



United States Department of State

*Bureau of Human Resources
Office of Retirement
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Death and Disability Benefits – Iraq and Afghanistan

COMPENSATION THAT MAY BE PROVIDED TO FAMILIES OF U.S. GOVERNMENT CIVILIAN EMPLOYEES KILLED IN A TERRORIST INCIDENT

Federal Employees Compensation Act ("FECA"), 5 U.S.C. §§ 8133-8137

The Federal Employees Compensation Act ("FECA") provides the central benefit. FECA provides workers compensation benefits to dependent survivors of U.S. Government civilian employees killed on the job without regard to fault or blame. The Department of Labor, Office of Workers Compensation Programs administers these benefits. FECA covers all civilian employees. FECA benefits provide for:

1) A surviving spouse to receive monthly compensation benefits in an amount equal to 50% of salary of the employee; if there are dependent children, surviving spouse may receive 45% of salary plus an additional 15% for each child up to a total of 75% of salary (this is reduced if the employee was covered under the Federal Employees Retirement System ("FERS") or the Foreign Service Pension System ("FSPS") and survivors receive Social Security benefits based on deceased's Federal employment). The spousal monthly benefits are payable for life or until remarriage if before age 55. These monthly benefits are not subject to federal tax.

2) Funeral and burial expenses up to \$800 payable to the personal representative of the deceased employee.

3) \$200 to the personal representative of the deceased employee for reimbursement of costs of the termination of status as a Federal employee.

Retirement Benefits

Retirement benefits in the form of a survivor annuity under the Federal retirement systems (Civil Service Retirement System ("CSRS"), Federal Employee's Retirement System ("FERS"), the Foreign Service Retirement and Disability System ("FSRDS"), and the Foreign Service Pension System ("FSPS")) are available, but are not payable if FECA payments are being made. Survivors must choose between the two benefits. Most survivors choose FECA benefits because FECA pays a higher amount and because

monthly FECA payments are exempt from federal tax. If FECA benefits are elected, survivors may receive a lump sum payment of the deceased's contributions to the relevant retirement fund.

Social Security

If an employee worked under U.S. Social Security, survivor benefits may be payable to qualifying surviving spouses and dependent children. Dependent parents and former spouses also may qualify for benefits. The amount depends on the Social Security earnings and the number of survivors eligible for benefits. In addition, a lump sum of \$255 is payable to qualifying surviving spouses. If no qualifying spouse, the lump sum is paid to children who are eligible for benefits. Otherwise the lump sum is not payable.

Title VI, Section 651 of Public Law 104-208

Under Title VI, Section 651 of P.L. 104-208 (the Omnibus Consolidated Appropriations Act of 1996), the head of an agency may pay a death gratuity of up to \$ 10,000 to the personal representative of the deceased employee. The legislative history for this provision indicates that the amount is intended to supplement costs for funeral expenses. This payment may not exceed \$10,000 inclusive of the amounts identified in paragraphs (2) and (3) under FECA benefits above. Because \$ 1,000 for funeral and administrative payments typically is made under FECA, the amount of this death gratuity payment usually is \$9,000. Death benefits under this authority are considered taxable income.

Section 413 of the Foreign Service Act, 22 U.S.C. § 3973

The Secretary of State, the Director of AID and the Secretaries of Agriculture and Commerce may provide for payment of a death gratuity in an amount equal to one year's salary of the employee at the time of death to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad.

Victims of Terrorism Compensation Act, 5 U.S.C. §5570 and 22 CFR 192

This authority provides for the payment of compensation to eligible dependents or parents by Federal agencies where U.S. Government civilian employees or family members of such employees are killed, if the President determines that the death was caused by hostile action and was the result of the individual's relationship with the Government. Payment authorized under this authority must be reduced by any other amount payable by the U.S. Government in connection with the death or disability (*emphasis added*). [NOTE: Because of the other payments authorized above, including

FECA and section 413 of the Foreign Service Act authorizing one year's salary, this benefit rarely is paid because of the offset provision in the law.]

The President's authority under the Act was delegated to the Secretary of State, in consultation with the Secretary of Labor. The Department's regulations at 22 CFR Part 192 implementing 5 U.S.C. §5570 provide that the death benefit payment for either an employee or a family member of an employee is equal to one year's salary of the principal at the time of death.

Income Tax Relief – 26 U.S.C. §692©

Under 26 U.S.C. §692(c), Federal income tax is not imposed on a civilian employee who dies as a result of an injury incurred outside the United States in a terrorist or military action for the tax year of the death and any prior taxable year in the period beginning with the last taxable year ending before the year in which the injury was incurred.

Federal Employees Health Benefits Program ("FEHBP")

Eligible survivors may continue enrollment in the FEHBP if the deceased employee was enrolled for self and family at the time of death and at least one family member is entitled to a monthly annuity as the survivor of the deceased employee.

OTHER PAYMENTS

Life Insurance: Federal Employees Group Life Insurance ("FEGLI")

Civilian federal employees can elect to have Basic Life Insurance under Federal Employees Group Life Insurance ("FEGLI"). Basic Life Insurance is equal to an employee's rate of annual basic pay (rounded to the next \$ 1,000) plus \$2,000, or \$10,000, whichever is greater. The U.S. Government pays 1/3 of the cost of Basic Insurance. Employees can also elect to have additional optional coverage. The insured individual pays the full cost of all Optional Insurance. FEGLI also provides for additional benefits for those electing Basic Life Insurance and Option A coverage in cases of accidental death. Unless the employee designates a specific beneficiary, the benefit is paid according to the order of precedence mandated by law. Proceeds of FEGLI policies that are paid to a designated beneficiary are not taxable as income to the beneficiary.

Thrift Savings Plan ("TSP")

Employees' TSP accounts are distributed according to the employee's Designation of Beneficiary form. To postpone paying federal tax, all or any part of the payment may be made to an IRA.

Unpaid Compensation - Final pay and Unused Annual Leave

The designated survivor(s) of the U.S. Government employees who are killed may receive a lump sum-payment covering final pay and unused annual leave from the employee's agency.

Emergencies in the Diplomatic and Consular Services Authority

Section 4 of the Department of State Basic Authorities Act, 22 U.S.C. 2671, provides that the Secretary is authorized to make expenditures for "unforeseen emergencies arising in the diplomatic and consular service." As an example, the Department of State used this authority to make expenditures related to the Nairobi bombing. The Department of State paid for collective expenses on behalf of all the American victims (for example, costs associated with the August 1998 arrival ceremony, the meeting for families in May 1999 and the one-year anniversary commemoration ceremonies in August 1999). In addition, the Department made some payments to families of the State Department employees under this authority for airfare, local transportation, lodging and other miscellaneous expenses associated with the arrival ceremony, funeral arrangements, and anniversary commemorations.

Death Benefits – Department of Defense (Military)

The military death gratuity is \$12,420 tax free.

If a military member is retirement eligible at the time of death, his/her spouse receives a Survivor Benefit Plan Annuity equal to 55% of retired pay until age 62, after which the annuity is reduced to 35% of retired pay, less the amount of the spouse's Dependency and Indemnity Compensation (DIC).

DIC pays a spouse, whether or not the military member had reached retirement age, \$967 per month tax free plus \$241 per month for each child.

Families of a military member who dies may remain in military housing or receive a housing allowance for up to 6 months.

The children of a military member who dies are eligible for \$803 per month for up to 45 months of tertiary education.

A military member may be buried in a military cemetery free of charge - for both plot and headstone.

SGLI, the military equivalent of FEGLI, pays \$250,000 following the death of a fully covered participant.

Disability Benefits – Department of Defense (Military)

Veterans Administration Benefits – payable based on the degree of injury or disability.

Military Retired Pay – based on injury incurred in combat with an enemy of the United States due to an instrumentality of war.

Disability Benefits – Directly or indirectly from Department of State

Benefits from the Office of Workers Compensation, Department of Labor, under the Federal Employees Compensation Act. Total Disability: 66.67% of Monthly Pay. See 5 USC 8105. Retirement Benefits in lieu of FECA benefits are described below.

Benefits under the Foreign Service Retirement and Disability System (FSRDS): An annuity computed at the rate of 2.0% of high three average salary for each year of service, but guaranteed to be no less than 40% of high three average salary, or an annuity projected to age 60.

Benefits under the Foreign Service Pension System: an annuity computed at the rate of 1.7% of high three average salary for each year of service, but guaranteed to be no less than annuity described below:

Year One: 60% of High Three Average Salary Less 100% of Social Security Benefits.

Year Two to age 62: 40% of High Three Average Salary Less 60% of Social Security Benefits

Age 62: Annuity Recomputed as If employee worked to 62nd birthday. High Three Average Salary is increased by FSPS cost-of-living adjustments.

Social Security Disability Benefits.

Thrift Savings Plan.