



Approved for Release

Kevin E. Mahoney

Director for Human Resources Management and
Chief Human Capital Officer

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DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT

HUMAN RESOURCES (HR) BULLETIN #198, FY15

SUBJECT: Federal Employees' Health Benefits (FEHB) Program Enrollment Eligibility to Certain Employees on Temporary Appointments and Certain Employees on Seasonal and Intermittent Work Schedules

EFFECTIVE DATE: Upon release of this HR Bulletin

EXPIRATION DATE: Until superseded or revoked

SUPERSEDES: Not applicable

BACKGROUND: To further the goal of providing affordable health insurance to Federal employees, the Office of Personnel Management (OPM) published a final rule (79 FR 62325) on October 17, 2014, modifying and expanding Federal Employees' Health Benefits Program (FEHB) enrollment eligibility to certain employees on temporary appointments and certain employees on seasonal and intermittent work schedules.

PURPOSE: The purpose of the bulletin is to set forth Department of Commerce (Department) policy and guidance for implementing FEHB eligibility to certain temporary, seasonal, and intermittent employees.

APPLICABILITY: This policy applies to Department employees who meet the regulatory eligibility requirements as described below.

POLICY: Effective immediately, Servicing Human Resources Offices (SHROs) must identify and offer the opportunity for FEHB enrollment (to include the same government contributions as for full-time permanent employees) to eligible employees by December 31, 2014. Enrollment of newly eligible employees pursuant to this rule must be accepted during a 60-day period following the SHRO's notification, to be effective the first day of the first pay period after submission of enrollment paperwork. The earliest date FEHB coverage may become effective under this new regulation is January 11, 2015.

Employees may elect FEHB coverage beginning January 1, 2015, through submission of Standard Form (SF) 2809, revised in November 2014. FEHB elections received prior to

January 10, 2015, will be effective the first full pay period in January beginning January 11, 2015 (Pay Period #1). Elections submitted on or after January 11, 2015 will become effective the first full pay period after receipt of the SF-2809 by the SHRO. In addition, the SHROs must continue to identify and extend FEHB enrollment eligibility to newly appointed temporary, seasonal, and intermittent employees who meet the eligibility criteria.

The SHROs are also responsible for continually monitoring FEHB eligibility status of employees who were initially deemed ineligible for FEHB coverage under this rule due to the expectation of working less than 90 days and/or less than 130 hours per calendar month. Upon determination that the employee meets the eligibility criteria or is expected to meet the criteria, SHROs must offer the employee the opportunity to enroll in FEHB as detailed under the section "Monitoring Changes in Hours or Days Worked Affecting FEHB Eligibility."

ELIGIBILITY

Employees on temporary appointments limited to 1 year (or less) who have worked or are expected to work at least 90 days and have worked or are expected to work 130 or more hours (i.e., work and paid leave, as well as qualifying leave-without-pay hours¹) per calendar month (equivalent to 30 hours per week);

OR

Employees under a seasonal or intermittent work schedule (regardless of appointment type or length of appointment) who have worked or are expected to work at least 90 days and have worked or are expected to work 130 or more hours (i.e., work and paid leave, as well as qualifying leave-without-pay hours) per calendar month (equivalent to 30 hours per week).

Current Employees Newly Eligible

Employees are eligible if they: (a) are on a temporary appointment limited to 1 year or less, or assigned to an intermittent or seasonal tour of duty (regardless of type or length of appointment); (b) have already been employed for 90 days or more; and (c) have worked 130 or more hours (i.e., work and paid leave, as well as qualifying leave-without-pay hours) per calendar month (equivalent to 30 hours per week) during their appointment.

Once notified, those employees not already enrolled in FEHB may submit an enrollment election (SF-2809) during the following 60 days, effective the first day of the pay period following the SHRO's receipt of the election.

Newly eligible temporary employees already enrolled in FEHB (i.e., have completed 1 year of current continuous employment but are not receiving the government contribution towards the FEHB premium), will not need to complete a new SF-2809. The SHROs should follow the

¹ Under revised 5 CFR 890.102(j)(4), "qualifying leave without pay hours" means hours of leave without pay for purposes of taking leave under the Family and Medical Leave Act; for performance of duty in the uniformed services under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. 4301 et seq.); for receiving medical treatment under Executive Order 5396 (July 7, 1930); and for periods during which workers compensation is received under the Federal Employees Compensation Act, 5 U.S.C. Chapter 81.

guidance outlined in the National Finance Center's (NFC) Functional Requirements Document #87569 to update the employee's record to receive the government FEHB contribution.

Current Employees May Be Eligible

Employees on temporary appointments limited to 1 year or less who have either not worked at least 90 days or those who have worked at least 90 days, but have not worked 130 or more hours (i.e., work and paid leave, as well as qualifying leave-without-pay hours) per month (equivalent to 30 hours per week) during their appointment; and the supervisor/manager determines that the individual is expected to work at least 90 days and is expected to work 130 or more hours per calendar month during their appointment.

Once notified, these employees may submit an enrollment election (SF-2809) during the following 60 days, effective the first day of the pay period following the SHRO's receipt of the election.

Determining Eligibility upon Initial Appointment

If the temporary appointment not-to-exceed (NTE) date is 90 days or longer, and the supervisor/manager determines that the employee is expected to work 130 or more hours (i.e., work and paid leave, as well as qualifying leave-without-pay hours) per calendar month (equivalent to 30 hours per week) during their appointment, the opportunity to enroll **MUST** be provided during the on-boarding process. Newly appointed employees may enroll in FEHB within 60 days after the effective date of their appointment.

If it is expected that the employee will work fewer than 90 days, FEHB enrollment cannot be offered. If the NTE date is established as 90 days or longer, but it is not expected for the employee to work 130 or more hours (i.e., work and paid leave, as well as qualifying leave-without-pay hours) per calendar month (equivalent to 30 hours per week) of their appointment, the opportunity to enroll cannot be provided.

Monitoring Changes in Hours or Days Worked Affecting FEHB Eligibility

Employees who are initially deemed ineligible for FEHB coverage under this rule due to the expectation of working less than 90 days and 130 hours per calendar month must continuously be monitored to ensure no changes in expectation have occurred that affect the employee's FEHB enrollment eligibility.

Upon a change in expectation requiring the employee to work for 90 days or more, and to work 130 or more hours per calendar month (equivalent to 30 hours per week) of their appointment, the employee is eligible to enroll in FEHB and **MUST** be notified as such by the SHRO. FEHB enrollment (including the effective date of coverage) must be no later than the end of the waiting period ending on the 91st day after the first day of employment; therefore, changes in the duration of appointment should be made well in advance to allow the employee sufficient time to consider FEHB election.

At any time during the employee's appointment, if the expectation in hours changes from less than 130 hours per calendar month to 130 hours or more per calendar month of their

appointment, then the employee becomes eligible to enroll in FEHB and MUST be notified by the SHRO.

Once notified, these employees may submit an enrollment election (SF-2809) during the following 60 days, effective the first day of the pay period following the SHRO's receipt of the election.

Tracking Notification of Eligibility

SHROs are required to develop a mechanism to track FEHB eligibility determinations, offers of enrollment, acceptance/non-acceptance of employees under appointments of 1 year or less, or seasonal/intermittent work schedules for future reporting requirements.

Using the template provided, SHROs must record and submit data on FEHB election opportunity notification and results to the Office of Human Resources Management by the 15th day following the end of each quarter.

Termination of FEHB Coverage

Once an employee is enrolled, eligibility will not be revoked, regardless of the employee's actual work schedule or the employer's expectations in subsequent years, unless the employee separates from Federal service, receives a new appointment (in which case eligibility is determined by the rules applicable to the new appointment), or exceeds 365 days in nonpay status in accordance with Title 5, CFR § 890.303(e). (FEHB coverage will be maintained beyond 365 days of non-pay status if the employee is eligible for qualifying leave without pay as defined under 5 CFR § 890.102(j)(4)).

Processing FEHB

The NFC issued processing requirements through a Functional Requirements Document, # 87569. NFC will be able to accommodate the new processing requirements in CY 15, Pay Period 01 (January 11, 2015).

Employee Notification

Attached is sample language that can be used for distribution by either hard copy or e-mail notification to eligible employees. The SHROs must be able to document that employees were notified of their opportunity to enroll in FEHB coverage. It is recommended that a receipt of enrollment notification signed by the employee be kept on file, along with the employee's election to enroll or decline FEHB coverage, recorded on an SF-2809.

Future Extension of Temporary Appointments:

In accordance with Title 5, CFR § 316.401(c), temporary appointments can only be made for a period not to exceed 1 year, and can be extended up to a maximum of 1 additional year (24 months total service). The exception to this time limitation under Title 5, CFR § 316.401(d) requires that an individual must work less than 6 months (1,040 hours), excluding overtime, in a service year. To be eligible for FEHB, employees are required to work 130 hours per calendar

month (equivalent to 30 hours per week), which totals 1,560 hours, excluding overtime. Therefore, if an individual meets the requirements for FEHB, their temporary appointment cannot be extended beyond the 24-month total service limitation.

REFERENCES: *Federal Register* Notice, vol. 79, No. 201, dated Friday, October 17, 2014; Title 5, Code of Federal Regulations, Part 890; National Finance Center Functional Requirements Document # 87569.

OFFICE OF POLICY AND BENEFITS: OPBservices@doc.gov