemption period of service, therefore your mandatory retirement date is (*date*).

(b) (*Mr. or Ms. Last Name*), since you have worked beyond age 60 (not to exceed 1 year) under an approved exemption, you must be separated on the last day of the month in which you complete the exemption period of service, therefore your mandatory retirement date is (*date*).

3. Please contact (*servicing HR representative*), at extension 0000, by close of business on (indicate date – establish a 10 business days window) to initiate the Retirement Application.

(Name of HR Officer)

** Make necessary wording adjustments as needed.]

[APPENDIX E. SAMPLE MEMORANDUM FOR DIRECTORS TO
THE SECRETARY REGARDING THE EXEMPTION OF MANDATORY
SEPARATION AFTER AGE 60 (CSRS ONLY)]

Department of Veterans Affairs

Memorandum

Date:

From: Director, VA Name of Facility () mail code

Subj: Request for Exemption from Mandatory Separation for (*Law Enforcement Officer or Firefighter*)

To: Secretary (00)

Thru: Assistant Secretary for Human Resources and Administration (006)

Thru: Under Secretary for Health (10)

1. I am requesting an exemption not to exceed 1 year for (name of *Law enforcement officer (LEO) or firefighter (FF)*), who will become age 60 on (date) and has completed 20 (plus) years of covered service from mandatory retirement on (date). LEO or FF are covered under special retirement provisions that establishes a mandatory separation at age 57 as directed in Title 5 United States Code Section 8335(b). The Secretary of Veterans Affairs has the authority to exempt LEO or FF from mandatory separation up until age 60. To remain in service beyond age 60, not to exceed 1 year, the Secretary must submit a recommendation to the Office of Personnel Management, Manager, Retirement Group (Policy), 1900 E Street, NW, Room 4336, Washington, DC 20415 of the Retirement Policy Division at the Office of Personnel Management. This applies to LEO or FF covered under the Civil Service Retirement System.
2. (Name of LEO or FF), who is currently a (*LEO or FF*) for the VA (*Name of facility, City, State*); additional services are required by this facility as stated below. He/She has agreed to continue working until age (age) if approved (see attached LEO or FF request). (Name of LEO or FF) has successfully completed his/her annual physical and (*identify any other testing performed*) on (*indicate date*) (copies attached).
3. The Medical Center believes that an exemption from the mandatory separation for (name of employee) would be in the best interest of the health care system and the public interest. (*A statement must be included to justify why this employee should remain in service beyond age 60. Samples provided below.*) We therefore request that you exempt (name of LEO or FF) from mandatory separation until age 61.

(*Sample Justification Statements ONLY – do not use bullets in your memorandum*):

- As stated by his/her supervisor, (employee name) has knowledge and experience that is critical to the education of newly hired (LEO or FF) that is critical to the protection of our veterans and employees.

PART II
APPENDIX E

Due to budgetary constraints, it would be too costly at this time for the facility to train another (LEO or FF) with (employee's name) experience. All of the newly hired (LEO or FF) in the past year lacks the training in this area due to our limited training budget during the past 2 years, therefore, retaining (employee's name) will allow our facility to conduct in-house training in this specialty area.

- Due to the effects of the recent hiring freeze, (employee's name) will serve as lead trainer to newly hired (LEO or FF) with less experience.
- (Employee's name) has knowledge and experience that is critical to our facility's safety and we have not been able to recruit anyone to replace him/her with the same type of experience (hard to fill positions in a timely manner).
- (Employee's name) is not interested in being a reemployed annuitant. The employee does not want to work as a reemployed annuitant due to the salary offset and the additional time worked will not be counted for retirement purposes.

4. If approved, OPM must receive the approval package at least 30 days prior to the employee's mandatory retirement date of (date). Questions regarding this request may be directed to (*Name of Contact*), (*Title*) and (*Telephone*).

(*Name of the Director*)

Attachments

** Make necessary wording adjustments as needed.]

EMPLOYEE BENEFITS

PART III. AFFORDABLE CARE ACT AND HEALTH INSURANCE MARKETPLACE
NOTICE

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**[PART III. AFFORDABLE CARE ACT AND HEALTH INSURANCE
MARKETPLACE NOTICE**

1. PURPOSE. This part establishes the Department of Veterans Affairs (VA) procedures on complying with the Affordable Care Act (ACA) and providing the ACA Marketplace Notice to new employees.

2. RESPONSIBILITIES

a. The Assistant Secretary of Human Resources and Administration is responsible for providing Human Resources professionals with a standard employee cover letter and Marketplace Notice to be included in new employee orientation materials.

b. The Director, Worklife and Benefits Service, Office of Human Resources Management, is responsible for monitoring Office of Personnel Management (OPM) guidance on the ACA and providing guidance to VA Human Resources Officers on any updates or changes to the Marketplace Notice.

c. VA Human Resources Officers are responsible for providing the employee cover letter and Marketplace Notice to new employees within 14 days of their start date.

3. AFFORDABLE CARE ACT AND THE MARKETPLACE NOTICE. The Affordable Care Act includes an individual shared responsibility provision that requires all individuals to enroll in an insurance program that provides minimal essential coverage (MEC), qualify for an exception to this requirement or pay a fee when they file taxes. Part of this provision requires that all employers, including federal agencies, provide employees with a Health Insurance Marketplace Notice. This Marketplace Notice provides information to employees on the MEC requirement and information on state mandated health insurance exchanges, called Marketplaces, where employees may opt to purchase insurance through instead of enrolling through their employer.

4. REFERENCES

a. The Health Care Education and Reconciliation Act of 2010, Public Law 111-152

b. The Patient Protection and Affordable Care Act, Public Law 111-148 (2010)

c. OPM Benefits Administration Letter 13-205, “Federal Employees Health Benefits (FEHB) Program and the Individual Shared Responsibility Provision of the Affordable Care Act: The Requirement to Maintain “Minimum Essential Coverage”

d. OPM Benefits Administration Letter 13-206, “Federal Employees Health Benefits (FEHB) Program and the Affordable Care Act”]

[APPENDIX A. SAMPLE MEMORANDUM TO ALL NEW EMPLOYEES
REGARDING THE AFFORDABLE CARE ACT

Department of
Veterans Affairs

Memorandum

Date:

From: Human Resources Officer () identify mail code

Subj: The Affordable Care Act and Marketplace Notice

To: New VA Employees

1. The Patient Protection and Affordable Care Act, Public Law 111-148, and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (collectively referred to as the Affordable Care Act, or ACA), was created to expand access to affordable health care coverage, control health care costs, and improve health care quality and care coordination.
2. Under the Affordable Care Act you must:
 - a. Have health coverage that meets a minimum standard (called "minimum essential coverage") by January 1, 2014;
 - b. Qualify for an exemption; or
 - c. Make a payment when filing taxes if you have affordable options but remain uninsured.
3. If you have health care coverage through the Federal Employees Health Benefits (FEHB) Program or are enrolled in a VA health care program, you meet the Affordable Care Act coverage standards. If you already have coverage through another Government health plan including TRICARE, Medicare, or Medicaid or are insured through a private health insurance plan, then you must contact them directly to confirm that they meet coverage standards.
4. The Affordable Care Act also established the Health Insurance Marketplace under Section 1311(b) as a way for individuals to find health coverage. Section 1512 of the Affordable Care Act created a new Fair Labor Standards Act section 188 requiring a notice from employers to their employees about coverage options available through the Health Insurance Marketplace. You are receiving this notice because it is required by the aforementioned law. If you are ineligible to enroll in the FEHB Program; if you are eligible to enroll in the FEHB Program but are not enrolled due to affordability issues or concerns; or if you are enrolled in the FEHB Program and have affordability issues or concerns, then you may wish to visit the Health Insurance Marketplace to review marketplace coverage options at www.healthcare.gov.
5. Please be aware that the Department of Veteran Affairs will make no contributions to the premiums for Health Insurance Marketplace plans. Also, premiums are paid on an after-tax basis for Health Insurance Marketplace plans. The attached notice titled "Health Insurance Marketplace Notice" provides general information about the new Health Insurance Marketplace.

**PART III
APPENDIX A**

6. The Affordable Care Act established a minimum value standard of benefits for employer-sponsored health plans. All health plans in the FEHB Program are eligible employer-sponsored health plans. An employer-sponsored health plan meets the "minimum value standard" if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs. Therefore, the minimum value standard is 60 percent (actuarial value). The health coverage of all the plans in the FEHB Program meets the Affordable Care Act's minimum value standard for the benefits that each FEHB plan provides. As a comparison point, the actuarial value of most FEHB plans meet or exceed the actuarial value of the silver plan in the Health Insurance Marketplace.

7. If you are a Federal employee who is eligible to enroll in the FEHB Program but you do not enroll or if you cancel your FEHB enrollment, you should be aware of the consequences of such actions. For example, if you die, you will not have an FEHB Self and Family enrollment for your survivors to continue, even if they are eligible for a survivor annuity. If you retire, you will not have an FEHB enrollment to continue into retirement. Also, to be eligible to continue FEHB coverage after retirement, a retiring employee must be enrolled or covered under the FEHB Program for the 5 years of service immediately before retirement, or, if less than 5 years, for all service since the first opportunity to enroll. Employees can count their coverage under TRICARE toward meeting this requirement. However, the employee must be enrolled in an FEHB health plan on the date of retirement to continue coverage.

8. For more information about your FEHB health insurance coverage, please visit www.opm.gov/insure, contact your servicing Human Resources office, visit the VA Office of Human Resources Management benefits Web page at <http://vaww.va.gov/OHRM/Benefits/Benefits.htm>, or visit the VA Office of Human Resources Management Affordable Care Act Web page at <http://vaww.va.gov/OHRM/Benefits/ACA.asp>.

Name of Agency HR Officer

Attachment
Health Insurance Marketplace Notice]

[APPENDIX B. HEALTH INSURANCE MARKETPLACE NOTICE

General Notice Regarding the New Health Insurance Marketplace Coverage Options and Your Health Coverage

General Information

This notice provides basic information about the Health Insurance Marketplace created by the Affordable Care Act and coverage options available through the Marketplace. This information is intended to help you evaluate options for you and your family.

What is the Health Insurance Marketplace?

The Marketplace is designed to help you find health insurance that meets your needs and fits your budget. The Marketplace offers "one-stop shopping" to find and compare private health insurance options. You may also be eligible for a new kind of tax credit that lowers your monthly premium right away. Open Enrollment for the Marketplace will take place yearly in the fall for coverage to become effective the next year. Refer to the www.HealthCare.gov website for the actual Open Enrollment dates and effective date.

Can I Save Money on my Health Insurance Premiums in the Marketplace?

You may qualify to save money and lower your monthly premium, but only if your employer does not offer coverage, or offers coverage that doesn't meet certain standards. The savings on the premium that you're eligible for depends on your household income.

Does Employer Health Coverage Affect Eligibility for Premium Savings through the Marketplace?

Yes. If you have an offer of health coverage from your employer that meets certain standards, you will not be eligible for a tax credit through the Marketplace and may wish to enroll in your employer's health plan. However, you may be eligible for a tax credit that lowers your monthly premium or a reduction in certain cost-sharing if your employer does not offer coverage to you at all or does not offer coverage that meets certain standards. If the cost of a plan from your employer that would cover you (and not any other members of your family) is more than 9.5% of your household income for the year, or if the coverage your employer provides does not meet the "minimum value" standard set by the Affordable Care Act, you may be eligible for a tax credit.¹

Even if your employer intends your coverage to be affordable, you may still be eligible for a premium discount through the Marketplace. The Marketplace will use your household income, along with other factors, to determine whether you may be eligible for a premium discount. If, for example, your wages vary from week to week (perhaps you are an hourly employee or you work on a commission basis), if you are newly employed mid-year, or if you have other income losses, you may still qualify for a premium discount.

NOTE: If you purchase a health plan through the Marketplace instead of accepting health coverage offered by your employer, then you may lose the employer contribution (if any) to the employer-offered coverage. Also, this employer contribution as well as your employee contribution to employer-offered coverage is often excluded from income for Federal and State income tax purposes. Your payments for coverage through the Marketplace are made on an after-tax basis

How Can I Get More Information?

For more information about your FEHB health insurance coverage offered by your employer, please visit www.opm.gov/insure or contact your servicing human resources office.

The Marketplace can help you evaluate your coverage options, including your eligibility for coverage through the Marketplace and its cost. Please visit www.healthcare.gov for more information, including an online application for health insurance coverage and contact information for a Health Insurance Marketplace in your area.

¹An employer-sponsored health plan meets the "minimum value standard" if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs.]

[EMPLOYEE BENEFITS]

1. **REASON FOR ISSUE:** To update the Department of Veterans Affairs (VA) U.S. Flag Recognition Benefit and Office of Personnel Management (OPM) Wall of Honor Recognition for Deceased Federal Civilian Employees.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains procedures for requests, approvals, and distribution of the U.S. Flag recognition benefit and OPM Wall of Honor recognition. The pages in this issuance replace the corresponding page numbers in VA Handbook 5009. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5009 that is maintained on the [Office of Chief Human Capital Officer SharePoint Site](#) and [VA Publications Website](#). Significant changes include:
 - a. Streamline the process for requesting and approving the U.S. Flag Recognition Benefit and OPM Wall of Honor recognition.
 - b. A sample letter to OPM requesting deceased employees' names to be added to the OPM Wall of Honor.
 - c. New procedures for Administrations and Staff Offices to secure U.S. Flags for this benefit.
 - d. Clarifies the process to define 'other circumstances as determined by the President.'
 - e. Appendix E, Correct Method of Folding the United States Flag.]
3. **RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Chief Human Capital Officer (OCHCO), Human Resources and Administration/Operations, Security and Preparedness (006).
4. **RELATED DIRECTIVE:** VA Directive 5009, Employee Benefits.
5. **RESCISSIONS:** None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY OF
VETERANS AFFAIRS:**

/s/
Guy T. Kiyokawa
Assistant Secretary for
Enterprise Integration

/s/
Gina M. Grosso
Assistant Secretary for
Human Resources and Administration/
Operations, Security and Preparedness

DISTRIBUTION: Electronic Only

EMPLOYEE BENEFITS

PART IV. U.S. FLAG RECOGNITION BENEFIT [AND OPM WALL OF HONOR RECOGNITION] FOR DECEASED FEDERAL CIVILIAN EMPLOYEES

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[\[\]](#)

PART IV. U.S. FLAG RECOGNITION BENEFIT [AND OPM WALL OF HONOR RECOGNITION] FOR DECEASED FEDERAL CIVILIAN EMPLOYEES

1. PURPOSE. This part implements the “Civilian Service Recognition Act of 2011” (P.L. 112-73) which authorizes the department of Veterans Affairs (VA) to furnish a United States flag to a beneficiary on behalf of an employee who died of injuries incurred in connection with their employment under specific circumstances [and authorizes the beneficiary to request the deceased employee’s name be added to the Office of Personnel Management (OPM) Wall of Honor]. This part establishes VA procedures for the requests, approvals and distribution of the United States flag [and Wall of Honor recognition. Approval of this benefit does not mean that the employee or beneficiary is eligible for any other Federal benefits.]

2. RESPONSIBILITIES.

a. The Assistant Secretary for Human Resources and Administration [/ Operations, Security and Preparedness] (AS/HRA[/OSP]) is responsible for:

- (1) Reporting the death of the employee to [] OPM’s Enterprise Human Resources Integration (EHRI) Warehouse using the nature of action code 354;
- (2) Approving or disapproving flag recognition benefit requests;
- (3) Requesting OPM add the deceased employee’s name to the OPM Wall of Honor[, in accordance with P.L.112-73 and 5 C.F.R. § 550, subpart O and] upon request from the deceased employee’s [beneficiary];
- (4) Notifying [VA] employees annually of the flag recognition benefit; and
- (5) [Asking OPM to define ‘other circumstances as determined by the President,’ as possible eligible events occur.]

[]

b. The Director, Worklife and Benefits [(WLB)] Service, [Office of the Chief Human Capital Officer (OCHCO)], is responsible for:

- (1) Providing guidance regarding the flag recognition benefit to Human Resources (HR) Officers;
- (2) Analyzing and making recommendations for approval or disapproval of flag recognition benefit requests;
- (3) Forwarding approved flag recognition benefit requests to [] the [requesting facility HR Office;]
- (4) Maintaining record of the [deceased employees who are eligible for and who’s beneficiaries have received the benefit(s);]

- (5) [Submitting request to OPM to have deceased employee's name added to or deleted from the OPM Wall of Honor; and
 - (6) Annually reviewing and confirming names provided by OPM for the Wall of Honor.]
- c. [Under Secretaries, Assistant Secretaries, and Other Key Officials, are responsible for:
- (1) Submitting requests through appropriate channels to the AS/HRA/OSP for approval or disapproval of U.S Flag recognition benefit and OPM Wall of Honor recognition requests; and
 - (2) Budgeting for and purchasing flags to present this benefit to eligible beneficiaries.]
- d. Facility Directors are responsible for [submitting requests, with concurrence, through the appropriate Administration or Staff Office to the AS/HRA/OSP for approval of the flag recognition benefit and OPM Wall of Honor recognition (see sample in Appendix A)]

[]

- e. Facility HR Officers are responsible for:
- (1) [Notifying eligible beneficiaries of the U.S. Flag recognition benefit and OPM Wall of Honor recognition;
 - (2) Verifying that a deceased employee meets eligibility criteria to receive the flag recognition and OPM Wall of Honor recognition;
 - (3) Submitting requests for the flag recognition and OPM Wall of Honor recognition through the appropriate Administration or Staff Office for concurrence and approval by AS/HRA/OSP in accordance with paragraph 6 of this part (Appendix A);
 - (4) Securing a flag using the Government Purchase Card in accordance with [VA Financial Policy Volume XVI](#);
 - (5) Distributing flags to qualified beneficiaries within 30 days of AS/HRA/OSP approval;
 - (6) If appropriate, inform the family/representative about ceremony details OPM plans for a given year; and
 - (7) Provide biographies and photographs of the employee (if available) to OPM upon request.]
- f. Qualified beneficiaries are responsible for:
- (1) Providing documentation establishing the relationship to the deceased employee [to the facility HR Officer. Required documents] may include copy of marriage

certificate for a spouse, copy of birth certificate or adoption papers for child, copy of a divorce decree, or a domestic partnership declaration;

- (2) [Completing the eligibility section of the [OPM 1825 Form](#), if requesting flag benefit, to the facility HR Officer; and
- (3) Submitting a written request for the name of the deceased federal employee to be added to or deleted from the OPM Wall of Honor to the facility HR Officer.]

[]

3. FORMS AND APPLICATION PACKAGES.

- a. **Forms.** [OPM Form 125](#), Application for U.S. Flag Recognition Benefit for Deceased Federal Civilian Employees.
- b. **Initial Applications.** Facility HR Officers must submit [OPM Form 1825](#) and appropriate documentation outlined in paragraph 6 below through the appropriate [Administration or Staff Office] to the AS/HRA/[OSP] for approval.
- c. **Wall of Honor Beneficiary []**. Qualified beneficiaries who receive the flag recognition benefit may request in writing to the [facility HR Officer] that the flag benefit recipient's name be added to the OPM Wall of Honor.

4. REQUEST SUBMISSION AND DISTRIBUTION PROCEDURES.

- a. If the HR Officer determines that the deceased employee is a candidate for receipt of the flag recognition benefit, the HR Officer will contact the qualified beneficiary and notify them of:
 - (1) The flag recognition benefit and OPM Wall of Honor recognition;
 - (2) Procedures for submitting a request for the flag recognition benefit using an OPM Form 1825;
 - (3) Procedures for requesting that the employee's name be added to the OPM Wall of Honor; and
 - (4) Request documentation requirements for meeting eligibility criteria (Appendix B).]
- b. Upon receipt of an [[OPM Form 1825](#) and OPM Wall of Honor recognition request] from a qualified beneficiary, the facility HR Officer will prepare a request for the flag recognition benefit and OPM Wall of Honor recognition and forward it to the facility Director, including:
 - (1) [OPM Form 1825](#);
 - (2) Memorandum requesting flag recognition benefit ([]Appendix A); and

- (3) Documentation that both employee and beneficiary eligibility criteria are met.
- c. If the facility Director concurs with the request, the complete package [] [is] forwarded through the appropriate Administration or Staff Office to the AS/HRA[/OSP].
- d. The OCHCO WLB Service will review the request for completeness and recommend approval or disapproval to the AS/HRA[/OSP](Appendix C).
- e. The AS/HRA[/OSP] will approve/disapprove the request in writing within 60 days of receipt. The response for any request that is not approved will include the reason for disapproval. If approved, the AS/HRA/OSP will also request that the deceased employee's name be added to the OPM Wall of Honor if requested by the beneficiary (Appendix D).
- f. Upon approval of a flag recognition benefit, [OCHCO WLB] [will notify the facility HR Officer and HR Officer will:]
 - (1) Secure a flag using the Government Purchase Card in accordance with [VA Office of Finance Handbook Volume XVI](#) ;]
 - (2) Notify the beneficiary of the flag recognition approval;
 - (3) Fold the flag according to [Appendix E, Correct Method for Folding the United States Flag]; [and]
 - (4) Present the flag to the beneficiary within 30 days of receipt of the flag.

[]

5. RETROACTIVE REQUESTS.

- a. Facility HR Offices will review death in service employee records dating back to December 20, 2011 to see if any deceased employees qualify for the flag recognition benefit.
 - (1) If the HR Office finds that a deceased employee retroactively qualifies for the flag recognition benefit, they will follow the Request Submission and Distribution Procedures in paragraph 6 above.
- b. [\[VA Financial Policy Volume XVI\]](#)

6. DEFINITIONS.

- a. **Beneficiary.** An individual qualified to request and receive the flag recognition benefit on behalf of a fallen employee in the following order of precedence:
 - (1) Widow or widower;
 - (2) If none, a child (including step, foster, or adopted child) according to age (i.e., oldest to youngest);

- (3) If none, a parent (including step, foster, or adoptive parent);
 - (4) If none, a sibling (including step, half, or adopted sibling) according to age (i.e., oldest to youngest); and
 - (5) If none, any individual related by blood or close family affiliation, including domestic partnership.
- b. **Eligible employee.** An individual who:
- (1) Was a VA employee of the Department (as defined in 5 U.S.C. § 2105) [at the time of death], and
 - (2) Who died on or after December 20, 2011, of injuries incurred in connection with such individual's employment with the Federal Government, suffered as a result of a criminal act, act of terrorism, a natural disaster, or other circumstances as determined by the President.
- NOTE: A flag may not be furnished when the death is the result of the unlawful or negligent action of the employee; willful misconduct of the employee; or activities unrelated to the employee's status as a Federal employee.
- c. **Flag.** [Defined as a standard United States Flag that is at least 3 by 5 feet.]
- d. **OPM Wall of Honor.** A memorial that honors employees who died in the line of duty. Eligibility requirements are the same as those for the flag recognition benefit. The memorial is located in the lobby of the OPM Headquarters building in Washington, D.C. and the names of honorees are listed on OPM's website.
- e. **Other Circumstances as Determined by the President.** OPM is responsible for consulting with the White House on what other circumstances may qualify for these benefits. OPM will provide guidance to agencies for eligibility of such other circumstances on a case-by-case basis.]

7. REFERENCES.

- a. [5 U.S.C. § 2105; \[Employee\]](#)
- b. [5 U.S. C. § 5570, \[note Compensation for disability or death\]](#)
- c. [\[18 U.S.C. § 2331, Definitions\]](#)
- d. [P.L. 112-73, Civilian Service Recognition Act of 2011](#)
- e. [5 C.F.R., part 550 subpart O, \[Flag Recognition Benefit for Fallen Civilian Employees\]](#)

November 10, 2022

[APPENDIX A. SAMPLE REQUEST FOR FLAG RECOGNITION BENEFIT [AND OPM WALL OF HONOR RECOGNITION]

Department of
Veterans Affairs Date:

MEMORANDUM

From: Director, VA Name of Facility () identify mail code
Subj: Request for Beneficiary to Receive U.S. Flag Recognition Benefit [and/or OPM Wall of Honor Recognition (as appropriate) (VIEWS #)]
To: Assistant Secretary for Human Resources and Administration[/Operations, Security, and Preparedness] (006)
Thru: [OCHCO, Worklife and Benefits Service (058)]

1. I am requesting that the beneficiary of (deceased employee's name) receive the flag recognition benefit [and that the employee's name be added to the Office of Personnel Management's Wall of Honor].
2. (deceased employee's name) was an employee of the Department of Veterans Affairs and died on (date of employee death), of injuries incurred in connection with such individual's employment with the Federal Government, suffered as a result of (cite specific circumstances that meet criteria for receipt of flag recognition benefit).
3. We request that your decision be provided as expeditiously as possible. Questions regarding this request may be directed to (name of contact), (title) and (telephone).
(Name of the Facility Director)

[(Facility Director's Signature Here)]

Attachment (supporting documentation that deceased employee has met the criteria to receive the flag recognition benefit)
Concur/ Do Not Concur:

Administration or Staff Office Head (as appropriate) signature here

Date

[APPENDIX B. SAMPLE BENEFICIARY NOTIFICATION OF ELIGIBILITY TO RECEIVE
U.S. FLAG BENEFIT [AND TO ADD DECEASED EMPLOYEE'S NAME TO THE OPM
WALL OF HONOR]

Name of Beneficiary
Street Address
City, State Zip Code

Dear (Name of Beneficiary),

Please accept my condolences for the loss of your (relationship to employee) who died while performing public service as a Federal employee. I am honored to inform you that P.L. 112-73, the "Civilian Service Recognition Act," authorized the VA to acknowledge your loved one's death with the provision of a United States Flag. This benefit is provided to eligible beneficiaries of Federal civil servants who die in the line of duty as a result of a criminal act, terrorist attack, natural disaster or other circumstance as determined by the President. If you wish to receive this flag benefit, please complete the enclosed OPM 1825 Form and return it to the Human Resources Office point of contact listed below.

[On April 11, 2013, OPM dedicated the Wall of Honor to recognize those civilian Federal employees who have made the ultimate sacrifice in service to their country. I am also honored to inform you that your loved one's name can be included on the list of honorees for the Wall of Honor in recognition of their contribution and sacrifice in the service to our country. The circumstances of the death of your loved one while performing Federal service meet the criteria to be listed among the names of the other Federal civil servants who have died in the line of duty. The name of your loved one will be made public during a Wall of Honor ceremony. If you would like the name of your loved one to be added to the Wall of Honor, please send (HR POC) written confirmation.

To receive these benefits, you must also provide documentation that both employee and beneficiary eligibility criteria are met (example: Federal Employees Group Life Insurance documentation or marriage certificate) and documentation showing that employee died of injuries incurred in connection with employment with the Federal Government, suffered as a result of a criminal act, act of terrorism, a natural disaster, or other circumstances as determined by the President (example: death certificate or police report). Please include this documentation when you return the OPM Form 1825 to the point of contact listed below.

November 10, 2022

If you have any questions about these benefits, please contact (insert name and telephone number of the Human Resources Office point of contact).]

Sincerely,

Human Resources Officer

[Enclosure]
[OPM Form 1825]

[APPENDIX C. SAMPLE MEMORANDUM FOR AS/HRA/OSP
APPROVAL/DISAPPROVAL OF U.S. FLAG BENEFIT AND/OR OPM WALL OF HONOR
RECOGNITION

Department of
Veterans Affairs

MEMORANDUM

Date:

From: Director, OCHCO Worklife and Benefits Service (058)

Subj: U.S. Flag Recognition Benefit and/or OPM Wall of Honor Recognition for (Name of Deceased Employee) (VIEWS #)

To: Assistant Secretary for Human Resources and Administration/Operations, Security and Preparedness (006)

Thru: Chief Human Capital Officer (CHCO) (05)

1. **PURPOSE:** The (*administration sending the request*) requests approval for the U.S. Flag Recognition Benefit and/or OPM Wall of Honor Recognition Request for (*Deceased Employee*) who died as a result of a criminal act on (*date of death*) of injuries incurred in connection with his/her employment with the Department of Veterans Affairs.
2. **BACKGROUND:** The request meets the eligibility and criteria cited in VA Handbook 5009, Part IV., § 4, as indicated below:
 - a. Eligible employee. An individual who:
 - (2) Was an employee of the Department (as defined in 5 U.S.C. § 2105), and
 - (3) Who died on or after December 20, 2011, of injuries incurred in connection with such individual's employment with the Federal Government, suffered as a result of a criminal act, act of terrorism, a natural disaster or other circumstances as determined by the President.
 - f. My point of contact on this request is (HR Specialist), Worklife and Benefits Service at benefitsretirement058@va.gov.

3. OPTIONS:

- g. Approve U.S. Flag Recognition Benefit and OPM Wall of Honor Recognition Request.
- h. Deny U.S. Flag Recognition Benefit and OPM Wall of Honor Recognition Request.

4. **RECOMMENDATION:** Approve U.S. Flag Recognition Benefit and OPM Wall of Honor Recognition Request.

CHCO Signature

Attachments

APPROVE RECOMMENDATION DISAPPROVE RECOMMENDATION

Assistant Secretary,
Human Resources and Administration/
Operations, Security and Preparedness (006)]

Date

**[APPENDIX D. LETTER TO OPM REQUESTING DECEASED EMPLOYEE'S NAME BE ADDED
TO THE OPM WALL OF HONOR**



**DEPARTMENT OF VETERANS AFFAIRS
Assistant Secretary for Human Resources and
Administration/ Operations, Security and Preparedness
Washington DC 20420**

Director, Office of Personnel Management
ATTN: OPM Wall of Honor
U.S. Office of Personnel Management
1900 E Street, North West
Washington, DC 20415

Dear OPM Director:

In accordance with the Civilian Service Recognition Act (P.L. 112-73), the beneficiary of the *Deceased Employee* has requested the U.S. Flag Recognition Benefit and that her name be added to the OPM Wall of Honor. *Deceased Employee's Name* died as a result of a *criminal act, act of terrorism, a natural disaster, or other circumstances as determined by the President on Date of Death* of injuries incurred in connection with his/her employment with the Department of Veterans Affairs.

The U.S. Flag Recognition Benefit request meets the criteria outlined in P.L. 112-73 and has been approved using the enclosed documentation. Based on this approval, the Department of Veterans Affairs requests that the deceased employee's name be added to the OPM Wall of Honor.

My point of contact is (WLB Director's Name), Director, Worklife and Benefits via name@va.gov, or (phone number).

Sincerely,

(Name of AS/HRA/OSP)

Enclosures]

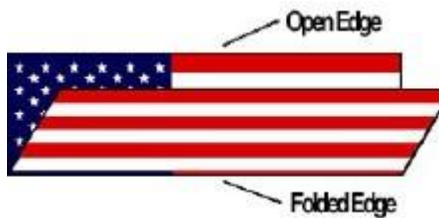
APPENDIX E. CORRECT METHOD FOR FOLDING THE UNITED STATES FLAG

Start

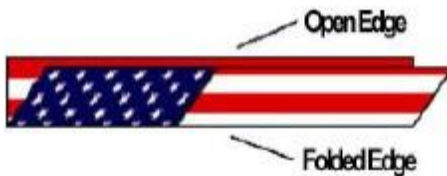
Completed



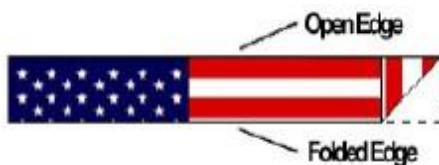
Step 1: Fold the lower striped section of the flag over the blue field.



Step 2: Folded edge is then folded over to meet the open edge.



Step 3: A triangular fold is then started by bringing the striped corner of the folded edge to the open edge.



Step 4: Outer point is then turned inward parallel with the open edge to form a second triangle.



Step 5: Triangular folding is continued until the entire length of the flag is folded in a triangular shape with only the blue field visible.



Completed



[EMPLOYEE BENEFITS

PART V. PHASED RETIREMENT

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[PART V. PHASED RETIREMENT]

1. PURPOSE. This part establishes Department of Veterans Affairs (VA) procedures regarding the phased retirement program. Phased retirement is a workforce management tool designed to assist VA with knowledge management and continuity of operations in the short term. This tool should be used to retain employees who would otherwise fully retire, but who are willing to continue in Federal service for a period of time on a part-time schedule while engaging in mentoring activities. Participation in the phased retirement program is voluntary and requires the consent of both the employee and VA. It is not an employee entitlement.

2. RESPONSIBILITIES

a. The Assistant Secretary for Human Resources and Administration (AS/HRA) is responsible for:

(1) Approving or denying phased retirement coverage for employees;

(2) Tracking and reporting mentoring activities to the Office of Personnel Management (OPM) as required;

(3) Granting approval in rare circumstances to waive the phased retirement program mentoring requirement;

(4) Granting approval in rare and exceptional circumstances, to allow a phased retiree to work in excess of the established part-time work schedule; and

(5) Approving or denying phased retiree requests to return to regular employment status.

b. The Assistant Inspector General for Management and Administration (AIG/MA) is responsible for administering the Phased Retirement program for Office of Inspector General (OIG) employees. For the purpose of this policy where AS/HRA is cited, the AIG/MA will perform these duties for OIG employees.

c. The Worklife and Benefits Service, Office of Human Resources Management (OHRM) is responsible for:

(1) Providing guidance regarding the phased retirement program to HR Officers;

(2) Analyzing and making recommendations for approval or disapproval of phased retirement requests and time limit extension requests;

(3) Maintaining records of the number of phased retirees, mentoring activities, and number of work hours for any phased retiree approved to work over the established part-time work schedule and reporting to OPM as requested; and

(4) Monitoring phased retirement coding reports from Human Resources Information Service to ensure all phased retirees have completed the approval process.

d. Assistant Secretaries, Under Secretaries, Deputy Assistant Secretaries, Other Key Officials, or their designee(s), and Facility Directors, are responsible for:

- (1) Submitting requests through appropriate channels to the AS/HRA for approval or disapproval of phased retirement;
- (2) Determining appropriate time limits for phased retirees to meet mission requirements up to the one year maximum, in conjunction with the appropriate Human Resources (HR) Officer; and
- (3) Denying phased retirement requests that do not meet the needs of the facility or the criteria for approval.

e. HR Officers are responsible for:

- (1) Providing guidance to employees, managers, and supervisors on phased retirement regulations and policies;
- (2) Determining appropriate time limits for phased retirees to meet mission requirements up to the one year maximum, in conjunction with the requesting official;
- (3) Defining, documenting and reporting mentoring activities of phased retirees to the OHRM Worklife and Benefits Service;
- (4) Including the mentoring requirement as a critical element in the phased retiree's performance standards;
- (5) Providing phased retirees with retirement counseling;
- (6) Completing a Time Limit Agreement, VA Form 10099 (<http://vaww.va.gov/OHRM/Benefits/Retirement/phased.asp>);
- (7) Providing employees with the Phased Employment/Phased Retirement Status Elections, [SF 3116, Part 1A](#), after a request for phased retirement has been approved;
- (8) Providing employees with the election to end phased employment/retirement to return to regular employment status, [SF 3116, Part 2A](#), upon such approval; and
- (9) Providing employees with the election to end phased employment/phased retirement status upon a move to another agency, [SF 3116, Part 3B](#).

f. Managers/Supervisors are responsible for forwarding an employee's request to participate in phased retirement to the HR Officer with the package addressing all criteria for approval in paragraph 7 and a recommendation for approval or disapproval.

g. Employees are responsible for:

- (1) Discussing participation in the phased retirement program with their manager/supervisor;

- (2) Contacting their servicing HR office for eligibility information on phased retirement;
 - (3) Submitting the employee request for phased retirement, VA Form 10167, to his/her supervisor (<http://vaww.va.gov/OHRM/Benefits/Retirement/phased.asp>);
 - (4) Completing [SF 3116, Part 1A](#), upon approval to participate in phased retirement and returning the completed form to the HR Officer;
 - (5) Completing [SF 3116, Part 2A](#), upon approval of election to end phased retirement and return to regular employment status and submitting the form to the HR Officer; and
 - (6) Completing [SF 3116, Part 3B](#), upon an election to end phased retirement as a result of a move to another agency and submitting the completed form to the HR Officer.
- h. Phased retirees are responsible for:
- (1) Fulfilling mentoring requirements;
 - (2) Retiring at the expiration of the phased retirement Time Limit Agreement or earlier if desired; and
 - (3) Requesting to return to full-time employment from a phased retirement status if desired.

3. REFERENCES

- a. 5 CFR, part 831, subpart Q;
- b. 5 CFR, part 848;
- c. 5 U.S.C., § 8336a;
- d. 5 U.S.C., § 8412a;
- e. Inspector General Act of 1978
- f. Inspector General Reform Act of 2008, § 6(d)(1)(B)(ii)
- g. OPM Benefits Administration Letters 14-106, 14-108, 14-109, 14-110; and
- h. Public Law 112-141.

4. DEFINITIONS

- a. **Full-time Work Schedule.** An officially established recurring basic workweek consisting of 40 hours within the employee's administrative workweek or 80 hours per biweekly pay period as established for employees with a flexible or compressed work schedule.

b. **Phased Employment.** The less-than-full-time employment of a phased retiree.

c. **Phased Retiree.** A retirement-eligible employee who:

(1) With the approval of the AS/HRA, enters phased retirement status; and

(2) Has not entered full retirement status.

5. ELIGIBILITY. An employee must:

a. Have been employed on a full-time basis for not less than the 3-year period ending on the effective date of entry into phased retirement status;

b. Be eligible for an immediate annuity:

(1) Under CSRS with at least 30 years of service and be at least age 55 or have at least 20 years of service and be at least 60 years of age; or

(2) Under FERS with at least 30 years of service and have reached his or her minimum retirement age (MRA) or have at least 20 years of service and be at least 60 years of age;

c. Meet the criteria for approval specified in paragraph 7 below.

6. EXCLUSIONS. The following categories of employees are excluded from participation in phased retirement:

a. Employees not covered by CSRS or FERS;

b. Employees subject to mandatory retirement, including Law Enforcement Officers and Firefighters;

c. Employees with special work schedules that do not allow a recurring part-time schedule, including Nurses covered by 38 U.S.C. 7456 or 7456A and intermittent employees;

d. Disability retirement applicants;

e. Retirees and reemployed annuitants;

f. Any individual who has previously participated in the phased retirement program.

7. CRITERIA FOR APPROVAL. The main purpose of phased retirement is to enhance the mentoring and training of the employees who will be filling the positions or taking on the duties of more experienced retiring employees. It may also be used to provide employees with the opportunity to share experiences across sections or divisions of VA. In order for a phased retirement request to be approved, the following conditions must be documented and satisfied in the request for approval (see sample request in Appendix A):

- a. The candidate's continued service must assist in fulfilling mission critical functions of VA;
- b. The candidate's knowledge, skills, abilities and unique qualifications must be essential for the work to be performed and cannot be satisfied by another staffing function (e.g., new hire, reassignment, etc.);
- c. The part-time work schedule must be appropriate for the candidate's position;
- d. The candidate must have the ability to mentor and be willing and able to meet the mentoring requirement;
- e. The candidate must have achieved at least a Fully Successful rating on the last three performance ratings;
- f. The HR Officer and the manager/supervisor must be able to identify appropriate mentoring activities and submit progress reports to the OHRM Worklife and Benefits Service monthly to demonstrate that the phased retirement arrangement is successful in achieving VA mission;
- g. The change from a full-time schedule to a part-time schedule will not affect the work unit's ability to meet mission goals and objectives; and
- h. The operational needs of the work unit will not require that the candidate work in excess of a part-time schedule that includes a 20% mentoring requirement.

8. WORK SCHEDULE

- a. A phased retiree's established work hours must equal 50 percent of the number of hours the phased retiree would have been scheduled to work had the phased retiree remained in a full-time work schedule.
- b. If the manager/supervisor determines that it is necessary for a phased retiree to work in excess of the 50 percent limitation, a written request citing the reasoning may be submitted through appropriate channels to the AS/HRA for approval.
- c. The AS/HRA may approve a phased retiree to work in excess of the 50 percent limitation under the following conditions:
 - (1) The work is necessary to respond to an emergency posing a significant, immediate, and direct threat to life or property;
 - (2) The manager/supervisor determines that no other qualified employee is available to perform the required work;
 - (3) The phased retiree is relieved from performing excess work as soon as reasonably possible; and

(4) When an emergency situation can be anticipated in advance, management made advance plans to minimize any necessary excess work by the phased retiree.

9. TIME LIMIT

a. The time limit imposed should be the minimum amount of time required to mentor an employee, not to exceed a six-month period.

b. A requesting official may request one six-month extension to the initial six-month time period (one year maximum total) if necessary to meet the mission requirements and needs of VA.

c. An extension must be requested and approved by the AS/HRA prior to the expiration of the initial six-month time period.

d. Employees agree to the following by signing the Time Limit Agreement, VA Form 10099 (<http://vaww.va.gov/OHRM/Benefits/Retirement/phased.asp>);

(1) They may request approval to return to full-time employment;

(2) They may accept an appointment at another agency, at any time before the expiration of the agreement; doing so would terminate participation of phased retirement at VA;

(3) When the agreed term of phased employment ends, they will be separated and that separation will be considered voluntary based on the written agreement;

(4) If they are separated from phased employment and are not employed within 3 days, they will be deemed to have elected full retirement; and

(5) In conjunction with their facility, appropriate approval channel and approval by the AS/HRA, the employee and the AS/HRA may rescind an existing agreement or enter into a new agreement to extend or reduce the phased employment term by entering into a new written agreement prior to the expiration of the agreement currently in effect.

10. EFFECTIVE DATE. Phased retirement and the commencement of a phased retirement annuity is effective:

(1) On the first day of the first pay period after the HR Officer is notified of the AS/HRA approval of the phased retirement request; or

(2) On the first day of a later pay period but no longer than 30 days after the AS/HRA approval signature date.

11. MENTORING REQUIREMENT

a. A phased retiree is required to spend at least 20 percent of his or her working hours in mentoring activities. The mentoring activities can consist of virtual, face-to-face, or telephone mentoring, and the mentoring can be traditional, situational, peer-to-peer, or group mentoring.

b. The HR Officer and manager/supervisors are responsible for determining what types of mentoring activities will satisfy this requirement and documenting the 20 percent of mentoring time. Mentoring activities include, but are not limited to: teaching, providing guidance, coaching, educating, and sharing knowledge and skills to mentees.

c. The HR Officer may request that the AS/HRA waive the mentoring requirement in the event of an emergency or other unusual circumstance that would make it impracticable, such as when the individual is called to active duty military service. Any request to waive the mentoring requirement must be submitted for approval by the AS/HRA prior to the waiver taking effect and following the phased retirement approval procedures.

d. The HR Officer must submit monthly progress reports on mentoring activities to the OHRM Worklife and Benefits Service that tracks completion and progress towards mentoring goals (see Appendix B).

e. If the HR Officer fails to submit monthly progress reports on mentoring activities to the OHRM Worklife and Benefits Service, the AS/HRA may terminate an employee's participation in the phased retirement program based on the failure to meet the criteria for approval. The phased retirement agreement will terminate within 30 days after the finding. In these cases, the phased retiree has permission to return to regular employment status or can choose to fully retire.

12. REQUESTING APPROVAL FOR PHASED RETIREMENT

a. An eligible employee must submit the written request, VA Form 10167, to participate in phased retirement to his/her manager/supervisor.

b. The manager/supervisor will forward the employee's written request to participate in the phased retirement program to the appropriate HR Officer with a recommendation for approval or disapproval. The recommendation should address the criteria for approval as listed in paragraph 7.

c. The HR Officer will prepare and submit the request to the Staff Office Director or Facility Director for concurrence (see Appendix A).

d. If the Staff Office Director or Facility Director concurs with the request the complete package will be forwarded through appropriate channels to the AS/HRA. If the Facility Director does not concur, the request will be returned to the HR Officer and the HR Officer will inform the manager/supervisor and employee of the disapproval.

e. The AS/HRA will approve/disapprove the request in writing within 30 days of receipt. Any request not approved will include the reason for disapproval.

f. Upon approval of phased retirement, the HR Officer will:

(1) Provide the phased retiree with a phased retirement election form [SF 3116, Part 1A](#) to be completed, signed and copy furnished to the OHRM Worklife and Benefits Service;

- (2) Provide the phased retiree with the Time Limit Agreement, VA Form 10099, in accordance with paragraph 9, and sign the Time Limit Agreement;
- (3) Determine an effective date in accordance with paragraph 10.
- (4) Code the employee record for phased retirement in the PAID/HR Smart system; and
- (5) Submit monthly progress reports on mentoring activities completed by the phased retiree (see Appendix B).

13. ENDING PHASED RETIREMENT AND RETURNING TO REGULAR EMPLOYMENT STATUS

- a. A phased retiree may request to end phased retirement and return to regular employment. The phased retiree must submit the Election to End Phased Employment/Phased Retirement and Return to Regular Employment Status request [SF 3116, Part 2A](#) to his or her supervisor/manager.
- b. The supervisor/manager will forward the request to the HR Officer and the HR Officer will forward the request through appropriate channels to the AS/HRA for approval.
- c. If approved by the AS/HRA, the phased retiree can return to regular employment status. If disapproved, the phased retiree will remain in phased retirement status or may elect to enter full retirement.
- d. Once an election to end phased retirement status to return to regular employment status is effective, the employee may not reelect phased retirement status.

14. PHASED RETIREE MOVING TO VA

- a. A phased retiree may move, without a break in service of more than three calendar days, to VA and retain his or her phased retirement status only if the phased retirement is approved to continue at VA.
- b. The AS/HRA must approve the continuation of the phased retirement prior to coming on board at VA following the procedures in paragraph 12.
- c. If approved, the HR Officer and the phased retiree must complete [SF 3116, Part 3A](#) and the HR Officer must send the form to:
 - (1) OHRM Worklife and Benefits at: benefitsretirement058@va.gov; and
 - (2) OPM at: phasedret@opm.gov.
- d. If disapproved, the employee's phased retirement status will end upon movement to VA. Phased retirement status ends effective at the end of the day on the last day of employment with the losing agency.

e. If the employee chooses to end phased retirement status upon a move to VA, the phased retiree must complete [SF 3116, Part 3B](#) before moving to VA and provide it to the losing agency.

15. PHASED RETIREE MOVING FROM VA

a. If a gaining agency approves the continuation of phased retirement, a phased retiree moving to another agency and continuing phased retirement must submit the completed [SF 3116, Part 3A](#) to the VA HR Officer.

b. The HR Office must forward the [SF 3116, Part 3A](#) to:

(1) OHRM Worklife and Benefits Service at: benefitsretirement058@va.gov; and

(2) OPM at: phasedret@opm.gov.

c. A phased retiree that moves from VA to another VA agency should follow the gaining agency's process for continuing in phased retirement.

16. TRANSITION FROM PHASED RETIREMENT TO FULL RETIREMENT

a. A phased retiree may voluntarily apply at any time for full retirement in the same manner as other employees.

b. Once the agreed upon time limit has been reached, the employee will transition to full retirement, unless he or she submits a request to the supervisor to return to full-time employment. The request to return to full-time employment requires the mutual consent of the employee and VA.

c. The phased retirement annuity terminates upon separation from service and the full retirement annuity commences the day after separation.

17. APPEAL RIGHTS. There are no new statutory or regulatory requirements unique to phased retirement; employees in phased retirement retain the same rights and responsibilities of regular employment. Any complaint procedures, including any applicable administrative or collective bargaining grievance procedures available in regular employment remain available to phased retirees. No new rights are provided under phased retirement.

18. EFFECT OF PHASED RETIREMENT

a. For Federal Employee Health Benefits (FEHB) purposes a phased retiree is considered to be a full-time employee and the rules regarding part-time proration of health insurance premiums do not apply.

b. For Federal Employee Group Life Insurance (FEGLI) purposes a phased retiree is considered to be a full-time employee for the purposes of employee premiums, employer withholdings and benefit payments.

c. Phased retirement has no effect on eligibility and coverage of other benefit programs, which include the Federal Employee Dental and Vision Insurance Program (FEDVIP), Federal Flexible

Spending Account Program (FSAFEDS), and the Federal Long Term Care Insurance Program (FLTCIP).

- d. A phased retiree may not elect an alternative annuity.
- e. A phased retiree may not be appointed to more than one position at the same time.
- f. A phased retiree may move or be detailed to another position within VA only if the work schedule remains the same and the position satisfies the criteria for approval in paragraph 7.
- g. A phased retiree is treated as any other employee on a part-time tour of duty for all other purposes except as otherwise provided by law or regulation.
- h. The death of a phased retiree is deemed to be a death in service of an employee and the phased retirement period is deemed to be part-time employment for the purposes of determining survivor benefits.
- i. An individual who dies after separating from phased retirement and before submitting an application for full retirement is deemed to have filed the application for full retirement status with OPM.]

[APPENDIX A. SAMPLE REQUEST FOR APPROVAL OF PHASED RETIREMENT

SAMPLE

Department of Veterans Affairs

Memorandum

Date:

From: Assistant Secretaries, Under Secretaries, Deputy Assistant Secretaries, Other Key Officials, or their designee(s), or Facility Directors, VA Name of Facility (Mail Code)

Subj: Request Approval for Phased Retirement

To: Assistant Secretary for Human Resources and Administration (006)

Thru: Under Secretary for (Administration Name as Appropriate) (mail code)

1. I am hereby requesting approval for *INSERT PHASED RETIREE REQUESTORS NAME* to participate in phased retirement. This candidate meets the criteria for approval by:

- *Meeting a short term mission critical function:*
 - *Provide a detailed description of the critical function*
 - *Provide a detailed description of how the employee fulfills the critical function and how his/her continued service will assist in fulfilling mission critical functions of VA*
 - *Provide a detailed description of the knowledge, skills, abilities and unique qualifications the employee possesses that are essential for the work to be performed and that cannot be satisfied by another staffing function*
- *Provide documentation that the part-time work schedule is appropriate for this candidate's position*
- *Provide documentation that the candidate has experience mentoring and is willing and able to meet the requirement*
- *Provide documentation that management can identify appropriate mentoring activities for the employee to perform and has the ability to document and report these activities*
- *Provide documentation the change in work schedule of the candidate will not affect the work unit's ability to meet goals and objectives*
- *Operational needs will not require the candidate to work in excess of a 50% work schedule (i.e. 20 hours per week with 20% of duty time participating in mentoring activities)*

2. The critical element of mentoring will be documented in the performance plan.

3. Mentoring duties will be accomplished by:

PART V

APPENDIX A

Insert how the mentoring duties will comply with regulatory requirements and how these duties will be tracked.

4. The proposed time limit for the phased retirement will be from mm/dd/yyyy to mm/dd/yyyy in order to meet the workforce needs of the facility/location.
5. Please contact (*servicing HR representative*), for additional information.

(Signature of Requesting Official)]

[APPENDIX B. SAMPLE MONTHLY MENTORING REPORTING CHART

Mentoring Activity and Frequency Requirement	Date Completed	Activity Description	Goal Accomplished and Next Steps
Present historical information on retirement processing at VA to other services and administrations twice per month	March 2 and 23	Provided a PowerPoint presentation on the history of retirement processing at VA to VBA retirement center employees and to VACO Payroll Policy group.	Goal accomplished. Required to present twice per month.
Meet weekly with Mentee	March 2, 9, 16, 23	Discussed feedback on retirement counseling, ways to improve and identify other mentoring activities that would benefit mentee	Goal accomplished. Mentee requested to study recent history of retirement processing at VA to outside services in the future. Adding this goal to mentoring activities for April.
Shadow mentee providing retirement counseling to employees, documenting and providing feedback to mentee and mentee’s supervisor on a weekly basis	March 4, 6, 15, 21, 22, 30	Shadowed HR Specialist providing counseling to retiring employees. Noted areas for improvement, errors and areas where the Specialist excelled. Provided feedback verbally and in writing to mentee and mentee’s supervisor.	Goal accomplished. Mentee still needs work in counseling on retirement health and life insurance. We will be focusing on these areas in April.
Shadow mentee completing retirement application packages, documenting and providing feedback to mentee and mentee’s supervisor on a weekly basis	March 5, 14, 17, 23, 24, 30	Shadowed mentee completing retirement application packages. Noted areas for improvement, errors and areas where the Specialist excelled. Provided feedback verbally and in writing to mentee and mentee’s supervisor.	Goal accomplished. Mentee is now processing retirement applications with 100% accuracy.

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