



***Retirement and Insurance Service
Benefits Administration Letter***

Number: 00-224

Date: November 21, 2000

Subject: Federal Employees Health Benefits: Children's Equity

Purpose

The purpose of this letter is to inform you of a change affecting enrollment under the Federal Employees Health Benefits (FEHB) Program.

This change is the result of a new law, Public Law 106-394, the "Federal Employees Health Benefits Children's Equity Act of 2000," which was enacted October 30, 2000.

Background

The FEHB law and regulations allow an employee to change enrollment after a change in family status. We consider the issuance of a court or administrative order requiring an employee to provide health benefits for his/her children to be a change in family status allowing an enrollment change.

Although the issuance of such a court/admin order allows an enrollment change, there has been nothing in the FEHB law that actually required an employee to make the change. An employee with such an order in place could refuse to enroll for self and family coverage. While this seemingly violated the court/admin order, it did not violate the FEHB law.

What the New Law Does

Pub. L. 106-394 requires mandatory self and family coverage for FEHB-eligible employees who do not comply with a court or administrative order to provide health benefits for their children. An employee subject to such an order must enroll in self and family coverage in a plan that provides full benefits to his/her child(ren) in the area where they live or provide documentation that he/she has other health coverage for the children. If the employee does not enroll in an

appropriate health plan or provide documentation of other coverage for the children, the agency must enroll the employee for self and family coverage in the standard option of the Blue Cross and Blue Shield Service Benefit Plan (enrollment code 105).

This type of mandatory coverage has been in effect for several years in the private sector. The new legislation extends the requirement to Federal employees.

How Will Agencies Know When an Employee Is Subject to Such a Court/Admin Order?

Agencies will know when someone submits a court or administrative order for implementation.

Who Has to Submit the Court/Admin Order?

The court or administrative order can be submitted by the custodial parent, an attorney for the custodial parent, the State administrative agency that issues the admin order--by whomever. It doesn't matter who submits the order.

Does the Court/Admin Order Have to Be Certified?

Court orders:

- 1) If the court order deals only with health benefits, it does *not* have to be certified.
- 2) If the court order also deals with life insurance or retirement benefits, then it *does* have to be certified.

Administrative orders:

Administrative orders come from State child support agencies. They will not be certified.

When Does the Agency Have to Receive the Court/Admin Order?

The agency must receive the court/admin order on or after October 30, 2000.

What about Court/Admin Orders That Were Submitted before October 30, 2000?

Court or administrative orders that were submitted before the enactment of Pub. L. 106-394 don't "count." For the order to be valid, you must receive it no earlier than October 30, 2000.

Anyone who submitted a court/admin order relating to health benefits for an employee's children before October 30, 2000, would have to resubmit it. The court/admin order can be *issued* before

October 30, 2000; but it doesn't have any validity for FEHB purposes unless you *receive* it on or after October 30, 2000.

What Do Agencies Have to Do with these Orders?

You must review the employee's records to determine whether he/she is eligible for FEHB and, if so, whether he/she is enrolled in a self and family plan that provides full benefits in the location where the children live. If the employee has such coverage, notify whoever sent in the court/admin order. Send a copy of the enrollee's SF 2809 to the carrier, along with a copy of the court/admin order to notify the carrier of the additional family members being covered under the self and family enrollment.

File the order in the employee's OPF (Official Personnel Folder), and flag the OPF or other file in some manner so that you will know it contains a court/admin order relating to health benefits.

What If the Employee Doesn't Have Self and Family Coverage Or Doesn't Have Coverage That Provides Full Benefits in the Area Where the Children Live?

If the employee is eligible for FEHB but doesn't have the appropriate coverage, notify the employee that you have received a court order requiring him/her to provide health benefits for his/her children. Give the employee until *the end of the pay period following the one in which you give him/her the notice* to enroll in an appropriate health plan or provide documentation that he/she has other health benefits for the children.

We have attached a sample notification.

What If the Employee Doesn't Enroll or Provide Documentation of Other Coverage by the Due Date?

If the employee doesn't enroll in an appropriate plan or provide documentation of other coverage for the children, you must enroll him/her as follows:

If the Employee Is Not Enrolled at All

If the employee is not enrolled for any FEHB coverage, enroll him/her for self and family coverage in the Standard Option of the Blue Cross and Blue Shield Service Benefit Plan (enrollment code 105).

If the Employee Has Self Only Coverage

If the employee has a self only enrollment in a fee-for-service plan, change the enrollment to self and family in the same option of the same plan.

If the employee has a self only enrollment in an HMO, and the HMO serves the area where the children live, change the enrollment to self and family in the same option of the same plan.

If the employee has a self only enrollment in an HMO, and the HMO does *not* serve the area where the children live, change the enrollment to self and family in the Blue Cross and Blue Shield Standard Option.

If the Employee Has Self and Family Coverage in an HMO That Doesn't Serve the Area Where the Children Live

If the employee already has a self and family enrollment, but it's in an HMO that doesn't serve the area where the children live, change the enrollment to self and family in the Blue Cross and Blue Shield Standard Option.

How Does an Agency Enroll an Employee Involuntarily?

If you need to enroll an employee involuntarily, complete an SF 2809 with the employee's identifying information. Use event code 1C (Change in family status). In the signature block in Part G write "See Remarks." In the remarks block in Part H write "Being enrolled for self and family coverage involuntarily under Pub. L. 106-394."

When you send the SF 2809 to the health plan, attach a copy of the court/admin order.

Send the enrollee's copy of the SF 2809 to the custodial parent, along with a plan brochure. Make a copy of the enrollee's copy for the employee.

If the Agency Enrolls an Employee, What Is the Effective Date of the Coverage?

In most cases the effective date will be the first day of the pay period following the one in which you complete the SF 2809.

Example:

You receive an admin order on 11/14/00 saying Eddie Employee must provide health benefits for his 2 children. Eddie doesn't have any FEHB coverage. You notify Eddie that he has until 12/2/00 (the end of the following pay period) to enroll or provide documentation that he has other coverage for them. He doesn't respond. On 12/4/00 you complete an SF 2809 enrolling Eddie for self and family coverage in the Blue Cross and Blue Shield Standard Option. The effective date would be 12/17/00 (the first day of the next pay period).

Exception:

There is one instance in which the enrollment would be retroactive, and that's if the court/admin order specifies an effective date. In this case you must make the enrollment retroactive to the beginning of the pay period that includes that effective date, but *no further back than 2 years*.

How Do We Identify the Eligible Family Members?

Usually the court/admin order will have the names and birthdates of the children. In the event the order does not have this information, leave item 2 on the SF 2809 blank. The health plan will obtain the information from the custodial parent.

What If the Employee Goes into a Nonpay Status or If the Employee's Pay Is Insufficient to Make the Withholdings?

The provisions of 5 CFR 890.502(b) apply. However, in this case the employee does not have the option of terminating coverage. The employee must continue the coverage and either make direct premium payments or incur a debt to the Government.

If the Agency Enrolls an Employee, Can the Employee Later Make Enrollment Changes?

Yes and no.

During open season or when there's an event allowing an enrollment change, an employee who is subject to a court/admin order can change to a different fee-for-service plan or to an HMO that provides full benefits where the children live.

However, such an employee **cannot** cancel enrollment, change to self only, or change to an HMO that doesn't provide coverage in the area where the children live, as long as the court/admin order is still in effect and the children are eligible under the FEHB Program (unless the employee provides documentation that he/she has other coverage for the children)--not even during open season. This applies whether the employee is enrolled voluntarily or involuntarily. If you receive an SF 2809 making such an enrollment change for one of these employees, do not process it. If it's processed by mistake, void it. Notify the employee that he/she cannot make the change and that the existing self and family enrollment will remain in effect.

What If the Employee Makes a "Not-Allowed" Enrollment Change by Employee Express?

Agency payroll offices should flag the records for employees subject to a court/admin order for health benefits. The employee will then not be able to make an enrollment change through Employee Express.

Agencies that have their own electronic system for FEHB enrollments should take similar action.

How Long Must the Employee Keep the Self and Family Enrollment?

If the court/admin order doesn't specify a time limit on the coverage, the employee must keep the self and family enrollment until the last child marries or reaches age 22.

If the court/admin order states that the coverage must continue until a specific age--and that age is below age 22--the employee may cancel the coverage or change to self only as follows:

If the Employee Participates in Premium Conversion

The employee may cancel or change to self only during the next open season after the last child reaches the age stated in the court/admin order.

If the Employee Waived Premium Conversion

The employee may cancel or change to self only at any time after the last child reaches the age stated in the court/admin order.

If the court/admin order states that the coverage must continue until a specific age--and that age is over age 22--the coverage must continue until the last child reaches age 22. Unless they meet the requirements for being "incapable of self support," children cannot continue FEHB coverage beyond age 22, regardless of what the court/admin order says.

What Happens When the Employee Retires?

An employee who is subject to a court/admin order to provide health benefits for his/her children and who is eligible to carry FEHB coverage into retirement must continue the self and family enrollment after retirement. As long as the court/admin order remains in effect, he/she cannot cancel coverage, change to self only, or change to an HMO that doesn't provide full benefits where the children live.

What If We Get More Than One Court/Admin Order for the Same Employee?

A self and family enrollment automatically covers all eligible family members. If you have an employee subject to a court/admin order, and you get another court/admin order relating to a different child (or children), that child is automatically covered under the existing self and family enrollment. Send the health plan a copy of the subsequent court/admin order, along with a copy of the SF 2809 marked "Duplicate."

If the employee is enrolled in an HMO, and the children mentioned in the subsequent court/admin order live in an area that the HMO doesn't serve, notify the employee and give

him/her a chance to choose a different health plan. If the employee doesn't, then change the enrollment to Blue Cross and Blue Shield Standard Option. Attach copies of all court/admin orders to the SF 2809.

A handwritten signature in black ink, appearing to read "Abby L. Block". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Abby L. Block, Chief
Insurance Policy
and Information Division

Attachment

ATTACHMENT

**SAMPLE NOTICE TO EMPLOYEE
SUBJECT TO HEALTH BENEFITS COURT/ADMIN ORDER**

Dear [*Employee's name*]:

We have received a [*court/administrative*] order stating that you must provide health benefits for your child[*ren*]. You are not currently enrolled in self and family coverage under the Federal Employees Health Benefits (FEHB) Program in a health plan that provides full benefits in the area where your child[*ren*] live[*s*].

Pub. L. 106-394 requires Federal agencies to ensure that employees comply with the terms of such court and administrative orders. You must enroll in self and family coverage in a plan that provides full benefits where your child[*ren*] live[*s*] or provide documentation that you have other health benefits for your child[*ren*] by [*insert date that is the last day of the pay period following the one in which this notice is issued*].

If you do not enroll or provide documentation of other coverage for your child[*ren*] by [*repeat date from paragraph above*], we will enroll you for self and family coverage under the Blue Cross and Blue Shield Standard Option.

As long as the [*court/administrative*] order remains in effect and your child[*ren*] [*is/are*] eligible under the FEHB Program, you must continue self and family coverage in a plan that provides full benefits where your child[*ren*] live[*s*], unless you provide documentation that you have obtained other coverage.

Sincerely,

[*Signature, name, and title of appropriate official*]

[*In addition to sending a copy to the employee, keep a copy in the employee's OPF or other record.*]