
FEHB Program Carrier Letter

All Carriers

U.S. Office of Personnel Management
Office of Insurance Programs

Letter No. 2010-19

Date: September 10, 2010

Fee-for-service [15] Experience-rated HMO [15] Community-rated HMO [15]

Subject: Tobacco Litigation Records Retention

The Office of Personnel Management (OPM) had previously requested in Carrier Letter No. 1999-060 that all carriers under the Federal Employees Health Benefits Program (FEHBP) preserve records related to litigation brought by the federal government against various manufacturers of tobacco products. The United States Supreme Court has denied certiorari in the litigation, and OPM no longer requires you to preserve those records.

Consequently, you are free to dispose of any records that you had retained solely to comply with the court order involved in the relevant litigation. However, please note that all other OPM guidance and applicable laws and regulations concerning records retention still apply and may prohibit the disposal of some of the relevant documents. For example, the records retention requirements under your FEHBP contract still apply, and this letter does not authorize the disposal of any tobacco-related records that have not already satisfied the records retention requirements found in your FEHBP contract.

For your reference, our previous letter requested that you preserve any documents or other records, including those recorded or stored electronically, that, in any way, related to: Treating FEHBP enrollees for smoking-related conditions or diseases, including, but not limited to, patient medical records;

- Research on such conditions or diseases;
- Grants or other payments made for research in relation to smoking or the tobacco industry;
- Benefits provided and claims paid for smoking-related conditions or diseases;
- Youth smoking;
- Nicotine and addiction;
- Cigarette design, including attempts to develop or market a potentially safer cigarette;
- Contacts between any of your officials, employees, or agents and any officials, employees, or agents of any member of the cigarette-manufacturing industry, the Council for Tobacco Research (or its predecessor, the Tobacco Industry Research Committee), or the Tobacco Institute; and
- Any other records that may relate to the use of tobacco products.

We appreciate your past cooperation in preserving these documents. If you have any questions concerning your records retention obligations, please contact your contract specialist.

Sincerely,

William B. Zielinski
Associate Director
Retirement and Benefits