



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

OFFICE OF THE DIRECTOR

FEB 10 2006

Mr. William Burrus
President
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005

Dear Mr. Burrus:

Thank you for your inquiry regarding the decision of the United States Merit Systems Protection Board (the Board) in Hatch v. Office of Personnel Management, 100 M.S.P.R. 204, decided September 28, 2005.

The Board found that Mr. Hatch, an annuitant and former postal service employee, should have been treated as a full-time employee at separation for retirement purposes by the Office of Personnel Management (OPM). Specifically, the Board found that his certified full-time appointment of working four hours a day, and receiving Office of Workers' Compensation Program (OWCP) benefits for the other four hours while in an leave-without-pay (LWOP) status was proper and could not be considered a part-time appointment as OPM had treated it in computing his annuity. The decision also found the general guidance in Retirement and Insurance Letter 2002-21 on this subject not entitled to deference.

OPM has declined to pursue judicial review of this decision and as you suggest, the Board's decision is now precedent. OPM will apply the decision in all factually similar cases, both under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). This includes new applications for retirement benefits as well as cases that come to the attention of OPM for any reason, regardless of the commencing date of the annuity.

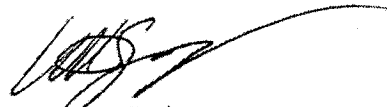
It is not possible for OPM to identify annuitants who fit the Hatch profile with part-time service in their annuity computation that were processed before the Hatch litigation began. However, OPM will seek assistance from all Federal agencies through the issuance of a Benefits Administration Letter (BAL). The BAL will notify agencies of the Hatch decision and will ask them to identify and advise OPM of current employees whose retirements are pending that may be affected by this decision, those who may have recently retired, and those former employees, they are aware of, that may fall into the Hatch category. We will request agencies forward a comprehensive list that identifies all who may fit the Hatch profile. It would be helpful if you could assist OPM by advising your members of the Hatch decision.

Mr. William Burrus

OPM has drafted new internal procedures and is revising the general guidance in Retirement and Insurance Letter 2002-21 to comport with the Hatch decision.

Thank you for the opportunity to respond to your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read 'LMS', with a long, sweeping horizontal line extending to the right.

Linda M. Springer
Director