



FERS is Fair



FERS ★ **Federal Employees Retirement System**
OPM ★ **Office of Personnel Management**

FERS Provides Early Retirement Due to Medical or Psychological Conditions

- ◆ Medical Conditions prevent you from performing essential elements of your job.
- ◆ Impairments can be from any cause: age, congenital, personal injuries & work comp.
- ◆ Example: Crane operator with neck surgery fused vertebrae.
 - Is FERS eligible. Neck movements will aggravate the neck.
 - Is Not Social Security Disability. Cannot work in ANY sustained gainful employment.

FERS Medical Disability Payments:

- ◆ 60% of Salary First Year. 40% of Salary Following Years
- ◆ You can work outside the Federal government and make up to 80% of your Federal salary.

How to Apply for FERS:

- ◆ Complete the FERS form. Google FERS or ask your employer's personnel office.
- ◆ Get Medical Records.
- ◆ Obtain a doctor's expert medical opinion report that meets FERS requirements.
- ◆ FERS requires you to first apply for SSD Social Security Disability.
 - ◆ If SSD Approved. Yay!
 - ◆ If SSD is denied then FERS applies.

FERS Deadlines!

- **You must File Within One (1) Year of Last Date of Employment.**
 - You do not have to quit. You can file for FERS and keep it as a backup for the future.
- **If OPM Sends a Denial Letter** ◀ **Only 30 (Thirty) Days to Object!**
 - Print on the envelope the date you received the denial letter.
 - **Hire an Attorney!**
 - If near the 30 day deadline!
 - You send a letter objecting and request an extension to hire an attorney.
 - **The Bruner Presumption:**
 - If your employer terminates you or gives you a letter that you are being terminated because your medical or mental conditions are causing to be unable perform your job, then that termination letter may allow your attorney to use the Bruner Presumption to help you win.



Fair & Compassionate Occupational & Legal Medicine™

This handout is provided as a courtesy and is not legal advice

Ellis Clinic, PC
5100 N. Brookline Ave #465
Oklahoma City, OK 73112
405-917-5336 • Fax 405-917-2250
www.EllisClinic.com
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FERS Federal Employees Retirement System
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The Bruner Presumption:

The FERS law provides federal employees early disability retirement due to their medical or mental conditions causing an inability to perform the job for which they were hired.

FERS criteria is less stringent than Social Security Disability (SSD):

- ◆ SSD Inability to perform ANY sustained gainful activity.
- ◆ You may be qualified for FERS but not SSD.
- ◆ Example: Crane operator with neck surgery fused vertebrae.
 - Is FERS eligible. Neck movements will aggravate the neck.
 - Not SSD eligible. Employee can do other types of work.

The 1993 Bruner Presumption:

If your agency terminates you or gives you a letter that you are being terminated because of your medical or mental conditions are causing you to be unable perform your job, then that termination or letter may allow you to use the Bruner Presumption.

FERS places the burden of proof on the employee that are disabled.

The Bruner Presumption changes the burden of proof from the employee to OPM Office of Personnel Management to prove that you are NOT disabled.

The Bruner Presumption is not automatic. You still need a doctor's Legal Medicine opinion that you are unable to perform the work for which you were hired.

FERS Law is Fair

In the past, the employee filed a FERS application, their medical records and a doctor's expert medical opinion that complied with the FERS criteria. Attorney were rarely needed.

Whoops!

- ◆ FERS claims are now frequently being denied.
- ◆ Employees have only 30 days to reply.
- ◆ Many employees will need an attorney.
- ◆ You always need a doctor's expert medical opinion that meets the FERS criteria and will be available to assist you with expert medical testimony in oral hearings.



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FERS Appointment Protocol
FERS ★ Federal Employee Retirement System
OPM ★ Office of Personnel Management



FERS Deadline! You must file within 1 year of the last day as a Federal Employee.

FERS Medical Disability Has Simple Criteria: You cannot do the work for which you were hired or the work is harmful to you. FERS is easier than Social Security Disability (SSD) which requires the inability to perform any gainful employment. FERS 1st Year is 60% of salary then 40%. You can make up to 80% of your salary and stay on FERS. You get either salary or FERS. FERS requires a physician's medical opinion that follows the OPM Office of Personnel Management regulations.

First Middle Last Name _____
 Full Mailing Address _____
 Contact Phone/s _____ E-mail _____
 Social Security# _____ Date of Birth _____ Male Female
 Employer _____ Work Status: Still Working Date Last Worked _____
 Attorney/Rep None _____

Conditions, Diseases or Injured Body Parts That Make it Difficult to Work. Put Most Disabling on Top.

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____

Additional conditions on separate page. Extensive conditions and records may require an additional charge.

FERS Fee: \$500 for Exam and Expert Medical Opinion Narrative report.
Summary List Fee: \$50 per Inch If You Request Ellis Clinic to Produce Your Summary List.
No Fee If You Provide a Summary List. See page 2 for Instructions for Order of Records and how to make a Summary List.

Total Payment \$ _____ \$500 FERS Report ❖ Plus _____ Inches records X \$50 = \$ _____

Payment Method Check to Ellis Clinic, PC • Card: Am Exp Discover MasterCard Visa Other _____

Date _____
 Card# _____ Exp _____ / _____ Security Code# _____
 Name on Card _____

Card Address: _____ **Card Zip Code:** _____

Mail this Protocol • Records & Summary List. Ellis Clinic will then contact you to set up an appointment.

FERS ⚡ **Federal Employee Retirement System** **OPM Office of Personnel Management**

Instructions for Records

Send Only Copies! Records Are Shredded and Not Returned.

Send only pertinent records: • Usually, only an Operative Report but not all the hospital records will be enough. Usually, you do not need every physician visit record for followup medical maintenance.

ORDER of RECORDS

- ★ **FERS Appointment Protocol**
- ★ **Typed Summary List of Records** Important! Your Summary List is attached to your report.
 - ◆ You can request Ellis Clinic to type your Summary List. Fee: \$50 per inch of records (if records in order).

Medical Record Sections:

- ◆ Insert a sheet of colored paper or a tab between each section.
 - ◆ Within each section put the most recent records on top.
 - ◆ Staple or clip together the pages of each operation, test, each physician, etc.
 - ◆ Do not make separate lists for each of your conditions, i.e. All Operations are listed together
1. **Official Job Description** (Code, Title & Description): Get from you HR Department or Google.
 2. **Operations:** Only the Operative Report.
 3. **Tests:** MRI, EMG/Nerve Conduction Study, Lab Blood test if positive for a disease, i.e. Diabetes
 4. **Hospital Records:**
 - If surgery, then usually only the Operative Report will be enough.
 - If surgery, then the Hospital Discharge Summary will usually be enough.
 5. **Physician Records:** Reports, Office Notes, etc.
 6. **Non Physician Records** (Optional): Physical Therapy, Functional Capacity Exam.

Example of a FERS Summary List

Medical Records: John Q. Doe, SSN 123-45-6789

1. Job Description
2. Operations
 - a. 11/2/2018 Right shoulder arthroscopic surgery.
 - b. 10/15/2017 Lumbar spine fusion L5-S1.
3. Tests:
 - a. 4/4/2018 MRI Right Shoulder
 - b. 4/5/2017 MRI Lumbar spine
 - c. 3/3/2010 blood test: Positive Rheumatoid Factor
4. Hospital Records:
 - a. 7/6/2003 - 7/4/2003 Mercy Hospital Discharge Summary: Motorcycle accident.
5. Physician Records
 - a. 11/8/2018 - 5/4/2015 Ima Cutter, DO
 - b. 6/8/2017 - 6/6/2013 Marcus Welby, MD

Mail this Protocol + Records + Summary List + Total Fee ❖ **Ellis Clinic will contact you to set up an appointment.**