

CERTIFICATION OF DEPENDENT TAX STATUS FOR PURPOSES OF COVERAGE UNDER FEHB

The Office of Personnel Management (OPM) permits coverage under the Federal Employees Health Benefits (FEHB) Program for the children of a same-sex domestic partner of a tribal employee whom the employee would marry but for the fact that the law in his or her state of residence does not permit same-sex marriage. Such children are considered to be stepchildren. In order to enroll a child of a domestic partner in FEHB coverage, you must first file a Declaration of Domestic Partnership with your tribal employer. In addition, you must complete an SF 2809 form to first enroll or cover your child under an existing enrollment. Please contact your tribal employer human resources office for more information.

When you cover your eligible stepchild (the child of your same-sex domestic partner) under an FEHB enrollment, the IRS considers the fair market value of the stepchild's coverage, less any after-tax contributions you make toward the cost of that coverage, as additional taxable income to you, UNLESS your stepchild qualifies as: 1) your dependent for health care purposes under Section 152 of the Internal Revenue Code (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) of Section 152); or 2) your stepchild under state law (see IRS guidance at <http://www.irs.gov/uac/Answers-to-Frequently-Asked-Questions-for-Registered-Domestic-Partners-and-Individuals-in-Civil-Unions>).

This additional income, referred to as imputed income, is subject to applicable Federal income and/or employment taxes as well as state taxes and reported on your annual Form W-2 or 1099-R. (Imputed income does not affect calculations for your other benefits such as life insurance or retirement.) Because imputed income is calculated on the fair market value of coverage provided, it will be applied even if there is no additional monthly premium cost to you to cover your stepchild(ren) under your FEHB plan. The amount of your imputed income depends upon the plan in which you are enrolled and the number of stepchildren covered who are not tax dependents.

If you are enrolled in premium conversion (i.e. receiving pre-tax employee contributions), the amount of your premium conversion allotment will not change. However, the fair market value amount that will be imputed to you will include that portion of your premium conversion allotment that is attributable to coverage of the children of your same-sex domestic partner who are not your tax dependents.

Therefore, you will have imputed income and will be taxed on the amount your employing agency or retirement system contributes to provide FEHB coverage for each of your stepchild(ren) as well as, for those enrolled in premium conversion, the portion of your premium conversion allotment attributable to coverage of your stepchild(ren), unless you certify that they are your tax dependents for purposes of health coverage. .

If you are covering your stepchild(ren) who are the children of your same-sex domestic partner under an FEHB plan, you must complete a **Certification of Dependent Tax Status for Purposes of Coverage Under FEHB (referred to below as a "Tax Certification")** when the **newly eligible stepchild begins coverage.** The Tax Certification will remain in effect from year to year, unless you file a new Tax Certification. However, please be advised that the IRS test for determining a child's tax dependent status is an annual one, and it is up to you to determine every year, on an ongoing basis, whether the child meets the applicable test for the entire year and to file a new Tax Certification when and if the child's tax dependent status should change.

Failure to submit a Tax Certification will result in taxation of the child's coverage unless and until a Tax Certification is received by the tribal employer that establishes that the child is a tax dependent.

Because the determination of whether a person is a tax dependent for FEHB purposes turns on facts solely within your knowledge, your tribal employer cannot make this determination for you. This information is only a summary of the tax provisions governing the tax status of a same-sex domestic partner's children for FEHB purposes, and is not intended nor should it be relied upon as legal or tax advice. Due to the complexity of these tax rules and the potential impact of any imputed income you may incur, you should seek advice from a competent tax professional before certifying as to the tax status of the child. You may also refer to applicable IRS Guidance found at [irs.gov](http://www.irs.gov). For example, a worksheet from IRS publication 501 (available at: <http://www.irs.gov/uac/Publication-501,-Exemptions,-Standard-Deduction,-and-Filing-Information-1>) can be used for determining the support tests under Internal Revenue Code section 152.

CERTIFICATION OF DEPENDENT TAX STATUS FOR PURPOSES OF COVERAGE
UNDER FEHB

Enrollee Name _____ Declaration of Domestic Partnership on file? Y N

Same-Sex Domestic Partner Name _____ Date _____

I hereby certify that my stepchild(ren), who is/are the child(ren) of my same-sex domestic partner enrolled under my FEHB and plan, are (print full name and check appropriate box):

_____ my tax dependent not my tax dependent

covered under FEHB

_____ my tax dependent not my tax dependent

covered under FEHB

_____ my tax dependent not my tax dependent

covered under FEHB

_____ my tax dependent not my tax dependent

covered under FEHB

* If more space is needed, please indicate on this form and attach additional pages.

I understand that in order to qualify as a **tax dependent** for the purposes of coverage under FEHB, my stepchild(ren) must meet requirements of the Internal Revenue Code (Please consult with your tax advisor, and see <http://www.irs.gov/> for more information).

I understand that I will be taxed on the fair market value of any FEHB coverage provided to the children of my same-sex domestic partner, less any after-tax contributions I make toward the cost of such coverage, unless I certify that my stepchild(ren) are my dependent(s) for health care purposes under Section 152 of the Internal Revenue Code (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) of Section 152) or are my stepchild(ren) under state law. See **XXXXXX** for plan fair market value amounts.

I certify that the above information is true to the best of my knowledge and understand that false certification could result in legal consequences, including but not limited to tax penalties and possible disciplinary action by my employer. I will file a new Certification of Tax Status For Purposes of Coverage Under FEHB with my agency human resources office or retirement system in the event of a change in the dependent status of any individual identified above.

I understand that any change in such status may result in the retroactive application of taxes to amounts previously paid for FEHB coverage during the year.

I understand that until I return this form and indicate that my stepchild(ren) are tax dependents for health care purposes, the fair market value of coverage provided to my stepchild(ren) will be treated as additional taxable income to me.

Employee's Signature _____

Date Signed _____

Date Received_____ (to be completed by employing office)