

Information Job Aid for Managers/Employees Relating to Benefits, Leave and Restoration Entitlements for Employees Entering Active Military Service

This job aid is for employees who are entering active military service and provides information on their benefits, leave, separation and restoration entitlements.

On October 13, 1994, the Uniformed Services Employment and Reemployment Rights Act (USERRA) was passed. USERRA expanded the rights of employees entering uniformed services; therefore, giving employees options related to their employment and benefits, including restoration to IRS employment. While on duty with the uniformed services, you will be carried on leave without pay (LWOP). You may also be entitled to request paid leave (i.e., military, annual, sick, etc.) as explained below.

You are also entitled to request separation from the IRS and the separation under these circumstances does not affect your restoration rights and benefits. If you would prefer to separate, please advise your manager upon receipt of this job aid and also contact the Austin Payroll Center via Outlook e-mail at [*Military Deployment Program](mailto: Military.Deployment.Program@irs.gov) or via internet e-mail at [Military.Deployment.Program@irs.gov](mailto: Military.Deployment.Program@irs.gov) .

You are entitled to be restored to your current position, **(seasonal/permanent, title, series, and grade)** or like position of seniority, status and pay, if your absence is over 90 days. You are entitled to be restored to the position you would have attained had you not entered the uniformed service (i.e., received a career ladder promotion had you not entered military duty), provided you:

- Give the IRS advance notice of departure except when prevented by military circumstance;
- Served no more than a cumulative total of 5 years; and
- Apply for restoration (return to duty) within the appropriate time limits.

To protect your rights, you must return to duty or file an application for re-employment:

- If your absence was for less than 31 days you must report back to work no later than the beginning of the next regularly scheduled workday after you are relieved from military service plus 8 hours. The 8 additional hours are allowable for transportation home.
- If your absence was more than 30 days but less than 181 days you must apply for restoration to duty no later than 14 days after you are relieved from military service.
- If your absence was more than 180 days you must apply for restoration to duty no later than 90 days after you are relieved from military service.

Upon return or restoration, you are entitled to be treated as though you had never left for purposes of rights and benefits based upon length of service. This means that you must be considered for career ladder promotions, and the time spent in the military will be credited for seniority, successive within-grade increases, probation, career tenure, annual leave accrual rate, and severance pay. If you were eligible for a career ladder promotion while on military leave, the promotion action will be processed after your restoration to duty and the effective date will be the date the promotion would have been effective had you not been absent.

You are entitled to be notified of any competitive vacancy announcements that the IRS makes while you are on active duty. You must advise your manager of positions, series, and/or grades you are interested in so that your manager can inform you of these competitive vacancy announcements and discuss how your manager can provide this information to you. Furthermore, upon your restoration to duty, your manager is obligated to provide you with any training either mandatory or optional that other employees holding the same occupational series and grade that you hold were provided during your absence.

Other Rights, Entitlements, Benefits:

Military Leave: You are entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. If you are a full-time Federal civilian employee whose appointment is not limited to one year, you are entitled to military leave. Military leave under 5 U.S.C. 6323(a) is prorated for part-time career employees and employees on an uncommon tour of duty. Military leave should be credited to a full-time employee on the basis of an 8-hour workday. The minimum charge to leave is in one hour increments. You may be charged military leave only for the hours that you would otherwise have worked and received pay. If you request military leave for inactive duty training (which generally is 2, 4, or 6 hours in length), you will be charged only the amount of military leave necessary to cover the period of training and necessary travel. If you are a member of the Reserves or National Guard you will not be charged military leave for weekends and holidays that occur within the period of military service.

If you are working a 40-hour workweek, you will accrue 120 hours (15 days x 8 hours) of military leave in a fiscal year, or the equivalent of three 40-hour workweeks. Military leave under 5 U.S.C. 6323(a) will be prorated for part-time employees and for employees on uncommon tours of duty based proportionally on the number of hours in your regularly scheduled biweekly pay period.

In addition, if you did not use all 15 days of military leave from the previous fiscal year, the unused time may be carried over and added to the 15 days available for current fiscal year. However, an employee can not carry on the roles more than 30 days (240 hours) military leave in any fiscal year.

Note: Employees who perform active military duty may be granted an additional 22 days of military leave if such leave is granted for the purpose of providing military aid to assist domestic authorities to enforce the law or protect life and property. This leave is granted on a calendar year based and any unused leave is lost and cannot be carried over into the next calendar year.

Your civilian pay will remain the same for periods of military leave under 5 U.S.C. 6323(a), including any premium pay (except Sunday premium pay) you would have received if not on military leave. For military leave under 5 U.S.C. 6323(b) and (c), your civilian pay is reduced by the amount of military pay for the days of military leave. However, you may choose not to take military leave and instead take annual leave or sick leave, if appropriate, in order to retain both civilian and military pay.

For more information on military leave, you can go to the Office of Personnel Management (OPM) website for the [Military Leave Fact Sheet](#) and the [Frequently Asked Questions on Military Leave](#).

Annual/Sick Leave: While on active duty you may request to use annual and, if appropriate, sick leave. You will not accrue annual or sick leave during every pay period you are in non-pay status. You have the option of receiving a lump sum payment for your current annual leave balance or having such leave remain to your credit until you return from military duty. You will receive a lump-sum payment for any restored annual leave under 5 U.S.C. 6304 (d) per 5 U.S.C. 5552. If you return to active Federal service prior to the end of the period covered by the lump-sum payment, you must refund an amount equal to the pay that covers the period between the date of reemployment and the expiration of the lump-sum period. Upon return to duty your current level of sick leave will be available in your account. **NOTE: Receipt of your lump sum payment may be delayed if you have accumulated indebtedness with the Federal Service.**

Life Insurance: If you are enrolled in Federal Employees Group Life Insurance (FEGLI), coverage continues at no cost for up to 12 months in LWOP-US (non-pay) status. At the end of 12 months LWOP-US, the coverage terminates with a free 31-day extension of coverage and the right to secure other coverage or convert to a non-group policy.

Public Law 110-181, the Department of Homeland Security Appropriations Act, enacted January 28, 2008, authorizes the continuation of FEGLI coverage for an additional 12 months, up to a total of 24 months, for Federal employees called to active duty or active duty for training for more than 30 days. This new law allows you to elect to keep your FEGLI coverage for an additional 12 months. FEGLI coverage is free for the first 12 months; however, you must pay both the employee and agency share of the premiums for your Basic coverage, and also pay the entire cost for any Optional insurance you may have for the additional 12 months of coverage. You must complete the Notice and Election Form before the end of your 12 months in non-pay status or your FEGLI coverage will automatically terminate.

In addition, Public Law 110-417 allows the opportunity for certain employees to elect FEGLI coverage. If you are a civilian employee eligible for FEGLI coverage who is being deployed in support of a contingency operation as defined by section 101(a) (13), then you may have the option of enrolling or increasing your current FEGLI coverage. For additional information, visit the Office of Personnel Management (OPM) website [FAQs](http://www.opm.gov/insure/life/faq/faqs-16.asp) at <http://www.opm.gov/insure/life/faq/faqs-16.asp> or, if you still have questions or need help, visit the [ERC](http://erc.web.irs.gov) website at <http://erc.web.irs.gov> to submit an [OS GetServices](#) ticket or call ERC at 1-866-743-5748, Option 1 then Opt 1 again, and request to speak to an Insurance Specialist.

If you separate from Federal service (Separation-US) to enter military duty, you are considered to be in a non-pay status for FEGLI purposes. Coverage will continue for up to 12 months **or** until 90 days after your military service ends, whichever date comes first. The free 31-day extension of coverage and right to secure other coverage convert to a non-group policy applies when coverage terminates. You also are eligible to elect to keep your FEGLI coverage for an additional 12 months, paying the entire cost of your Basic coverage and any Optional insurance. You must complete the Notice and Election Form before the end of the initial 12 months or your FEGLI coverage will automatically terminate. For additional information, visit the Office of Personnel Management (OPM) website [FAQs](http://www.opm.gov/insure/life/faq/faqs-16.asp) at <http://www.opm.gov/insure/life/faq/faqs-16.asp> or, if you still have questions and need help, visit the [ERC](http://erc.web.irs.gov) website at <http://erc.web.irs.gov> to submit an [OS GetServices](#) ticket or call ERC at 1-866-743-5748, Option 1 then Opt 1 again, and request to speak to an Insurance Specialist

Being called to active duty or being sent to a combat zone does **NOT** cancel your FEGLI coverage. If a Federal employee with FEGLI coverage dies while on active duty during the 12 months that FEGLI coverage continues, or the additional 12 months if the election was made to extend FEGLI coverage, "regular" FEGLI death benefits are payable. Accidental death benefits are also payable under Basic (and Option A, if enrolled) unless you were in actual combat or nuclear weapons were being used at the time of the injury causing the death.

Regardless of how you entered active duty (LWOP-US or Separation-US), your FEGLI coverage will be reinstated upon your restoration to civilian duty to whatever type(s) of life insurance you had before going into non-pay status (as long as your position is not excluded from FEGLI coverage). Separated employees have the option of electing additional coverage if separated for 180 days or more.

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Health Insurance: If you are called to active duty for 30 days or less, your Federal Employees Health Benefits (FEHB) coverage (if enrolled) will continue without change. However, if your orders are changed and your period of active duty is extended beyond the original 30 days, you must complete and submit a new Benefits Election Checklist. For additional information, visit the [Office of Personnel Management website](http://www.opm.gov/insure/health/faq/reservists.asp) at <http://www.opm.gov/insure/health/faq/reservists.asp>. If you still have questions regarding your personal account, visit the [ERC](http://erc.web.irs.gov) website at <http://erc.web.irs.gov> to submit an [OS GetServices](#) ticket or call ERC at 1-866-743-5748 and request to speak to an Insurance Specialist.

If called to active duty for more than 30 days, your FEHB coverage (if enrolled) will continue for up to 24 months **unless** you elect, **in writing**, to terminate. This applies to LWOP-US and Separation-US, whether the active duty is in support of a contingency operation or not.

Terminating Your Enrollment: If you do not want to continue your FEHB enrollment while on active military duty you **must** elect **in writing to terminate coverage** within 31 days of your date of entrance on active duty. Your election on the Military Benefits Election Checklist can be used for this purpose. The effective date of termination of your FEHB coverage will be the day before entering on active duty.

Note: You may **not** elect to terminate your enrollment if you are subject to a court or administrative order to provide health benefits for your children.

Payment of FEHB Premiums

When Active Duty is in Support of a Contingency Operation: The National Defense Authorization Act for Fiscal Year 2002 gave agencies the authority to pay health benefits premiums for certain reservists called to active duty. Under this authority, the Agency will pay your FEHB premiums, employee and Government FEHB premiums and any additional administrative expenses for employees for up to 24 months for each period of active duty if you meet **all** the following requirements:

- you are enrolled in an FEHB plan;
- you are a member of a Reserve component of the armed forces;
- you are called or ordered to active duty in support of a contingency operation as defined in Title 10 U.S.C. Section 101(a)(13);
- you are placed on LWOP or separated from civilian service to perform active duty; and
- you serve on active duty for more than 30 consecutive days

When Active Duty Is NOT in Support of a Contingency Operation: You do not qualify for the 100% Agency payment of your FEHB premiums. The Agency will only pay for the government portion of the FEHB premium for the first 12 months. You are responsible for your share of the FEHB premium for the first 12 months and then your share increases to include the Agency and employee share of the premiums, along with an administrative cost, for a total 102% of the premium cost for the additional 12 month of continued coverage. You may pay the premiums on a current basis or incur a debt to be paid upon your return.

Health Insurance (cont'd)

Note: If you elect to use paid leave intermittently during deployment you will be responsible for paying the employee portion of the FEHB premiums whenever your pay is sufficient to cover the cost (even while deployed in support of a contingency operations). You will not be eligible to be reimbursed for premiums deducted while receiving sufficient pay.

Remember, you may cancel your FEHB coverage at any time if you are not participating in premium conversion; however, this cancellation will be considered a break in coverage for retirement purposes. If you are a premium conversion participant, you can only cancel your insurance if you have a qualifying life event (QLE). Cancellation of your FEHB coverage is considered a break in service for retirement purposes. Termination of coverage is not considered a break unless you fail to re-enroll within the allotted timeframe.

Flexible Spending Account (FSA): If you are enrolled in FSAFEDS, you must notify them as soon as you know you are going to be in a LWOP status. Contact an FSAFEDS benefits counselor toll-free at 1-877-372-3337, Monday through Friday, 9:00 am to 9:00 pm Eastern Time. FSA allotments are not withheld when you enter LWOP. If you have not accelerated (pre-paid) your allotment, your FSA account(s) will be frozen, and you will be ineligible for reimbursement of any health care expenses incurred during that period until the benefit period ends or until you return to civilian pay status and begin making allotment payments again. Dependent care expenses incurred may be reimbursed up to your account balance for that benefit period. LWOP-US is considered a Qualifying Life Event (QLE) and you will have additional options regarding your allotments. For more information, refer to the "Leave Without Pay (LWOP)" and "Qualifying Life Event (QLE)" Quick Reference Guides, located on the [FSAFEDS website](http://www.fsafeds.com/fsafeds/literature.asp) at <http://www.fsafeds.com/fsafeds/literature.asp>. If you return to civilian pay status after the end of the benefit period, you will have another opportunity to enroll in the FSA program.

Separation-US and enrolled in FSA: Your participation in FSA ends when you separate and there are no extensions. Any health care expenses incurred prior to the date of separation are still reimbursable (if there is any money left in your account). You can use the remaining balance in your Dependent Care FSA account to pay for eligible dependent care expenses until the end of the benefit period or your account balance is used up, whichever comes first. You may enroll in the FSA program on return to civilian employment if otherwise eligible.

Federal Employees Dental & Vision Insurance Program (FEDVIP): If you are currently **enrolled** and you separate from employment to perform active military service, your FEDVIP enrollment ends. There is no 31-day extension or opportunity to convert. You may re-enroll within 60 days of return to civilian pay status from active military duty. If you enter LWOP-US, your enrollment will continue as long as you continue to pay the premiums. You should notify BENEFEDS (1-877-888-3337) as soon as you know you will be entering LWOP status in order to set up another premium payment method. When you return to civilian employment, notify BENEFEDS immediately so the premium payment method can be returned to deduction from salary (pre-tax).

If you are not enrolled in FEDVIP, you may enroll in FEDVIP within 60 days of your return to civilian pay status from active military duty, if otherwise eligible.

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Transitional TRICARE and TRICARE Reserve Select (TRS): If you are a Reserve or National Guard component member called to active duty in support of a contingency operation and the period of active duty is more than 30 days, you and your eligible family members may be eligible for 180 days of transitional TRICARE benefits as authorized by the National Defense Authorization Act for 2005 (P. L. 108-375). In addition, if the period of active duty is 90 or more days, you may also be eligible to purchase TRICARE Reserve Select (TRS) coverage. Contact your Service representative or nearest uniformed services ID card facility prior to separation from active duty to verify eligibility for both types of coverage.

Transitional TRICARE coverage begins the day after separation from active duty. TRICARE Reserve Select coverage generally begins the day after transitional TRICARE ends. The length of time you may be enrolled in TRS is based on several requirements – contact your Service representative for this information.

If your FEHB enrollment terminates while on active duty, you may waive immediate reinstatement upon return to civilian duty if you don't want FEHB coverage while using Transitional TRICARE and/or TRICARE Reserve Select, **a waiver form is needed**. For additional information on this form, visit the [ERC](http://erc.web.irs.gov) website at <http://erc.web.irs.gov> to submit an OS GetServices ticket or call ERC at 1-866-743-5748, Option 1 then Opt 1 again, and request to speak to an Insurance Specialist.

If your FEHB enrollment does not terminate while on active duty but you do not want FEHB coverage while using TRICARE, you may **cancel** your FEHB enrollment within 60 days of return to duty via EBIS or the IVRS phone system. The time not covered by FEHB will not count as a break in the 5 years continuous coverage needed to carry FEHB into retirement as long as you provide a copy of the TRICARE Prime enrollment form showing your transitional TRICARE enrollment effective the day after release from active duty, **and**, if you enroll in TRICARE Reserve Select (TRS), the enrollment form showing the effective and ending dates of TRS coverage, **and** you re-enroll in FEHB within 31 days before to 60 days after the date transitional TRICARE or TRS coverage ends.

NOTE: Effective October 1, 2007, employees who are eligible for health insurance coverage under the FEHB Program are **excluded** from coverage under TRICARE Reserve Select.

Long Term Care Insurance (LTC): If you are enrolled, Long Term Care Insurance (LTC) continues when you enter LWOP-US or separate from employment (Separation-US), as long as you continue to pay the premiums. If your premiums are being deducted through payroll deduction, you must contact LTC Partners to select a different payment option, such as direct billing or automatic bank withdrawal. Upon release from active duty and return to a civilian pay and duty status, contact LTC Partners again if you wish to go back to payroll deduction. You must contact LTC Partners at 1-800-582-3337 or TDD 1-800-843-3577 or via the [Long Term Care Insurance Program Website](http://www.ltcfed.com) at www.ltcfed.com if you have questions or need additional information.

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Thrift Savings Plan (TSP): No contributions can be made to your civilian TSP account while you are on LWOP-US or have Separated-US from your civilian position, including agency contributions (for FERS). However, if you return to duty to a position covered by FERS or CSRS (including CSRS Offset), in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), you can make up missed TSP contributions. You must contact a BeST Retirement Specialist through the ERC at 1-866-743-5748 (TDD 1-866-924-3578) or [OS GetServices](#). Additional information is available on the [ERC](#) website at <http://erc.web.irs.gov> or [TSP](#) website at www.tsp.gov .

If you contribute to your uniformed services TSP account while on military duty, the amount of civilian employee contributions you can make up will be reduced by the amount of your contributions you made to your uniformed services account.

If otherwise eligible and you are covered by FERS, you will receive agency matching contributions as you make up employee contributions, as well as make-up agency 1% automatic contributions for the entire period missed as a result of military service, **whether or not** you make up missed employee contributions.

In addition, if you are FERS and you contribute to your uniformed services TSP account while on active duty, you are entitled to make-up agency matching contributions in your civilian account based on the contributions that were deducted from your **basic pay** received while performing active duty. This is true **whether or not** you make up **civilian** employee contributions, although if you receive uniformed services matching contributions, your make-up agency matching contributions must be reduced by the amount of your uniformed services matching contributions.

If you have a TSP loan you should send a copy of your LWOP-US or Separation-US Notification of Personnel Action (SF 50) to the **Thrift Savings Plan, PO Box 385021, Birmingham, AL 35238**, or fax it to 1-866-817-5023.

You cannot repay your civilian TSP loan by making loan allotments from your uniformed services pay. However, you can make direct payments on your loan while in a non-pay status by sending a personal check or money order to the TSP. Be sure to write your Social Security number and loan number on the check or money order, and send it with a TSP Loan Payment Coupon. The Loan Payment Coupon is available on the [TSP website](#) at <http://www.tsp.gov> , under miscellaneous forms.

When you return to pay status, TSP must be notified of your date of return. Your TSP loan must resume when you return to pay status. If your loan payments have not been kept up to date, your loan will be re-amortized automatically.

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Retirement: While on LWOP while performing active military duty you will continue to be covered by the retirement law, i.e., CSRS or FERS, (including CSRS Offset).

If you were first hired under CSRS before 10-01-1982: The period of military service is creditable toward **potential** civilian retirement and annuity computation without making a service credit deposit. However, if you choose **not** to make the deposit and are eligible for Social Security at age 62, credit for the military service will be deleted and your annuity will be recomputed downward when you reach age 62 (whether or not you apply for Social Security). Commonly called "Catch 62," you may ensure continued retirement credit for military service by making the military deposit.

If you are covered by FERS, or if you were first hired under CSRS after 09-30-1982: The period of military service is creditable toward civilian retirement **only** if you pay the military deposit.

If you were first hired under CSRS before 10-01-1982 but later elected FERS: If the period of military service occurs after the date you become covered by FERS, the military service is creditable for civilian retirement **only** if you pay the military deposit.

It is in your best interest to inquire about making a military deposit immediately on return to civilian duty, especially if you want to avoid paying interest. The deposit must be completed **within 3 years** of your return to a civilian pay status or interest will be assessed. If you are restored to civilian duty under USERRA provisions, the deposition will be equal to the lesser of 1) *7% (or *3% for FERS) of the military basic pay **OR** 2) *7% (or *.8% for FERS) of the civilian pay. **Keep ALL civilian Leave and Earnings Statements (LESs)** that show pay received for intermittent leave used while on LWOP-US (e.g., military leave, annual leave, compensatory time, credit hours). You are not required to pay for these periods.

Death and disability benefits: If you are placed on LWOP-US, you continue to be covered by retirement law (CSRS or FERS). Death benefits will be paid to your survivors as if you are still in the civilian position. Disability benefits will be paid under the applicable retirement system if you become disabled for your civilian position during LWOP-US and have the minimum amount of creditable civilian service necessary for entitlement to disability benefits (5 years for CSRS, 18 months for FERS).

If you separate from Federal service to perform active military duty (Separation-US) and die before electing a refund of retirement contributions are eligible for survivor benefits paid upon the death of a former employee - this may or may not include a survivor annuity.

If there are any questions, you must contact a BeST Retirement Specialist through the ERC at 1-866-743-5748 or TDD 1-866-824-3578 or create an OS Get Services ticket by accessing the [ERC](http://erc.web.irs.gov) web site at <http://erc.web.irs.gov>. Additional guidance/benefits information for entering military service is also available on the [Office of Personnel Management \(OPM\) web page](http://www.opm.gov) at www.opm.gov .

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5 Days Excused Absence: Federal civilian employees who are called to active military duty and serve at least 42 consecutive days in support of the Global War on Terrorism (GWOT), established under Executive Order 13223, are entitled to five (5) days of excused absence from their civilian duties upon their return from active military service. Upon returning from deployment, notify your manager of the specific date you will return to civilian duty. Your manager will process the return to duty action and must then grant you five (5) days of excused absence, if qualified, to be used immediately upon your return to work. You are entitled to five (5) days of excused absence only once in a 12-month period. If you have been called to active duty on multiple occasions, you are entitled to receive five (5) days of excused absence as long as your service meets the 42 consecutive days standard and does not end within the 12-month limitation.

If you have any questions, please contact ERC at 1-866-743-5748 or TDD 1-866-924-3578; the Austin Payroll Center via Outlook e-mail at [*Military Deployment Program](mailto: Military.Deployment.Program@irs.gov) or via internet e-mail at [Military.Deployment.Program@irs.gov](mailto: Military.Deployment.Program@irs.gov) .

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