



Benefits Administration Letter

Number: 20-203

Date: November 5, 2020

SUBJECT: Federal Employees Health Benefits Program: Removal of Ineligible Family Members from Enrollments

Background

On January 23, 2018, the Office of Personnel Management (OPM) published a regulation at [83 FR 3059](#) that provides a process for removing ineligible individuals from Federal Employees Health Benefits (FEHB) Program Self Plus One and Self and Family enrollments. The regulation outlines the steps employing offices need to take to request proof of family member eligibility and the process for enrollees to request reconsideration of a decision to remove an individual.

The regulation allows the employing office, OPM or an FEHB Carrier to request proof of family member eligibility from an employee at any time for existing enrollments. An employing office should implement these procedures when there are questions or concerns about a family member's eligibility. For the purposes of this BAL, the term "employee" also includes annuitants. Neither the regulation nor this BAL requires employing offices or carriers to perform a full-scale audit of FEHB enrollments.

Purpose

This BAL provides guidance to employing offices on (1) the process for requesting proof of family member eligibility for existing enrollments; (2) what documents may be used as proof; and (3) what employing office actions can be taken based on an employee's or family member's response to a request for verification of eligibility.

Carrier Letter 2020-16, *Removal of Ineligible Family Members from Enrollments*, provides similar guidance to FEHB Carriers on their procedures to request verification of family member eligibility. This Carrier Letter is attached for reference. In order to avoid duplicate requests for verification of family member eligibility, FEHB Carriers are instructed to copy the employing office on requests for verification of family member eligibility and on eligibility determinations, or when they receive a reconsideration request in error. The employing office must retain these letters as appropriate.

In addition to this BAL, OPM is separately publishing a BAL that will direct employing offices to request proof of family member eligibility for new employees and for existing employees who change their enrollment due to a Qualifying Life Event (QLE) outside of the annual Federal Benefits Open Season.

I. Requesting proof of family member eligibility for existing enrollments

A. Request for verification of FEHB eligibility

An employing office may request that an employee verify the eligibility of any or all family members covered under the employee's FEHB enrollment at any time.

To verify eligibility, the employing office shall send the employee a request for appropriate documentation of the family member or members' relationship (see Attachment 1: *Sample Letter Request for Verification of Family Member Eligibility*). The request must contain a written notice that the family member(s) will no longer be covered 60 calendar days after the date of the notice unless the employee provides appropriate documentation as listed in Attachment 5: *FEHB Family Member Eligibility Documents*.

B. Documents used as proof of family member eligibility

Appropriate documentation includes, but is not limited to, copies of birth certificates, marriage certificates, and, if applicable, other proof of family member eligibility. See Attachment 5: *FEHB Family Member Eligibility Documents* for a list of acceptable documentation.

Foster Child: The employing office must initially determine a foster child's eligibility. Please note that concurrent with this guidance, OPM is updating the current *Statement of Foster Child Status* to a *Certification of Foster Child Status* that requires an employing office official's signed approval. Employing offices must use the updated *Certification of Foster Child Status* for any new foster child determinations. See the FEHB Handbook at <https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/family-members/> for more information on foster child eligibility.

A Carrier may ask the employing office to provide a copy of an employee's *Statement of Foster Child Status* or *Certification of Foster Child Status* to verify the employing office's eligibility determination.

Common law marriage: Only the employing office can approve eligibility of an individual as an employee's common law spouse through examining a declaration of common law spouse and other documents. An employee can cover a common law spouse under the FEHB Program only if the marriage was initiated within a State that recognizes such a marriage. See Attachment 5: *FEHB Family Member Eligibility Documents, Appendix 1* for the requirements.

II. Employing Office actions

A. Eligibility verification documents approved

If the employing office receives documentation and it determines that the documentation verifies eligibility of the family member(s), the employing office must notify the employee, the family member (see Attachment 2: Sample Letter *Receipt of Eligibility Verification Documents*), and the FEHB Carrier. The employing office must retain copies of the letters of request and the determination letter in the employee's official personnel folder and copy the FEHB Carrier to avoid a potential duplicative Carrier request to the same employee. In addition, the employing office must include a copy of family member verification letters received from the FEHB Carrier in the employee's official personnel folder.

B. Information provided does not verify family member eligibility

If the employing office does not receive the requested documentation within 60 calendar days of the request or if it determines that the documentation provided is insufficient to verify eligibility of the family member(s), the employing office must notify the employee and the family member of this determination (see Attachment 3: Sample Letter *Verification Documents Not Received* or Attachment 4: Sample Letter *Information Provided Does Not Verify Family Member Eligibility*).

This written notice considered the "initial decision" must include an explanation of the employing office's decision, the effective date of the removal of the ineligible family member, and the right to a reconsideration of this initial determination. The employing office must maintain a copy of this letter in the employee's official personnel folder and should send a separate copy to the affected family member when a separate address is known. The employing office must also provide a copy of this letter to the FEHB Carrier to process removal of the ineligible family member(s) from the enrollment.

The removed family member may be eligible for a 31-day temporary extension of coverage, conversion, temporary continuation of coverage, or spouse equity coverage in certain limited circumstances; see 5 CFR 890.308(g). Any opportunity to enroll shall not extend beyond the date that opportunity would have ended if the individual had been removed on the date of loss of eligibility.

For example, an enrollee and her spouse divorce on May 4, 2019. The enrollee does not remove the former spouse from the enrollee's Self and Family enrollment, so the former spouse is receiving coverage but is not eligible. In this example, the former spouse is not eligible to receive a former spouse annuity and, thus, not eligible for spouse equity coverage. If the employing office later discovers the divorce, and removes the spouse from the enrollment on July 20, 2020, the former spouse is not eligible for a 31-day extension of coverage, conversion and/or temporary continuation of coverage because the regulatory window for election of 60 days outlined in 5 CFR 890.805(1) has passed. The sixty-day window began on the final date of the divorce, May 4, 2019 and ended on July 3, 2019.

Persons who are removed because they were never eligible as a family member do not have a right to conversion, temporary continuation of coverage, or a 31-day extension of coverage.

C. Employee or family member requests for an extension

An employee or family member may request an extension to provide requested evidence because they are prevented by circumstances beyond their control from responding in a timely way (e.g., delay in receipt of verifying documents from a licensing entity). Employing offices may grant a reasonable extension to the deadline, especially in recognition of circumstances such as national or local emergencies that may impact licensing entities' capabilities to provide documentation.

D. Employee request to change enrollment type

If the removal of the ineligible family member results in an enrollment decreasing from three or more persons to two persons or from two persons to one person, the employee is eligible to decrease the enrollment type to Self Plus One or Self Only, respectively, within 60 days. The employee must submit a Standard Form (SF) 2809 (Event Code 1C¹) per the employing agency's FEHB enrollment process to request the change in enrollment type.

E. Effective date of removal of an ineligible family member

The removal is effective on the date listed in the initial determination letter (Attachment 1: Sample Letter *Request for Verification of Family Member Eligibility*) and is prospective. If the employing office determines that the employee or the family member has made an intentional misrepresentation of material fact, the effective date of the removal may be made retroactive to the date of ineligibility.

III. Reconsideration

A. Reconsideration process after removal of an ineligible family member

The employing office must establish a reconsideration process for decisions on removal of ineligible family members, including decisions made by an FEHB Carrier. For a removal determination made by the employing office, the reconsideration review and decision must be conducted by an employing office representative (e.g., supervisor or manager) who is at least one level above the employing office representative that made the initial determination. For reconsiderations received from the FEHB Carrier, an employing office representative can conduct the review.

The employee or affected family member must file a written request for reconsideration of the initial determination decision to the employing office within 60 calendar days from the date of the initial determination letter. See Attachment 3: Sample Letter *Verification Documents Not Received* and Attachment 4: Sample Letter *Information Provided Does Not Verify Family Member Eligibility* for information that must be included in the reconsideration request. The employing office must provide a copy of the reconsideration request to the FEHB Carrier.

¹ The use of 1C per this BAL for Removal of Ineligible Family Members is limited to decreasing the enrollment type only.

B. Employee or family member request for extension

The employing office may extend the time limit for requesting reconsideration when the employee or affected family member shows they were not notified of the time limit and were not otherwise aware of it, or that they were prevented by circumstances beyond their control from making the request within the time limit.

C. Reconsideration decision

The employing office must issue a written notice of its final decision to the employee and notify the FEHB Carrier of the decision within 30 calendar days of receipt of the request for reconsideration. The notice of its final decision must fully describe the findings and conclusions on which the decision is based. The employing office should send a separate copy to the affected family member when a separate address is known.

If the reconsideration decision overturns the removal of the family member(s), the FEHB Carrier will reinstate coverage retroactively so there is no gap in coverage.

IV. Fraud, waste and abuse

Employing offices play a critical role in ensuring the integrity of the FEHB enrollment process. The employing office representative is the first line of defense against potential ineligible family member coverage. It is vital that agencies remind employees of the rules and their responsibilities pertaining to adding, changing or covering family members. Agencies should also take reasonable measures to verify and confirm eligibility, recognizing that ineligible family members can result in the FEHB paying erroneous or even fraudulent claims. Coverage of ineligible family members increases costs for everyone in the Program.

As a reminder, any intentionally false statement or willful misrepresentation, such as knowingly including ineligible family members on an FEHB health insurance plan, is a violation of the law, punishable by a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both (18 USC 1001) and may be subject to investigation.

V. Reference information

The OPM website lists the appropriate FEHB Carrier contacts at www.opm.gov/plancontacts.

For more information on family member eligibility, please refer to the OPM website at <https://www.opm.gov/healthcare-insurance/healthcare/eligibility/> and the FEHB Handbook at: <https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/fehb-handbook/>.

OPM intends to issue additional educational material to assist employing offices in providing guidance to employees on family member eligibility.

Due to the possibility of someone losing health insurance coverage, please ensure that all of the above timelines are met. For questions, contact the Agency's Headquarters Benefits Officer.

Please go to <http://apps.opm.gov/abo/> for a list of agencies and their Headquarters Benefits Officers.

Sincerely,

Michael J. Rigas
Acting Director
Office of Personnel Management

Attachments

1. Sample Employing Office /Tribal Employer Letter – Request for Verification of Family Member Eligibility
2. Sample Employing Office/Tribal Employer/Carrier Letter – Receipt of Eligibility Verification Documents
3. Sample Employing Office/Tribal Employer/Carrier Letter – Verification Documents Not Received
4. Sample Employing Office/Tribal Employer Letter – Information Provided Does Not Verify Family Member Eligibility
5. FEHB Family Member Eligibility Documents
6. Carrier Letter 2020-16 – Removal of Ineligible Family Members from Enrollments