



Benefits Administration Letter

Number: 21-202

Date: April 15, 2021

Subject: Family Member Eligibility Verification for Federal Employees Health Benefits (FEHB) Program Coverage

Background

On January 23, 2018, OPM published a final rule at [83 FR 3059](#), clarifying that proof of family member eligibility must be provided upon request by an employing office¹, by an FEHB Carrier, or by OPM. This Benefits Administration Letter (BAL) directs employing offices to request proof of family member eligibility during two circumstances outside of the annual Federal Benefits Open Season: the Initial Opportunity to Enroll (IOE), and all other qualifying life events (QLEs). Employing offices are to verify the eligibility of new family members for FEHB coverage as described below. For purposes of this BAL, the term “employee” also includes annuitants where appropriate.

Purpose

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

Carrier Letter 2021-06, *Family Member Eligibility Verification for Federal Employees Health Benefits (FEHB) Program Coverage*, provides similar guidance to FEHB Carriers on their responsibility to request eligibility documents before adding a family member to an existing Self and Family enrollment (Attachment #1). The FEHB Carrier must notify the enrollee and employing office when the FEHB Carrier determines an individual is ineligible. The FEHB Carrier must utilize the contact information provided by OPM to identify the employing office or Tribal employer.

¹ Per 5 CFR 890.101 “Employing office means the office of an agency to which jurisdiction and responsibility for health benefits actions for an employee, an annuitant, a former spouse eligible for continued coverage under subpart H of this part, or an individual eligible for temporary continuation of coverage under subpart K of this part, have been delegated.”

I. Employing office actions

A. Requesting proof of family member eligibility for IOE and all QLEs

An employing office must require proof of family member eligibility for coverage through the FEHB Program for:

- new employees during their initial opportunity to enroll (IOE)
- employees requesting FEHB changes due to all other QLEs²

Due to the large volume of transactions during the annual Federal Benefits Open Season, employing offices may, but are **not required** to, verify family member eligibility.

When reviewing a new family member's eligibility, employing offices may take this opportunity to verify the eligibility of family members currently enrolled who have not previously been verified. Please see BAL No. 20-203 *Removal of Ineligible Family Members from Enrollments*, which sets forth a process for removing ineligible family members from coverage under the FEHB Program.

B. Documents used as proof of family member eligibility

A list of documents, such as marriage and birth certificates, that employing offices may accept to verify family member eligibility is contained in Attachment #2 *FEHB Family Member Eligibility Documents*.

Concurrent with this guidance, OPM is replacing the *Statement of Foster Child Status* with a *Certification for Foster Children* which requires an employing office official's signed approval on the certification. Employing offices must use the updated *Certification for Foster Children* located in Attachment #2 *FEHB Family Member Eligibility Documents* for any new foster child determinations. See the FEHB Handbook at www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/family-members/ for more information on foster child eligibility. The *Certification for Foster Children* will be in the FEHB Handbook soon.

Only the employing office may determine a foster child's eligibility. In addition, only the employing office may approve eligibility of an individual as an employee's common law spouse through examining a declaration of common law spouse and other documents. Carriers must refer employees to their employing offices for approval when they receive a request to add a common law spouse or foster child to an existing Self and Family enrollment.

² www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/enrollment/#qle

C. Eligibility verification documents approved

Once the employing office has verified family member eligibility, it must make a note in the *Remarks* section of the SF 2809 and place the form on the permanent side of the employee's Electronic Official Personnel Folder (eOPF) or another comparable personnel file. At a minimum, the note must indicate the type of document(s) examined, the document's issue date, the date of the QLE (if applicable), and the name of the issuing authority. If the employing office is certifying a foster child or a declaration of common law marriage, the certification or declaration must be placed in the employee's permanent official personnel file in lieu of a SF 2809. If an employing office processes SF 2809 transactions through an electronic system, it must record the document review in a similar fashion.

D. If eligibility verification document(s) are insufficient

If the employing office determines that an eligibility document for any family member is insufficient, it must provide the employee with a written notice of its initial decision, see Attachment #3: Sample Letter *Information Provided Does Not Verify Family Member Eligibility*. This letter must include an explanation of the employing office's decision, require the employee to submit a new SF 2809 listing only verified family members, and provide notice of the right to a reconsideration of the employing office's initial decision. The employing office must enroll the employee and/or verified family members pending any reconsideration request. The employing office must retain the decision letter in the employee's permanent records, along with any response and employing office reconsideration.

II. Reconsideration process

The employing office must establish a reconsideration process for its initial family member eligibility decision. In addition, the employing office is responsible for performing all reconsiderations of FEHB Carrier determinations regarding the addition of a family member to an existing Self and Family enrollment. The reconsideration review and decision-making process 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 reconsideration requests of initial decisions made by the FEHB Carrier, an employing office representative must review and make the final determination

The employee must file a written request for reconsideration of the initial decision to the employing office within 60 calendar days from the date of the initial decision letter. See Attachment #3 Sample Letter *Information Provided Does Not Verify Family Member Eligibility* for information that must be included in the reconsideration request.

The employing office may extend the time limit for requesting reconsideration when the employee shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

The employing office must issue a written notice explaining its final decision to the employee within 30 calendar days of receipt of the request for reconsideration. If the employing office reverses its initial determination, the action must be made retroactive to the date when it would have been effective had the employing office not made its initial determination. If the employing office's reversal changes an employee's enrollment type to Self Plus One or Self and Family, then the employing office must request that the employee submit a new SF 2809 listing all eligible family members or make comparable electronic changes.

If the final decision overturns an FEHB Carrier's initial decision on the family member's eligibility, the employing office must send a copy of the written notice to the FEHB Carrier. The OPM website lists the appropriate FEHB Carrier contacts at www.opm.gov/plancontacts. The Carrier must add the family member to the employee's existing Self and Family enrollment retroactive to the date when it would have been effective had the FEHB Carrier not made its initial decision.

III. Fraud, waste and abuse

Employing offices play a critical role in ensuring the integrity of the FEHB enrollment process. The human resource or agency personnel representative is the first line of defense against potential ineligible enrollments. It is essential that agencies remind employees of the rules and their responsibilities pertaining to adding, changing, or enrolling 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. Enrollment of ineligible family members increases costs for everyone in the Program.

As a reminder, any intentionally false statement or willful misrepresentation, such as 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 U.S.C. 1001) and may be subject to investigation.

IV. Reference information

For more information on family member eligibility, please refer to the OPM website at www.opm.gov/healthcare-insurance/healthcare/eligibility/ and the FEHB Handbook at 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.

V. Timeline

Within 90 calendar days of the issuance of this BAL, employing offices must implement the updated verification procedures if they process transactions using either a paper SF 2809 or electronic systems with an existing functionality to accept and verify family member documents. We understand that some employing offices may not yet have the infrastructure to verify family members using electronic systems. To the extent practicable, those employing offices must take reasonable steps to develop such an infrastructure or other processes to meet these requirements.

If you have questions, please contact your Agency's Headquarters Benefits Officer. If you do not know who this person is, please go to <https://apps.opm.gov/abo/> where you will find a list of agencies and their Headquarters Benefits Officers.

Sincerely,

Laurie E. Bodenheimer
Associate Director
Healthcare and Insurance

Attachments:

1. Carrier Letter No. 2021-06 *Family Member Eligibility Verification for Federal Employees Health Benefits (FEHB) Program Coverage*
2. FEHB Family Member Eligibility Documents
3. Sample Agency/Tribal Employer Letter – Information Provided Does Not Verify Family Member Eligibility