



*United States Office of Personnel Management
The Federal Government's Human Resources Agency*

Tribal Benefits Administration Letter

Number: 21-601

Date: November 17, 2021

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 FEHB 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 employees to request reconsideration of a decision to remove an individual from the enrollment. The regulation allows an 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. Neither the regulation nor this TBAL requires employing offices or carriers to perform a full-scale audit of FEHB enrollments.

Note: 5 CFR 890.308(f) is applicable to Tribal/subpart N as Tribal Employers must comply with FEHB Law (Chapter 89 of title 5, United States Code), FEHB regulations and FEHB Program policies and procedures.

Purpose

This TBAL 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.

FEHB Program 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. In order to avoid duplicate requests for verification of family member eligibility, FEHB Carriers are instructed to copy the employing office when it sends a request for verification of family member eligibility and its eligibility determination, or when it receives a reconsideration request in error. The employing office must retain these letters and/or act, as appropriate.

In addition to this TBAL, OPM is separately publishing TBAL 20-602 *FEHB Family Member Eligibility Verification* that directs 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 FEHB 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 a request for appropriate documentation of the family member's 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 on the certification. Employing offices must use the updated *Certification of Foster Child Status* (attached) for any new foster child determinations.

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 a declaration of common law marriage. 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. Carrier contact information is available at www.opm.gov/plancontacts. 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, please 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 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 request 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 so the Carrier can 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, and temporary continuation of 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.

Persons who were removed because they were never eligible as a family member are not eligible for a 31day temporary extension of coverage, and

do not have a right to conversion or temporary continuation of coverage. 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. 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 § 890.1105 (d) has passed. The sixty-day window begun on the final date of the divorce, May 4, 2019 and ended on July 3, 2019.

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 contact the employing office and submit a Standard Form (SF) 2809 (Event Code 1C¹) to request the change in enrollment type. The employing office must enter any enrollment changes into Tribal Insurance Processing System (TIPS).

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, except if the employing office determines that the employee or the family member has made an intentional misrepresentation of material fact, in which case the effective date of the removal may be made retroactive to the date of ineligibility.

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

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 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.

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 was 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 Tribal Benefit Officer (TBO) is the first line of

defense against potential ineligible enrollments. It is vital that tribes remind employees of the rules and their responsibilities pertaining to adding, changing or enrolling family members. Tribes 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 knowingly including ineligible family members on an FEHB enrollment is a violation of the law, punishable by a fine of not more than \$10,000 or imprisonment of 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](#). Due to the possibility of someone losing health benefits coverage, please ensure that you meet all the above timelines.

For more information on family member eligibility, please refer to the OPM website at www.opm.gov/healthcare-insurance/healthcare/eligibility/ and the [Tribal Handbook](#).

If you have questions, please contact the OPM Tribal Desk at tribalprograms@opm.gov .

Sincerely,

Laurie Bodenheimer
Associate Director
Healthcare and Insurance

Encl.:

- 1- Sample Employing Office Letter – Request for Verification of Family Member Eligibility
- 2- Sample Employing Office /Carrier Letter – Receipt of Eligibility Verification Documents

- 3- Sample Employing Office /Carrier Letter – Verification Documents Not Received
- 4- Sample Employing Office 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*