

Note: Not all Indian tribes, tribal organizations, and urban Indian organizations have chosen to participate in the FEHB Program. A tribal employee should contact his or her tribal employer to determine whether tribal employees are eligible to purchase coverage under the FEHB Program.

# **Tribal Federal Employees Health Benefits (FEHB) Handbook**

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## Chapter 1: Introduction

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### Definitions

The following terms, used in this Tribal FEHB Handbook, are specifically set forth in regulation, but generally mean the following:

- **Tribal employer** is an Indian tribe or tribal organization, as those terms are defined in 25 U.S.C. Chapter 18 (“Indian Health Care”) carrying out at least one program under the Indian Self-Determination and Education Assistance Act or an urban Indian organization as that term is defined in 25 U.S.C. Chapter 18 (“Indian Health Care”) carrying out at least one program under the title V of the Indian Health Care Improvement Act, provided that the tribe, tribal organization, or urban Indian organization certifies entitlement to offer FEHB.
- **Tribal employee** is a full-time or part-time common law employee of a tribal employer. A tribal employer’s determination of whether an individual is a common law employee shall be guided by the factors described by the Internal Revenue Service in Rev. Rul. 87-41, 1987-1 C.B. 296 and referenced in Joint Committee on Taxation report JCX-26-07 “*Present Law and Background Relating to Worker Classification for Federal Tax Purposes*,” dated May 7, 2007, and shall be consistent with the tribal employer’s determination of common law employee status for Federal employment tax purposes, if any. Tribal employees do not include retirees or annuitants of a tribal employer, volunteers of a tribal employer, or contractors of a tribal employer. Some categories of tribal employees are excluded from coverage, for example intermittent employees or those expected to work fewer than six months. These categories are stated in the regulations.

- **Appointment** refers to any personnel action that causes an individual to be employed by a tribal employer.
- **Regular tour of duty** refers to a tribal employee's work schedule that is determined in advance and expected to continue indefinitely. It consists of a certain number of hours or other time units in a day, week, biweekly pay period, month, or year.
- **Furlough** refers to the placement of a tribal employee in a temporary nonpay status and nonduty status (or absence from duty) because of lack of work or funds, or for other nondisciplinary reasons.
- **Leave Without Pay (LWOP)** refers to a temporary nonpay status and nonduty status (or absence from a prescheduled tour of duty).
- **Premium Conversion** is contingent upon the tribal employer offering a premium conversion plan to its employees. . It uses Federal tax rules to let tribal employees deduct their share of health insurance premiums from their taxable income on a pre-tax basis, thereby reducing their taxes.

## General Overview

The Federal Employees Health Benefits (FEHB) Program became effective in 1960. It is the largest employer-sponsored group health insurance program in the world, covering over 8 million Federal employees, retirees, former employees, family members, and former spouses.

On March 23, 2010, President Barack Obama signed the Patient Protection and Affordable Care Act. Section 10221 of that Act enacted S. 1790, the Indian Health Care Improvement Reauthorization and Extension Act of 2009, resulting in the addition of § 409 to the Indian Health Care Improvement Act (IHCIA). IHCIA § 409 (now codified at 25 U.S.C. § 1647b) entitles Indian tribes, tribal organizations, and urban Indian organizations (hereinafter tribal employer) to purchase FEHB coverage, rights and benefits for their employees. Tribes or tribal organizations carrying out programs under the Indian Self-Determination and Education Assistance Act (ISDEAA) and urban Indian organizations carrying out programs under Title V of the IHCIA are entitled to purchase coverage for their employees, provided that the necessary employee deductions are made and tribal employer contributions are paid.

- [Tribal FEHB Handbook](#)
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## **Tribal FEHB Handbook**

This Handbook provides the policies, procedures, and guidance for tribal employees enrolled in the FEHB Program and their tribal employers. These policies, procedures, and guidance reflect operations under chapter 89 of title 5 of the United States Code.

## **FEHB Enrollment**

Tribal employees are eligible to enroll in health plans offered under the FEHB Program, and may cover [eligible family members](#) under such plans, unless a particular position is [excluded from coverage](#) by FEHB Program law or regulation.

There are two types of FEHB enrollment: Self Only, and Self and Family. A Self and Family enrollment covers the tribal employee, the tribal employee's spouse, and the tribal employee's children under age 26.

## **Premiums**

The tribal employer contribution (at a minimum) must equal the amount of the Government contribution established by OPM each year. By statute, the government contribution is the lesser of: (1) 72 percent of amounts OPM determines are the Program-wide weighted average of premiums in effect each year, for Self Only and for Self and Family enrollments, respectively, or (2) 75 percent of the total premium for the particular plan a tribal employee selects. OPM determines the FEHB Program-wide weighted average of premiums.

## **Who Provides the Coverage?**

Over 200 health plan choices are offered under the FEHB Program. Tribal employees can choose from among Consumer-Driven and High Deductible plans that offer catastrophic risk protection with higher deductibles, health savings accounts or health reimbursement arrangements, and lower premiums; Fee-for-Service (FFS) plans that offer Preferred Provider Organizations (PPOs); and Health Maintenance Organizations (HMOs) if the tribal employee lives (or sometimes if the tribal employee works) within the area serviced by the plan.

## **Opportunities to Change Coverage After Initial Enrollment**

Each year, Open Season enables FEHB Program tribal employees to change their health plans and/or their type of FEHB enrollment. Eligible tribal employees may also enroll during this time. Open Season runs from the Monday of the second full workweek in November through the Monday of the second full workweek in December.

There are limited opportunities to enroll, cancel FEHB enrollment, or change FEHB enrollment outside of the Open Season, generally in connection with changes in life events such as getting married or having children, changing employment, or moving. For more information on changes in FEHB coverage, see chapter 5, Enrollment.

## **Contractual Benefits**

Each carrier contracts with the Office of Personnel Management (OPM) to provide certain health benefits to individuals who enroll in its participating plan. Contract negotiation is a bilateral process, and both OPM and the carrier must approve the final contract. Contract periods are one year.

Once benefits have been agreed upon, OPM and each carrier jointly prepare a brochure describing each plan approved under the FEHB Program. This brochure is the complete statement of benefits available to the tribal employee including the plan's limitations and exclusions.

## **Legal Actions**

The District Courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, in any civil action or claim against the United States founded upon the law. Actions to recover on claims for health benefits must be brought against OPM.

Legal actions to compel FEHB enrollment must be brought against the tribal employer that made the FEHB enrollment decision. However, if a tribal employee believes the tribal employer has made an erroneous FEHB enrollment decision, the tribal employee may ask OPM to review the tribal employer's decision before commencing legal action against the tribal employer.

Actions to review the legality of OPM's regulations or a decision made by OPM must be brought against OPM in Federal court.

## **Recovery of Debt**

Each tribal employee's plan's carrier may use any legal means necessary to seek recovery of debt. This could occur, among other reasons, if the carrier overpaid claims in error.

## **OPM Responsibilities**

OPM has the overall responsibility for the administration of the FEHB Program. This includes (but is not limited to):

- contracting for and approving or disapproving carriers for participation in the FEHB Program;
- negotiating benefit and rate changes with carriers;

- approving the certified text on benefits for the brochures;
- publishing FEHB regulations, instructions, forms, and documents;
- receiving and depositing premium withholdings and contributions, remitting premiums to carriers, and accounting for the Employees Health Benefits Fund;
- making final determinations of the applicability of the FEHB law to specific tribal employees or groups of tribal employees;
- studying and evaluating the operation and administration of the FEHB law and the plans offered under it, and reporting findings to Congress;
- ordering corrections of administrative errors if it would be against equity and good conscience not to do so;
- providing guidance to the tribal employers;
- auditing carriers' operations under the law; and
- resolving disputed health insurance claims between the tribal employee and the carrier.

## **Paymaster Responsibilities**

OPM has entered into an agreement with the NFC to act as the paymaster, and will be responsible for maintaining the enrollment system of record and collecting premium payments from the tribal employer. This includes:

- maintaining the Tribal Insurance Processing System (TIPS), and related billing systems;
- providing training and knowledge support to tribal employers in using TIPS;
- collecting preauthorized debit payments from tribal employers and maintaining necessary billing records;
- conducting FEHB enrollment reconciliation activities to resolve any FEHB enrollment discrepancies;
- working with tribal employers on adjustments; and
- addressing tribal employers questions related to TIPS.

## **Tribal Employer Responsibilities**

- [Tribal Benefits Officer](#)
- [Responsibilities of the Tribal Benefits Officer](#)
- [Information and Counseling](#)
- [Contacts Between Tribal Employers and Carriers](#)
- [Tribal employer Questions](#)
- [Other Tribal employer Responsibilities](#)

### **Tribal Benefits Officer**

Each tribal employer must designate a person to serve as the Tribal Benefits Officer and must notify OPM in writing of the Tribal Benefits Officer's identity. The tribal employer must also notify OPM in writing of any change in the designation. The Tribal Benefits Officer is OPM's only contact for insurance matters.

Each tribal employer can send its notification to:

tribalprograms@opm.gov; or mail to

U.S. Office of Personnel Management  
Attn: Tribal Programs  
Room 3425  
Washington, DC 20415

or update the designation of Tribal Benefits Officer in the Tribal Insurance Processing System (TIPS) on the Contacts page.

### **Responsibilities of the Tribal Benefits Officer**

The Tribal Benefits Officer is responsible for explaining the FEHB Program to tribal employees and other eligible persons. He/she will determine individual eligibility for FEHB enrollment, effective dates of health benefits actions, keep the Contacts page in TIPS up to date, and be responsible for other related matters.

A Tribal Benefits Officer may delegate responsibility for counseling and advising tribal employees and maintaining records to decentralized local operating employing offices or field installations or provide the services in some other way.

### **Information and Counseling**

Each tribal employer has a responsibility to provide health insurance information and counseling to its tribal employees. OPM encourages tribal employers to develop counseling programs that meet the needs of their own tribal employees. While these services must be provided, tribal employers can use many different approaches. Specific information on resources offered by the tribal employer should be available at the tribal employee's work site.

### **Contacts Between Tribal Employers and Carriers**

Authorized insurance officials of the tribal employer should develop contacts with carrier representatives to assist their tribal employees. These contacts must be limited to personnel of the tribal employer who have FEHB Program responsibilities and to those tribal employees enrolled in the carrier's plan, except during an Open Season. A tribal employer may allow carrier representatives on the premises of the tribal employer to help tribal employees with claim or service problems.

A carrier representative may give information only about the plan's benefit provisions and claim procedures. Carrier representatives must be qualified to explain and assist with problems involving the plan's benefit structure and claims procedures, and they must confine their discussions to these matters. If tribal employees should direct any other questions to the carrier, such as questions regarding the law, regulations, or FEHB

Program in general, the carrier should refer the tribal employees to authorized insurance officials of their tribal employer.

Carrier representatives may address groups of tribal employees during Open Season about their plan's benefits structure, methods of obtaining services, and similar matters. A tribal employer may allow the use of its facilities or services for the distribution of OPM-authorized, carrier-supplied information on health benefits plans. Distribution of materials is limited to official brochures and other carrier-supplied information on a health insurance plan that the carrier certifies are in compliance with OPM's supplemental literature guidelines.

### **Tribal Employer and Tribal Employee Questions**

Any questions the tribal employer has concerning the FEHB Program must be directed to the Tribal Benefits Officer. **Only** the Tribal Benefits Officer may contact OPM with FEHB program-related questions. If a tribal employee contacts OPM, OPM will direct the tribal employee to the tribal employee's Tribal Benefits Officer. OPM will **not** answer tribal employees' questions. The Tribal Benefits Officer can ask these questions to:

[tribalprograms@opm.gov](mailto:tribalprograms@opm.gov) or

U.S. Office of Personnel Management  
Attn: Tribal Programs  
Room 3426  
Washington, DC 20415

Questions about the benefits or claims procedure of a specific plan should be directed to a local office of that plan.

### **Other Tribal Employer Responsibilities**

Tribal employers are also responsible for:

- providing eligible tribal employees and their family members with information on their rights and responsibilities under the FEHB Program and ensuring that they have free choice among all plans in which they are eligible to enroll;
- determining the [eligibility or ineligibility](#) of tribal employees and [enrolling](#) tribal employees, former tribal employees, former spouses of tribal employees, and children of tribal employees (including decisions on belated FEHB enrollment and change of FEHB enrollment requests) in Temporary Continuation Coverage if appropriate;
- reviewing FEHB enrollment reconsideration requests and notifying affected individuals of their right to appeal an adverse enrollment decision to an independent appeals panel;

- ensuring that election forms are properly completed and include the tribal employee's and family member's social security numbers;
- processing health benefits actions and determining proper effective dates;
- providing information for OPM's review and decision determining capability of self-support of children 26 and over;
- [stocking and distributing health benefits forms and literature](#);
- maintaining a controlled system of [transmitting health benefits FEHB enrollment information to the paymaster](#);
- remitting and accounting for withholdings and contributions;
- maintaining and certifying necessary records; and
- working with the paymaster to [reconcile FEHB enrollment records](#).

## Carrier Responsibilities

- [Carrier Representative](#)
- [Identification Cards](#)
- [Claims Kit](#)

Each carrier is responsible for:

- adjudicating claims of, and providing health benefits to, enrolled tribal employees and covered family members in accordance with its contract with OPM;
- typesetting, printing, and distributing brochures;
- furnishing each person enrolled in its health plan an identification card or other evidence of FEHB enrollment;
- contacting and working with the paymaster and the tribal employer, if necessary, to reconcile FEHB enrollment records;
- acting on covered tribal employees' and family members' requests for reconsideration of disputed claims;
- maintaining financial and statistical records and reporting on the operation of its plan;
- communicating to tribal employees and tribal employers; and
- developing and maintaining effective communication and control techniques to ensure that its subcontractors and local offices comply with regulations and OPM instructions.

## Carrier Representative

A tribal employer may allow carrier representatives on the premises of the tribal employer to help tribal employees with claim or service problems.

The carrier representative:

- may give information only about the plan's benefit provisions and claim procedures;

- must be qualified to explain and assist with problems involving the plan's benefit structure and claims procedures;
- direct any other questions from tribal employees, such as questions regarding the law, regulations, or FEHB Program in general, to authorized insurance officials of their tribal employer; and
- may address groups of tribal employees during Open Season about their plan's benefits structure, methods of obtaining services, and similar matters.

### **Identification Cards**

Plan carriers will mail identification cards directly to the tribal employees. Tribal employees will receive a new identification card if they change the type of FEHB enrollment within their plan or if a tribal employee's name changes. Tribal employees will not receive a new identification card if they change their payroll office identifier or change employment from one tribal employer to another, without changing FEHB enrollment.

If a tribal employee wants a duplicate identification card, he or she must request the card from the carrier. The tribal employee should include in the request his or her date of birth, social security number, and any additional identifying number the plan may use. The carrier will not display the tribal employee's social security number on the tribal employee's identification card.

### **Claim Kits**

Some carriers provide claim kits as a convenient way for tribal employees to maintain claims expense records. Generally, carriers issue the kits to their tribal employees at the same time they issue identification cards. Tribal employers wanting information copies of these kits may obtain them from the nearest office of the plan.

## **Tribal Employee Responsibilities**

Tribal employee responsibilities include:

- being aware of his/her plan's benefit package and premium charges;
- being aware of his/her plan's exclusions and limitations;
- reviewing the benefit and rate changes made to his/her plan during Open Season;
- during Open Season, determining whether his/her plan will still meet his/her needs in the upcoming year;
- filing the appropriate forms with his/her tribal employer on a timely basis to enroll, change, or cancel FEHB enrollment;
- ensuring that the proper deduction has been recorded on his/her earnings and leave statement;
- examining plan provider directories or checking directly with a health care provider to see if that provider participates or will continue to participate in any plan networks or preferred provider arrangements;

- being aware of and following plan precertification and preauthorization requirements;
- filing claims on a timely basis with the necessary documentation;
- [promptly asking his/her tribal employer for information about temporary continuation of coverage if a family member ceases to be eligible under his/her FEHB enrollment](#);
- promptly requesting [conversion](#) to an individual contract when FEHB eligibility ends;
- notifying the carrier of his/her plan if the tribal employee's address changes;
- notifying the carrier of his/her plan when a new family member is added to the Self and Family enrollment; and
- notifying the carrier of his/her plan when a family member is no longer eligible under the Self and Family enrollment.

## Health Insurance Questions

Current tribal employees, former tribal employees, family members covered under [temporary continuation of coverage](#) (TCC), and [former spouses](#) covered under TCC must direct questions about the FEHB Program to the tribal employer. OPM will **not** answer tribal employees questions. Questions from tribal employer personnel offices must be directed to the Tribal Benefits Officer.

Designated Tribal Benefits Officers can direct questions to:

[tribalprograms@opm.gov](mailto:tribalprograms@opm.gov) or

U.S. Office of Personnel Management  
Attn: Tribal Programs  
Room 3425  
Washington, DC 20415

## Customer Service

This is OPM's commitment to the tribal employees and their family members enrolled in the FEHB Program:

- The choice of health benefits plans will compare favorably for value and selection with the private sector.
- When tribal employees use the FEHB Guide for Tribal Employees and plan benefit brochures, they will find that these resources are clear, factual and provide the necessary information.
- When a tribal employee changes plans or options, his/her new plan will issue an identification card within 15 calendar days after the plan gets the tribal employee's FEHB enrollment form from the paymaster.
- A tribal employee's fee-for-service plan should pay claims within 20 work days. If more information is needed, it should pay within 60 calendar days.

- If a tribal employee asks OPM to review a claim dispute with his/her plan, OPM's decision will be fair and easy to understand, and we will send our decision to the tribal employee within 60 calendar days. If OPM needs more information before it can review a claim dispute, OPM will inform the tribal employee of the remaining requirements within 14 work days.

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## Chapter 2: Cost of Insurance

- [Shared Cost](#)
- [Premium Conversion](#)
- [Making Withholdings and Contributions](#)
- [Remittance to Paymaster](#)

### Shared Cost

- [Tribal Employer's Share](#)
- [Tribal Employer Share for Part-Time Tribal Employees](#)
- [Tribal Employee Share](#)

Generally, tribal employees share the cost of their health benefits coverage with their tribal employer. Temporary tribal employees employed for more than one year, as described under 5 U.S.C. 8906(a), and most individuals covered under Temporary Continuation of Coverage (TCC) (see Chapter 8) do not receive a tribal employer contribution towards the cost of their health benefits.

### Tribal Employer's Share

The tribal employer's minimum required contribution for health benefits for each tribal employee enrolled in a FEHB plan is calculated using the same formula used by the Federal Government. This formula is set by law.

The minimum employer contribution equals the lesser of:

(1) 72% of amounts OPM determines are the program-wide weighted average of premiums in effect each year, for Self Only and for Self and Family enrollments, respectively, or

(2) 75% of the total premium for the particular plan a tribal employee selects.

OPM must determine the FEHB program-wide weighted average of premiums no later than October 1 immediately preceding each FEHB contract year.

The tribal employer's contribution for tribal employees is paid by the tribal employer through an electronic funds transfer to the paymaster. See Chapter 11 Finance for payment details. If the tribal employer does not pay its contribution for its tribal employees enrolled in the FEHB Program, together with the tribal employees' share of their contributions, on the payment due date, the paymaster will notify OPM that the premium was not paid and will work with the tribal employer to ensure payment. Failure to maintain current premium payment will result in cancellation of coverage. Tribal

employers will be liable for all premiums payable with respect to both the tribal employer and the tribal employees' shares of coverage until the date of cancellation.

### **Tribal Employer Contribution for Part-Time Tribal Employees**

If a tribal employee works a part-time regular schedule of between 16 and 32 hours per week, the tribal employer contribution toward health benefits for that tribal employee may be prorated in [proportion to the percentage of time that](#) a tribal employee in a comparable full time position is regularly scheduled to work.

### **Tribal Employee's Share**

During each pay period in which a tribal employee's FEHB enrollment is in effect, the tribal employee is responsible for paying all premiums due for the plan in which that tribal employee is enrolled, in excess of the tribal employer's contribution for that tribal employee.

### **Premium Conversion**

If a tribal employer offers premium conversion to its tribal employees, the FEHB may be a medical plan that qualifies for premium conversion. Tribal employees are not eligible to participate in the Federal employees' premium conversion plan.

### **Withholdings and Contributions**

- [General](#)
- [Terminated and Cancelled FEHB enrollments](#)
- [When A Tribal Employee Dies](#)
- [Retroactive Restoration](#)
- [Part-Time Employment](#)
- [Temporary Employees](#)
- [Temporary Continuation of Coverage](#)
- [Leave Without Pay Status And Insufficient Pay](#)
- [Remittance to Paymaster](#)

#### **General**

The tribal employer must make the appropriate health benefits premium contribution (tribal employer's share and tribal employees' share) beginning with the first pay period that a tribal employee's FEHB enrollment is effective. The tribal employer must submit the full cost (tribal employer's share and tribal employee's share) of a tribal employee's FEHB enrollment to the paymaster on a current basis for each month that a tribal employee's FEHB continues, even if a tribal employee has been paid for only part of the period.

Tribal employees should check their pay statements to verify that the health benefits premium withholdings are correct and report any discrepancies to their tribal employers immediately.

Tribal employees are obligated to make the correct payments, regardless of any errors in withholding made by their tribal employers. When an insufficient amount has been withheld from a tribal employee's pay for health benefits, the tribal employee incurs a debt to the tribal employer for the difference between what was withheld and what should properly have been withheld, for each pay period that his or her FEHB enrollment continues.

### **Terminated and Voluntarily Cancelled FEHB Enrollments**

Generally, if a tribal employee's FEHB enrollment [terminates](#) (other than for entry into [military service](#)), the effective date of the termination of coverage is the last day of the pay period in which the terminating event occurred. If a tribal employee's coverage is terminated because he/she is in leave without pay status or he/she has insufficient pay to cover the tribal employee's share of premium, and he/she does not elect other payment options, the effective date of the termination of coverage is the last day of the pay period that a tribal employee paid his/her share of the premiums.

If a tribal employee [voluntarily cancels](#) his/her FEHB enrollment, the effective date of the cancellation of coverage is the last day of the pay period in which the tribal employer receives a tribal employee's cancellation request. Tribal employer and tribal employee contributions for the full pay period are required.

Upon termination of coverage, a tribal employee will receive a [31-day](#) temporary extension of coverage at no additional cost. There is no 31-day temporary extension of coverage upon voluntary cancellation of FEHB enrollment or when a plan is discontinued.

Cancellation due to insufficient payment while employed will generally not result in an opportunity to enroll in Temporary Continuation of Coverage (TCC) because the statutory conditions for TCC enrollment include termination of employment.

### **When a Tribal Employee Dies**

The tribal employer must make full payment for the tribal employer's share and the tribal employee's share of contributions for the pay period in which a tribal employee dies.

### **Retroactive Restoration**

If a tribal employee is retroactively restored to duty after an erroneous suspension or removal, a tribal employee may choose either to have his/her FEHB enrollment reinstated retroactively, or to enroll in the plan and option of his/her choice prospectively, the same as a new tribal employee. If a tribal employee elects to have the FEHB enrollment

reinstated retroactively, the tribal employer's share and the tribal employee's share of premium must be paid for the period of suspension or removal, as though the suspension or removal had not occurred.

### **Part-Time Employment**

The tribal employer may pro-rate its contribution for part-time tribal employees who work 16 to 32 hours per week by dividing the number of hours a tribal employee is scheduled to work during the pay period by the number of hours worked by a full-time tribal employee serving in the same or comparable position. That percentage is then applied to the tribal employer's contribution made for full-time tribal employees enrolled in that plan.

The pro-rated amount of the tribal employer's contribution is subtracted from the total premium due with respect to that tribal employee (tribal employer's share plus tribal employee's share), and the difference is the part-time tribal employee's share, to be withheld from pay.

### **Example**

Faith is scheduled to work 18 hours per week. The tribal employer contribution for her health benefits plan is \$61.38 biweekly for full-time tribal employees. The tribal employer contribution for her health benefits is as follows:

$36$  (Hours scheduled during biweekly pay period)  $\div$   $80$  (Hours worked by full-time tribal employees during a biweekly pay period) =  $.4500$

$\$61.38$  (tribal employer contribution/full-time tribal employees)  $\times$   $.4500$  =  $\$27.62$  (tribal employer contribution/part-time tribal employee).

Because the total premium (tribal employer's share and tribal employee's share) for her health benefits plan is \$92.35, Faith's share of premiums is \$64.73 ( $\$92.35 - \$27.62$ ).

### **Chart of Tribal Employer Contribution Factors for Part-Time Employees**

The following chart shows the factors used to determine the amount of the tribal employer contribution for health benefits for part-time tribal employees who work 16 - 32 hours per week, but if in a full-time position would work 80 hours during a biweekly pay period (the amount considered as full-time employment for most positions).

If the comparable full-time position would require a tribal employee to work a tour of duty **other than 80 hours per biweekly pay period**, or if a tribal employee is **paid on a monthly or semimonthly basis**, divide the actual number of hours or days a tribal employee is scheduled to work on the part-time schedule by the number of hours or days required for a full-time tribal employee in the same position to determine the tribal employer contribution factor.

Hours worked on a regular biweekly schedule	Factor	Hours worked on a regular biweekly schedule	Factor
32	0.4000	49	0.6125
33	0.4125	50	0.6250
34	0.4250	51	0.6375
35	0.4375	52	0.6500
36	0.4500	53	0.6625
37	0.4625	54	0.6750
38	0.4750	55	0.6875
39	0.4875	56	0.7000
40	0.5000	57	0.7125
41	0.5125	58	0.7250
42	0.5250	59	0.7375
43	0.5375	60	0.7500
44	0.5500	61	0.7625
45	0.5625	62	0.7750
46	0.5750	63	0.7875
47	0.5875	64	0.8000
48	0.6000	<32 or >64	1.00

**Temporary Tribal Employees**

A [temporary tribal employee](#) who has worked more than one year (as described at 5 U.S.C. 8906a), must pay both the tribal employee's share and the tribal employer's share of the health benefits premium. (Exception: a tribal employee who [continues coverage](#) after his or her employment status changes from non-temporary to temporary without a break in service exceeding 3 days, does receive a tribal employer contribution.)

**Temporary Continuation of Coverage**

If a former tribal employee enrolls under the [Temporary Continuation of Coverage \(TCC\)](#) provisions (see Chapter 8), he/she usually must pay the full amount of the premiums (both the tribal employee and tribal employer shares) plus an administrative charge of 2 percent of the total premium. A former tribal employee makes his/her payments directly to the paymaster.

## Leave Without Pay Status and Insufficient Pay

A tribal employee must still pay the tribal employee's share of health benefits premiums if he/she is in a [leave without pay status](#) for an entire pay period, or if his/her pay during a pay period doesn't cover the full amount of the tribal employee's share that is due, unless the tribal employee wants his/her FEHB enrollment to terminate. The tribal employer must notify the tribal employee of the choices available to him/her.

## Remittance to the Paymaster

- [When Remittance is Due](#)
- [Remittance Procedures](#)
- [Procedures for Temporary Continuation of Coverage](#)

### When Remittance is Due

On or before the first business day of each month, a tribal employer must place the amount of money to cover health benefits premiums due for the prior month's coverage into a designated bank account for the paymaster to access by electronic funds transfer. **For more information, please see Chapter 11, Finance.**

### Remittance Procedures

The method for remitting payments and supporting accounting information to the paymaster is the Tribal Insurance Processing System (TIPS). **For more information, please see Chapter 11, Finance, and the TIPS QuickGuide.**

OPM will credit the total amount reported by the paymaster for health benefits to the Employees Health Benefits Fund.

### Procedures for Temporary Continuation of Coverage

Tribal employers have an agreement with the Department of Agriculture's National Finance Center (NFC) in New Orleans, Louisiana to perform the payroll functions for former tribal employees or their covered family members who are making direct payments under the Temporary Continuation of Coverage (TCC) provisions. NFC acts as the tribal employer's agent in servicing these FEHB enrollments. The tribal employer must resolve any disputes between NFC and former tribal employees or family members. The tribal employer's responsibility in both initial and reconsideration decisions about tribal employees' FEHB enrollment complaints is explained in "[Initial Decision and Reconsideration](#)" (see Chapter 8).

## Chapter 3: Health Plans

- [Types of Plans](#)
- [Description of Plans](#)
- [Participating Plans](#)
- [Coordination of Benefits](#)
- [Coordination with Medicare](#)
- [Payment of Benefits in Medically Underserved Areas](#)
- [A Tribal Employee's Health Plan Choice](#)

### Types of Plans

- [Fee-for-Service \(FFS\) Plans](#)
- [Health Maintenance Organizations \(HMO\)](#)
- [FFS and HMO Plan Designs and Options](#)
  - [Point of Service](#)
  - [High Deductible Health Plans](#)
  - [Consumer-Driven Health Plans](#)

The Federal Employees Health Benefits (FEHB) Program offers Fee-For-Service (FFS) plans and Health Maintenance Organizations (HMOs). Both types offer several plan designs and options such as a point-of-service product, high deductible, and consumer-driven options.

### Fee-for-Service (FFS) Plans

These plans reimburse plan enrollees or their health care providers for the cost of covered services. Tribal employees may choose their own physicians, hospitals, and other health care providers. Most FFS plans have preferred provider organization (PPO) arrangements. Services received from a preferred provider usually have lower out-of-pocket costs (i.e., a smaller copayment, coinsurance, and/or a reduced or waived deductible). All FFS plans require precertification of inpatient admissions and preauthorization of certain procedures.

FFS plans include:

- The Government-wide Service Benefit Plan, which is open to anyone eligible to enroll under the FEHB Program.
- Union and employee organization sponsored plans. Some plans are open to all eligible tribal employees who hold full or associate memberships in the organizations that sponsor the plans. However, some plans others are restricted to

employees in certain occupational groups and/or Federal agencies and tribal employees are not eligible to enroll in these plans. Generally, the employee organization requires a membership fee or dues that the member pays directly to the employee organization, in addition to the plan's premium. This fee is set by the employee organization and is not negotiated with OPM.

### **Health Maintenance Organizations**

Health Maintenance Organizations (HMOs) provide or arrange health care services on a prepaid basis through designated in-network plan physicians, hospitals, and other providers in specific locations. Each HMO defines its geographic area for which health care services are available or its "service area." This service area is described in the plan's brochure. A tribal employee may join a particular HMO if he/she lives and/or works within its service area. Tribal employees must live and/or work in a plan's service area to enroll. If a tribal employee has questions about whether he/she lives or works within an HMO's service area, a tribal employee should contact the plan before enrolling.

Generally, HMO enrollees must choose a primary care physician, who coordinates all care. A tribal employee's primary care physician is responsible for obtaining any pre-certification required for inpatient admissions or other procedures.

HMOs plans include:

- Group Practice Plans. These plans provide care through groups of physicians who practice at designated or specific medical centers.
- Individual Practice Plans. These plans provide care through participating physicians who practice in their own offices.
- Mixed Model Plans. These plans are a combination of Group Practice and Individual Practice plans.

### **FFS and HMO Plan Designs and Options**

#### **Point-of-Service**

Some FFS plans and HMOs offer a point-of-service product. This gives a tribal employee the choice of using designated network providers or using non-network providers. However, if the tribal employee chooses to use a non-network provider, then the tribal employee will incur additional costs because he/she must pay higher deductibles, coinsurance, and copayments for services from the non-network providers.

#### **High Deductible Health Plans**

The High Deductible Health Plan (HDHP) features higher annual deductibles and higher annual out-of-pockets costs than other insurance plans. Depending on the HDHP a tribal employee chooses, he/she may have the choice of using in-network and out-of-network providers. There may be higher deductibles and out-of-pocket limits when using out-of-

network providers than when using network providers. Using in-network providers reduces out-of-pocket costs.

Some FFS plans and HMOs offer an HDHP. When the tribal employee enrolls, his/her health plan establishes either a Health Savings Account (HSA) or a Health Reimbursement Arrangement (HRA) for him/her. Plans that offer an HSA will automatically deposit a monthly “premium pass through” amount into the HSA account. Plans that offer an HRA will credit an amount into the HRA.

### **Consumer-Driven Health Plans**

A Consumer-Driven Health Plan (CDHP) provides the consumer freedom in the spending of health care dollars. The typical plan has common features: tribal employee responsibility for certain up-front medical costs, an employer-funded account that the tribal employee may use to pay these up-front costs, and catastrophic coverage with a high deductible. The tribal employee and his/her covered family receive full coverage of in-network preventive care after the high deductible has been met. .

### **Description of Plans**

- [FEHB Guide for Tribal Employees](#)
- [Brochures](#)
- [Participating Provider Directories](#)
- [Participating Plans](#)

### **The FEHB Guide for Tribal Employees**

OPM publishes the FEHB Guide for Tribal Employees for distribution through tribal employers to eligible tribal employees. OPM will provide the details to the tribal employers on how to order and pay for the number of Guides ordered. The Guide lists all participating plans in the FEHB Program, the premiums required, and other information, including quality indicators. The Guide will also be available at no charge on the FEHB website.

### **Brochures**

The plan brochure describes benefits, costs, exclusions, limitations, and other major provisions of the plan. Brochures are issued annually and cover a full calendar year. Tribal employers should inform their tribal employees to review the brochures for the various plans in which they are eligible to enroll so they can make informed choices. Tribal employees can access all plan brochures from the FEHB Tribal website ([www.opm.gov/insure/health/tribes/fehb.asp](http://www.opm.gov/insure/health/tribes/fehb.asp)). The tribal employer can also order paper copies of the brochures from the plans for tribal employees. Also, tribal employees can

contact the plans directly at the phone numbers listed in the Guide and request paper copies of the brochures. Tribal employees need to keep their selected plan's current brochure as a continuing source of information on the benefits that the plan provides.

### **Participating Provider Directories**

HMO and FFS plans with PPO arrangements will provide a participating provider directory that lists its participating physicians, hospitals, and other providers. Before a tribal employee enrolls in a plan, he/she should review the plan's participating provider directory. Most plans have provider directories on their websites. These can be accessed directly from the plan's website. A tribal employee should review the plan provider directory to see if his/her chosen providers will continue to participate in the plan.

The continued participation of any provider with a health plan is not guaranteed. Tribal employees must be aware that providers sometimes cease participation during an FEHB contract year. Tribal employees should verify a provider's participation status before receiving services.

A tribal employee is not eligible to change plans outside of an Open Season or other [qualifying life event](#) solely because a particular health care provider stops participating with a tribal employee's plan.

### **Participating Plans**

Prior to each Open Season, OPM provides tribal employers with an updated list of the names, addresses, and telephone numbers of all fee-for-service plans and HMOs that currently participate in the FEHB Program.

### **Coordination of Benefits**

- [Coordination with health care furnished by Uniformed Services Facilities \(USF\) and the Department of Veterans Affairs \(DVA\)](#)
- [When Other Government Agencies Provide Care](#)
- [Coordination with TRICARE \(formerly CHAMPUS\)](#)

If a tribal employee or their covered family member is entitled to benefits from a source other than his/her FEHB plan, such as a spouse's health insurance coverage, Medicare, Medicaid, or no-fault automobile insurance, [coordination of benefits](#) will take place. Tribal employees or their covered family members must disclose information about any other source of benefits to their plan's carrier.

### **Coordination with health care furnished by Uniformed Services Facilities (USF) and the Department of Veterans Affairs (DVA)**

These Government agencies are entitled to seek reimbursement from FEHB plans for certain services and supplies furnished to a tribal employee or his/her covered family member. Generally, FEHB benefits are payable for (1) inpatient hospital costs at a Uniformed Services facility, and (2) services and supplies provided by a DVA facility for treatment of a non-service connected disability.

### **When Other Government Agencies Provide Care**

FEHB plans do not cover services and supplies when a local, State, or Federal Government agency directly or indirectly pays for them. However, facilities of the Department of Veterans Affairs, the Department of Defense, and the Indian Health Service are entitled to seek reimbursement from FEHB plans for certain services and supplies they provide to tribal employees or their covered family members. They may not seek more than their governing laws allow. Tribal employees or covered family members may be responsible to pay for certain services and charges and should contact the government facility directly for more information.

### **Coordination with TRICARE (formerly CHAMPUS)**

TRICARE provides health care for active-duty military personnel whose orders do not specify a period of 30 days or less, and their dependents; retired and former military personnel currently entitled to retired or retainer pay, or equivalent pay, and their dependents; and dependents of deceased military personnel. If a tribal employee is covered by both an FEHB plan and TRICARE, the FEHB plan pays benefits first as the [primary payer](#) and TRICARE is the [secondary payer](#). (All provisions applicable to CHAMPUS now apply to TRICARE.)

### **Coordination with Medicare**

- [Basic Medicare Provisions](#)
- [FEHB Plans and Medicare](#)
- [When a Tribal Employee's FEHB Plan is Primary](#)
- [When Medicare is Primary](#)
- [FEHB Enrollment Change Permitted](#)

### **Basic Medicare Provisions**

Medicare is generally for persons age 65 or over. It has two parts:

- Part A (Hospital Insurance) helps pay for inpatient hospital care, skilled nursing facility care, home health care, and hospice care. An employee is entitled to Part A without having to pay premiums if an employee or an employee's spouse worked for at least 10 years in Medicare-covered employment. A percentage of an employee's salary, up to a maximum determined by the Social Security Administration, is deducted from his/her pay for this coverage.

- Part B (Medical Insurance) helps pay for doctors' services, outpatient hospital care, x-rays and laboratory tests, medical equipment and supplies, home health care (if one does not have Part A), certain preventive care, ambulance transportation, other outpatient services, and some other medical services Part A doesn't cover, such as physical and occupational therapy.
- Medicare Advantage Plans (Part C) provide comprehensive health benefits, usually in an HMO type benefit structure, for people who prefer this in lieu of traditional Medicare A and B benefits.
- Part D (Prescription Drug Insurance) helps to cover the cost of prescription drugs. Since all FEHB plans include drug coverage, if someone has continuous coverage under an FEHB plan since first eligible for Part D, Medicare does not charge a higher (penalty) premium if the person does not initially enroll in Part D but decides to do so at a later date.

Tribal employees should contact the Social Security Administration for detailed information on Medicare eligibility and benefits. Tribal employees may also find information on the Medicare website at [www.medicare.gov](http://www.medicare.gov).

### **FEHB Plans and Medicare**

Generally, plans under the FEHB Program provide protection against the same kind of expenses as Medicare, plus all FEHB plans provide prescription drug coverage, routine physicals, and a wider range of preventive services than Medicare.

Whether your FEHB plan or Medicare is the [primary payer](#) depends on your current employment or health status.

Medicare always makes the final determination as to whether they are the primary payer. It is critical that a tribal employee tell his/her plan if he/she or a covered family member has Medicare coverage so the FEHB plan can coordinate benefits correctly.

### **When an Enrollee's FEHB Plan is Primary**

When an enrollee's FEHB Plan is the primary payer, an enrollee should submit claims for benefits to his/her FEHB plan first. If a balance remains after the FEHB plan makes payment on the claim, an enrollee can then submit the claim and a copy of the FEHB plan's explanation of benefits (EOB) to Medicare.

### **When Medicare is Primary**

When Medicare is the primary payer, a provider should submit claims for benefits to Medicare first. If a balance remains after Medicare pays the claim, an enrollee can then submit the claim and a copy of Medicare's Medicare Summary Notice (MSN) or explanation of benefits (EOB) to his/her FEHB plan. As the secondary payer, the FEHB plan will not process an enrollee's claim without the Medicare MSN or EOB.

FEHB plan carriers have made arrangements with Medicare that automatically transfer claims information to it once Medicare processes a claim, so a tribal employee generally does not need to file with both.

### **FEHB Enrollment Change Permitted**

A tribal employee may change his/her FEHB enrollment to any available plan or option at any time beginning on the 30th day before he/she becomes eligible for Medicare. A tribal employee may use this FEHB enrollment change opportunity only once, and is in addition to any other event (such as the annual Open Season) permitting FEHB enrollment changes.

A tribal employee may discover that his/her current plan does not meet his/her needs once he/she starts receiving Medicare benefits. A tribal employee should review his/her plan's benefits and costs and determine if a different plan would be better for him/her.

### **Payment of Benefits in Medically Underserved Areas**

If a tribal employee lives in a medically underserved area and is enrolled in a fee-for-service plan, that plan must pay benefits up to its contractual limits, for covered health services provided by any medical practitioner properly licensed under applicable State law.

Each year, before the FEHB Open Season begins, OPM determines which states qualify as medically underserved areas for the next calendar year. OPM announces the results of this determination before each open season in a public notice in the Federal Register. The medically underserved areas are listed in each FFS plan's brochure and on OPM's website at [www.opm.gov/insure/health/planinfo/index.asp](http://www.opm.gov/insure/health/planinfo/index.asp).

### **A Tribal Employee's Health Plan Choice**

The right plan for a tribal employee depends on many factors, including his/her family composition, his/her family's health, and his/her ability to pay out-of-pocket medical expenses as well as the required insurance premiums. What may be a good choice for one person may not be so for another. Only the tribal employee can decide which plan is best for him/her.

## Chapter 4: Eligibility for Health Benefits

- [Eligibility for Health Benefits](#)
- [Temporary Tribal Employees](#)
- [Tribal Employees Excluded from Coverage](#)
- [Election Procedures](#)
- [Free Choice of Plans](#)
- [Late Election](#)
- [Election Not to Enroll](#)
- [Initial Decision and Reconsideration](#)
- [Correction of Errors](#)
- [Processing Elections](#)
- [Transfer Between Tribal Employers](#)
- [Voiding Health Benefits Actions](#)
- [Correction of Information on Forms](#)
- [Reporting FEHB Enrollments and Changes in FEHB Enrollments to Carriers](#)
- [Reconciliations](#)

### Eligibility for Health Benefits

IHCIA § 409, “Access to Federal Insurance,” enacted under the Affordable Care Act (ACA) extends entitlement to purchase Federal Employees Health Benefits (FEHB) to the following groups:

- 1) tribes or tribal organizations carrying out programs under the Indian Self-Determination and Education Assistance Act (ISDEAA); and
- 2) urban Indian organizations carrying out programs under title V of IHCIA.

OPM will interpret this broadly, and FEHB benefits will be available to common law tribal employees including tribal employees who are employed to perform governmental duties or commercial duties such as service within the gaming industry. Full-time and part-time common law employees of tribal employers that have elected to participate in FEHB are eligible to purchase coverage, within the guidelines outlined in OPM regulations.

OPM has defined the term “tribal employee” broadly to mean a common law employee of a tribal employer. This regulation references a list of 20 factors developed by the

Internal Revenue Service that may be examined in determining whether a common law employee relationship exists for Federal tax purposes. Because OPM expects tribal employers to treat tribal employees consistently for purposes of Federal taxation and access to Federal insurance, the same factors must be considered in determining common law employee status for purposes of eligibility for FEHB. Contract employees, tribal retirees, annuitants and volunteers are not eligible to enroll in FEHB. Tribal employees cannot continue FEHB coverage into retirement.

## **Temporary Tribal Employees**

- [Eligibility to Enroll at Own Cost after One Year](#)
- [Student Tribal Employees](#)
- [Intermittent Employment](#)
- [Mixed Work Schedule](#)
- [Seasonal Tribal Employees](#)
- [Term Tribal Employees](#)

### **Eligibility to Enroll at Own Cost after One Year**

Tribal employees in positions in which their appointment is limited to one year or less are excluded from coverage. However, if a tribal employee's temporary employment continues after the expiration of one year without a break of service of more than 5 days, he or she will be eligible to enroll when he or she has completed one year of current continuous employment, excluding any break in service of 5 days or less. These tribal employees must pay both the tribal employee and the tribal employer shares of the premium.

The one-year requirement may be met at the end of a one-year appointment at a single tribal employer or it may be based on a series of shorter appointments served with one or more tribal employers, as long as the tribal employee has not had a break in service of more than 5 days.

### **Term Tribal Employees**

Term tribal employees are appointed to complete or assist with a particular project. When the project is completed, employment will be terminated. As long as the appointment is expected to last more than one year and, generally, less than four years the tribal employee is eligible for FEHB immediately and the tribal employer is responsible for the tribal employer share of the premium.

### **Student Tribal Employees**

Student tribal employees (for example, a student aide or stay-in-school program participant) who serve on temporary appointments limited to 1 year or less, and who work part-time during the school year and full-time during summers and vacations will become eligible to participate after completing one year on the employment rolls, provided they pay the full premium cost.

### **Intermittent Employment**

Intermittent tribal employees (those that do not have a prearranged regular work schedule) are not eligible for coverage. Seasonal or occasional employment for one calendar year that amounted to less than 6 months of work does not meet the one year of current continuous employment requirement.

#### ***Exception***

Intermittent tribal employees are eligible for FEHB coverage if their employment follows, with a break in service of no more than 3 days, a position in which they were covered.

### **Mixed Work Schedule**

Tribal employees who work, under an appointment limited to one year or less, a mixed work schedule (combining periods of full-time, part-time, and intermittent tours of duty during the year) may be eligible to enroll as a temporary tribal employee if the employment continues after one year without a break in service of more than 5 days. They must be on a full-time or prearranged part-time work schedule at the beginning of the one-year period of current continuous employment and at the time they enroll in FEHB under this provision. When counting the one year of current continuous employment, include any periods of intermittent service. If they change to an intermittent work schedule after their FEHB enrollment begins, FEHB enrollment will continue as long as they do not have a break in service of more than three calendar days.

### **Seasonal Tribal Employees**

A seasonal tribal employee is any tribal employee who works on an annual recurring basis for periods that are expected to last less than twelve months. Seasonal tribal employees expected to work less than six months in a year are not eligible for participation in the FEHB Program.

Only seasonal tribal employees that are expected to work more than six months in a year are eligible for participation in the FEHB Program. The tribal employer must contribute the tribal employer's share of premium for the entire year.

## **Tribal Employees Excluded from Coverage**

- [Definition of tribal employees does not include contract employees, retirees or annuitants, or volunteers](#)
- Coverage options upon Retirement
- [Non-citizens](#)
- [Temporary Tribal employees](#)
- [Patient Tribal Employees](#)
- [Tribal Employees Paid on a Contract or Fee Basis](#)
- [Tribal Employees Paid on a Piecework Basis](#)

**Definition of tribal employees does not include contract employees, retirees or annuitants, or volunteers**

Contract employees, tribal retirees or annuitants, and volunteers are not eligible to enroll in FEHB.

**Coverage options upon Retirement**

Tribal employees cannot continue FEHB coverage into retirement. However, tribal employees will have a 31-day temporary extension of coverage without cost when their coverage terminates (see Chapter 7) and may convert their FEHB coverage to an individual policy. Tribal employees are also eligible for Temporary Continuation of Coverage (TCC) when they separate from employment (see Chapter 8). TCC is a feature of the FEHB Program that allows individuals in certain circumstances to temporarily continue their FEHB coverage after regular coverage ends. A former tribal employee who separates or retires (for reasons other than gross misconduct) is eligible for 31 days of temporary extension of coverage without cost and is also eligible for up to 18 months of TCC at the former tribal employee's option (the first month of which will coincide with the 31 days of temporary extension of coverage and will be without cost). The former tribal employee may also convert to an individual policy (see Chapter 7) with the health plan in which the former tribal employee was previously enrolled. Enrollees in TCC and conversion policy coverage must pay the full premium cost themselves; in addition, enrollees in TCC must pay an administrative fee.

**Noncitizens**

A tribal employee is excluded from FEHB coverage if he or she is not a citizen or national of the United States and his or her permanent duty station is located outside the United States and its territories and possessions.

**Temporary Tribal Employees**

Tribal employees are excluded from FEHB coverage if they are:

- serving under an appointment limited to one year or less and have not completed at least one year of current continuous employment, excluding any break in service of 5 days or less; or
- expected to work less than 6 months in each year.

### ***Exceptions***

Tribal employees are eligible for FEHB coverage if:

- their full-time or part-time temporary appointment has a regular work schedule and follows a position in which they were insured, with a break in service of no more than 3 days; or
- their appointment follows, with a break in service of no more than 3 days, a position in which they were insured.

### **Patient Tribal Employees**

Tribal employees are excluded from FEHB coverage if they are a beneficiary or patient employee in a Government hospital or home.

### **Tribal Employees Paid on a Contract or Fee Basis**

Tribal employees are excluded from FEHB coverage if they are paid on a contract or fee basis.

### ***Exception***

Tribal employees are eligible for FEHB coverage when they are a:

- United States citizen, employed by a contract between the tribal employee and the tribal employer which requires that tribal employee's personal service, and they are paid on the basis of units of time;

### **Tribal Employees Paid on a Piecework Basis**

Tribal employees are excluded from FEHB coverage if they are paid on a piecework basis.

### ***Exception***

Tribal employees are eligible for FEHB coverage when their work schedule provides for full-time or part-time service with a regularly scheduled work schedule.

## **OPM Determination**

OPM makes the final determination about whether the above categories apply to a specific employee or group of employees.

## **Election Procedures**

- [Election Required](#)
- [Health Benefits Election Form](#)
- [Social Security Number](#)
- [Change in Election](#)
- [Temporary Tribal Employees](#)

### **Election Required**

If tribal employees are [eligible to enroll in the FEHB Program](#), they must complete an election either to enroll in a plan or not to enroll. They must do this within 60 days after they become eligible. The tribal employers must remind tribal employees of the 60-day deadline and ensure that they make their election on a timely basis. If tribal employees don't make an election, they are considered to have declined coverage.

### **Health Benefits Election Form**

Tribal employees will make elections (to enroll, not to enroll, to change FEHB enrollment, or to cancel FEHB enrollment) on the Standard Form 2809 (SF 2809) Health Benefits Election Form. Tribal employees will fill out the SF 2809 and submit it to their tribal employer. Tribal employers must provide the paymaster with required data through the Tribal Insurance Program System (TIPS) or by sending a paper copy of the SF 2809 to the paymaster. OPM encourages tribal employers to enter data through TIPS because it may help keep administrative costs the same or lower the administrative cost.

### **Social Security Number**

All health plans use social security numbers as an identification number for FEHB enrollment purposes. Social security numbers are requested on all FEHB enrollment or disenrollment documents.

### **Change in Election**

If a tribal employee has elected premium conversion through his or her tribal employer's premium conversion plan (if the tribal employer offers one), then his or her FEHB election is irrevocable, unless he or she has a Qualifying Life Event or he or she waives premium conversion with the tribal employer. If a tribal employee who has elected premium conversion wants to cancel his or her FEHB election before the election period ends, without a QLE, he or she is subject to the rules for waiving premium conversion in accordance with the tribal employer's premium conversion plan.

## Temporary Tribal Employees

A tribal employer must establish a potential FEHB eligibility date for each temporary tribal employee. The tribal employer must notify temporary tribal employees as soon as they are [eligible to enroll](#) and give them 60 days to make an election.

## Free Choice of Plans

- [Tribal Employer Responsibility](#)
- [Materials to be Given](#)
- [Plan Selection](#)

### Tribal Employer Responsibility

Tribal employees will be given a full opportunity to make a free choice among the FEHB health plans available to them. Tribal employers will explain the FEHB Program to tribal employees as soon as they become eligible; give them informational material and referral to OPM websites; caution them against cancellation of any private health insurance they may already have before FEHB coverage becomes effective; and urge that they study the information and decide which plan is best suited to meet their health care needs.

### Materials to be Given

Tribal employers will make available to tribal employees the following materials before, or as soon as possible after, they become eligible for FEHB coverage:

- ***FEHB Guide for Tribal Employees***. This booklet, which is updated each year, contains general FEHB enrollment information, lists all FEHB plans and their phone numbers, and gives the baseline tribal employee share of the premium rates, and gives the major features of each plan.
- [Health Benefits Election Form \(SF 2809\)](#). Tribal employees must complete and return this form, regardless of whether they elect to enroll or not to enroll in the FEHB Program.
- Health Plan Brochures. The tribal employer will encourage tribal employees to use electronic copies of health plan brochures available on OPM or health plan websites, and allow tribal employees to review printed copies of the brochures of the plans that they are eligible to enroll in. Health plans will provide a copy of their brochure to each new tribal employee enrolled in the plan, and upon request, will provide a brochure to tribal employees who request a copy

### Plan Selection

Only tribal employees can decide which plan is best suited for their individual needs.

Tribal employers will not make comparisons between benefits offered by various plans and will not show favoritism toward a plan. Tribal employers should not in any other way try to influence tribal employees' final selection of a plan. However, tribal employers will answer questions about the FEHB Program.

### **Plans Sponsored by Unions and Employee Organizations**

Tribal employees may elect to enroll in a plan sponsored by a union or employee organization if he/she is a member of the organization or if they promptly take steps to become a member. Some employee organizations will allow enrollment in its plan if you become an associate member (where he/she is enrolled in that organization only for health benefits purposes). Certain plans are open only to specific groups of employees.

The tribal employer will not verify whether you are a member of the organization when it accepts your Health Benefits Election Form enrolling in the organization's plan; the organization will verify the membership when it receives the election form. However, the tribal employer will make sure that you understand that membership in the organization that sponsors the plan is necessary to be an enrollee in the plan.

### **Late Election**

- [Accepting Late Elections](#)
- [Documenting Late Elections](#)
- [Effective Date](#)
- [Election by Proxy](#)

#### **Accepting Late Elections**

If, for reasons beyond his/her control, a tribal employee is unable to make an election within the required time limits, the tribal employer may allow the tribal employee to make a late election. The tribal employees must make elections within 60 days after the tribal employer notified him/her of the decision.

Tribal employers will decide whether the failure to make a timely election was beyond the control of the tribal employee. An error in judgment and failure to read information are not considered causes beyond the control of the tribal employee. Some examples of causes beyond the control of the tribal employees are:

- He/she was on service elsewhere when he/she ordinarily would have been able to make the election.
- He/she is a new tribal employee and the tribal employer didn't give him/her information about health benefits.
- The tribal employer told the tribal employee, in error, that he/she was not eligible to enroll.

- He/she is a tribal employee formerly covered under another person's enrollment, and was belatedly informed of that coverage's termination.

### **Documenting Late Elections**

If the tribal employer accepts a late election from a tribal employee, the tribal employer records its determination that the tribal employee was unable to make the election on a timely basis for reasons beyond his/her control, giving the date the tribal employee was notified of the determination, in the Remarks section of the Health Benefits Election Form (SF 2809). The tribal employer must state the reason for the tribal employee's failure to make the election on a timely basis on either the SF 2809 or on a memo attached to the Tribal Employer Personnel Folder copy of the SF 2809.

### **Effective Date**

Late elections are effective prospectively, except for belated Open Season elections, as explained in "[Correction of Errors](#)."

### **Election by Proxy**

The tribal employer may permit a tribal employee's representative to make an election for the tribal employee with his/her written authorization. This may be done when the tribal employee is unable to make an election on a timely basis; for example, when the tribal employee will be on extended travel in a remote location or the tribal employee expects to be hospitalized during the next election opportunity. The tribal employee representative must sign his/her own name on the Health Benefits Election Form (SF 2809) and add after it "For: (**employee name**)."

The tribal employer attaches the written authorization to the Tribal Employer Personnel Folder copy of the SF 2809 and writes "Authorization attached" in the Remarks section.

### **Election Not to Enroll**

- [Responsibility of Tribal Employees](#)
- [Change in Election not to Enroll](#)
- [Effect of Transfer on Election Not to Enroll](#)
- [Tribal Employer Action When Tribal Employees do not Make an Election](#)

### **Responsibility of Tribal Employees**

It is the responsibility of tribal employees to ensure that their Health Benefits Election Form (SF 2809) correctly reflects their intentions. When tribal employees elect not to enroll they certify by their signature on the SF 2809 that they are aware that they may not

enroll again until an [event](#) occurs (such as marriage or Open Season) that permits FEHB enrollment. All tribal employees must fill out a SF 2809. Then, the tribal employer will enter the data electronically into TIPS or mail/fax a copy of the SF 2809 to the paymaster. During a large FEHB enrollment period (e.g., a tribal employer's initial opportunity to participate, Open Season), a tribal employer should prioritize the processing of SF 2809s by first processing all tribal employees who elect into coverage and then all tribal employees who choose not to elect.

### **Change in Election Not to Enroll**

If tribal employees want to change their election before the election period ends, the tribal employer must accept the change.

### **Effect of Transfer on Election not to Enroll**

If tribal employees transfer to another tribal employer without a break in service of more than 3 calendar days, their election not to enroll is also transferred and they may not enroll as new tribal employees of the gaining tribal employer. If a tribal employee has a break in service of more than 3 calendar days, the gaining tribal employer must offer a new enrollment opportunity and the tribal employee must elect either to enroll or not to enroll, the same as new tribal employees. These guidelines apply to tribal employees transferring from one tribal employer to another, as long as both tribal employers participate in the FEHB Program. Employees transferring from a tribal employer to a Federal employer will be treated as new Federal employee.

### **Tribal Employer Action When Tribal Employees do not Make an Election**

If tribal employees do not make an election to enroll or not to enroll in FEHB, the tribal employer will contact them before the election period ends and urge them to make an election. If they still do not make an election, they are considered to have elected not to enroll. The tribal employer should document in each tribal employee's Tribal Employer Personnel Folder that it followed up with the tribal employee and urged him or her to make an election.

If an eligible [temporary tribal employee](#) does not enroll, the tribal employer will document in the Tribal Employer Personnel Folder the date of eligibility, the date the tribal employer sent notification of eligibility, and the date of its follow-up contact urging the tribal employee to make an election.

### **Initial Decision and Reconsideration**

- [Initial Decision](#)
- [Reconsideration Right](#)
- [Who Does the Reconsideration?](#)
- [How to Request Reconsideration](#)

- [Time Limit](#)
- [Final Decision](#)
- [Effective Date of Reconsideration FEHB enrollment](#)

### **Initial Decision**

The tribal employer has the responsibility for determining whether a tribal employee is eligible to enroll or change enrollment in the FEHB Program or in the tribal employer's premium conversion plan (if the tribal employer offers one). The tribal employer's initial decision that a tribal employee cannot enroll must be given in writing and must inform the tribal employee of his/her right to reconsideration by an independent reviewer of the tribal employer. The written initial decision must include the address of the tribal employer responsible for the reconsideration decision, the [time limit](#) for requesting reconsideration, and a statement that the tribal employee should include a copy of the initial decision with his/her reconsideration request.

See "[Opportunities to Enroll or Change Enrollment](#)" for the events that allow FEHB enrollment or changes in FEHB enrollment and the time frames within which changes may be made.

### **Reconsideration Right**

A tribal employee has the right to ask the tribal employer to reconsider its initial decision denying FEHB enrollment or the opportunity to change FEHB enrollment. Upon a request for reconsideration, a reviewer who is independent of the initial reviewer must determine whether the tribal employer properly applied law and regulations in making its initial decision. The written reconsideration decision must include a statement indicating that the tribal employee may appeal the reconsideration decision to an independent dispute resolution panel identified by the tribal employer, the address of the independent dispute resolution panel, the [time limit](#) for requesting an appeal, and a statement that the tribal employee must include a copy of both the initial decision and the reconsideration decision with his/her appeal.

This appeal is the tribal employee's final level of administrative review for FEHB enrollment decisions under the FEHB Program.

### **Who Decides the Appeal?**

Tribal employers must establish or identify an independent dispute resolution panel to adjudicate appeals of determinations made by a tribal employer regarding a tribal employee's eligibility to participate or change participation in the FEHB Program. This panel must be authorized to enforce eligibility decisions. The tribal employer must inform all individuals who work for the tribal employer and might reasonably believe they are eligible for FEHB benefits of this avenue for dispute resolution and must keep a written record of eligibility decisions and documentation relevant to those decisions.

OPM maintains the right to review the decisions of the tribunal for compliance with FEHB eligibility rules.

### **How to Request Reconsideration**

The tribal employee must request reconsideration in writing. The request must include:

- Tribal employee name and address
- Tribal employee date of birth
- Tribal employee Social Security Number
- The reason(s) for the request
- A copy of the initial decision.

### **Time Limit**

A tribal employee must request reconsideration within 30 calendar days from the date of the initial decision. Exception: a tribal employee must request reconsideration of a carrier's disenrollment decision within 60 calendar days after the date of a carrier's [disenrollment](#) notice.

This time limit may be extended when the tribal employee shows that he/she was not notified of the time limit and was not otherwise aware of it or that he/she was unable to make the request within the time limit for reasons beyond his/her control.

### **Reconsideration Decision**

The reconsidering office will issue a reconsideration decision. This decision will be in writing and fully state the findings. Initial decisions that comply with law and regulations cannot be overturned by reconsideration.

#### **Example 1**

*Henry lists parents who live with and are dependent on him as family members under his family FEHB enrollment. His tribal employer denies coverage of his parents. This initial decision cannot be overturned by reconsideration because the FEHB law does not provide for coverage of a tribal employee's parents.*

#### **Example 2**

*John marries. Three months later he requests a change of enrollment from Self Only to Self and Family based on the marriage. The tribal employer denies his request because the time frame for making a change due to marriage is 31 days before to 60 days after the marriage. This initial decision cannot be overturned because the time frame is a regulatory requirement.*

(If John claimed that he did not make the change timely for reasons beyond his control, his tribal employer could allow a [late election](#) on that basis either at the initial decision level or at the reconsideration level.)

### **Effective Date of Reconsideration of FEHB Enrollment**

If on reconsideration the tribal employer decides that a tribal employee should have been allowed to enroll or change FEHB enrollment, it accepts a Health Benefits Election Form (SF 2809) from the tribal employee making the change. Generally, changes made upon reconsideration are effective prospectively. Under FEHB regulations, the change is normally effective on the first day of the first pay period beginning after the tribal employer receives the SF 2809.

In some cases, the law or regulations provide for retroactive effective dates.

When the late election was the result of an administrative error, a tribal employee may request that the tribal employer make the change retroactive to an earlier date, generally the date it would have been effective if the tribal employee had been able to make a timely election.

If on reconsideration the tribal employer decides that the tribal employee is entitled to continued FEHB enrollment in a plan from which the carrier [disenrolled](#) the tribal employee, the disenrollment is void and coverage is reinstated retroactively. Both the tribal employee's share and the tribal employer's share of premiums are due for the retroactive period of coverage.

### **Independent Dispute Resolution Panel**

The tribal employee who wants to dispute the reconsideration decision must appeal the reconsideration decision in writing. The request must include:

- Tribal employee name and address
- Tribal employee date of birth
- Tribal employee Social Security Number
- The reason(s) for the request
- A copy of both the initial decision and the reconsideration decision..

### **Time Limit**

A tribal employee must appeal the reconsideration decision within 30 calendar days from the date of the reconsideration decision. The independent dispute resolution panel is the final level of administrative review of the FEHB enrollment decision.

### **Correction of Errors**

- [Tribal employer](#)

- [OPM](#)
- [Impaired Relationship](#)

### **Tribal employer**

Tribal employers can make corrections of administrative errors regarding eligibility to enroll or changes in FEHB enrollment at any time. Tribal employers may retroactively correct an FEHB enrollment code error if a tribal employee reports the error by the end of the second pay period after he/she received written documentation showing the error (for example, a pay statement or FEHB enrollment change confirmation).

When retroactive corrections are made, the tribal employer must determine whether the proper amount of health benefits deductions were made from a tribal employee's pay. The tribal employer must submit any uncollected tribal employees' share and tribal employer's share of premiums to the paymaster via the designated bank account during the next billing cycle.

### **OPM**

OPM can order correction of an administrative error after reviewing evidence that it would be against equity and good conscience not to do so. A request for review should be sent to OPM, Healthcare and Insurance, P.O. Box 436, Washington, D.C. 20044.

### **Impaired Relationship**

OPM may order a change in enrollment from a particular HMO when the tribal employee can show that he/she cannot receive adequate medical care because he/she (or a family member) and their HMO's health care providers have a seriously impaired relationship. You should submit your request and documentation of the impaired relationship to OPM, Healthcare and Insurance, P.O. Box 436, Washington, DC 20044.

### **Processing Elections**

- [Processing Elections](#)
- [Prompt Action on Elections](#)
- [Health Benefits Forms](#)
- [Remarks](#)
- [SF 2809](#)
- [Tribal Employer Review of SF 2809](#)
- [Processing an Election not to Enroll](#)
- [Processing an Election Change](#)
- [SF 2810](#)
- [Temporary Tribal Employee's Change in Employment Status](#)
- [Name Change](#)

- [Reinstatement of FEHB enrollment](#)

Generally, the responsibility for processing health benefits actions is divided between the personnel and payroll offices of the tribal employer and the paymaster. In addition, the paymaster and Tribal Insurance Program System (TIPS) requirements apply to processing tribal employer FEHB enrollment actions.

References in this section to Standard Forms 2809 and 2810 apply to the August 2011 and June 1995 editions respectively.

### **Prompt Action on Elections**

Tribal employers must process tribal employees' elections within one week after their receipt. This is very important to protect tribal employees' eligibility for benefits (especially when they are enrolling in an HMO), to keep health plan carriers fully informed of the status of FEHB enrollments, and to avoid retroactive adjustments in tribal employees' share and tribal employer's share of premium contributions.

### **Health Benefits Forms**

Health benefits actions are taken on either the Health Benefits Election Form (SF 2809) or the Notice of Change in Health Benefits Enrollment (SF 2810). Each of these forms contains instructions explaining its use.

### **Remarks**

Both the SF 2809 and SF 2810 contain space for remarks. The tribal employer will use this space to give information needed to support any action that is not apparent from the completed form. For example, to show that a new tribal employee is enrolling on a timely basis, the tribal employer will note "Employment (date)", or "Converted to eligible type of appointment (date)". It should not include information that is not relevant to a tribal employee's health benefits, such as the reason for separation, or title and the position.

[Special entries in the Remarks section](#) are required if the tribal employee is a temporary continuation of coverage (TCC) enrollee or a [temporary tribal employee](#) eligible under 5 U.S.C. 8906(a).

### **SF 2809**

The Health Benefits Election Form (SF 2809) is used to enroll, to decline FEHB enrollment, to change FEHB enrollment, or to cancel FEHB enrollment. The SF 2809 may be in either paper or electronic format. Whenever the use of the SF 2809 is discussed in this section, it refers to either the paper or electronic format.

For more information on SF 2809, please follow the Guidance for SF 2809 for Tribal Employees and Guidance for SF 2809 for Tribal Employers available online at [www.opm.gov/tribalprograms](http://www.opm.gov/tribalprograms).

### **Tribal Employer Review of SF 2809**

Upon its receipt of a tribal employee's Health Benefits Election Form (SF 2809), the tribal employer will:

- note in Part I the date it received the completed form;
- make sure that the tribal employee is eligible to enroll in FEHB or change enrollment;
- check that the tribal employee is not already covered as a family member under another FEHB enrollment;
- review the form for completeness, consistency, signature, accuracy, and legality of the action, and check all copies for legibility;
- discuss with the tribal employee any inconsistencies or situations not permitted by the law or regulations (e.g., not filed within the required time limits; FEHB enrollment in a plan not serving the tribal employee's area; name of plan and FEHB enrollment code do not agree; code number indicating Self Only FEHB enrollment when family members are listed; listing of persons not eligible for family coverage.) If the tribal employee is enrolling in an employee organization plan, the tribal employer must accept the tribal employee's FEHB enrollment but also advise him/her that he/she must become a member of the organization, if he/she is not already a member;
- obtain a [medical certificate](#) from the tribal employee if he/she has listed a [child age 26 or over as a family member](#). The tribal employer will record its [determination of capability for self-support](#) in the Remarks section on all copies of the form (e.g., "[name] is incapable of self-support--permanent" or "certificate expires on [date]"), and will attach the documentation to the Tribal Employer Personnel Folder copy of SF 2809 (in a sealed envelope if preferred). If coverage is approved for a limited period of time, the tribal employer will prepare a follow-up notice to remind the tribal employee in writing, at least 60 days before the certificate expires, that it must be renewed. If the tribal employer does not approve coverage, it will remove the child's name from the listing of family members;
- if the tribal employee is a [temporary employee](#) enrolling under 5 U.S.C. 8906a, enter in the Remarks section: "Temporary employee eligible under 5 U.S.C. 8906a; must pay the full premium amount with no tribal employer contribution.";
- if the tribal employee has properly completed the SF 2809 and is eligible to enroll, enter in Part I the effective date of the tribal employee's FEHB enrollment, payroll office number, and the name, title, address, signature, and telephone number of the authorized tribal employer official. These entries may be made by rubber stamp, overprint, or facsimile signature;

- if the tribal employee has properly completed the SF 2809 and is eligible to enroll, enter in the Remarks field the Tribal Employer's Personnel Office Identifier (a four-digit numeric identifier);
- file a copy of the paper SF 2809 or the confirmation page of a properly processed SF 2809 in TIPS in the Tribal Employer Personnel Folder (or its equivalent);
- notify the paymaster by either entering the data from the SF 2809 into TIPS or by mailing or faxing a paper copy to the paymaster directly;
- give the tribal employee a copy of the SF 2809, so it can be used as proof of FEHB enrollment until the carrier sends an identification card.

### **Processing an Election not to Enroll**

The tribal employer will process tribal employees' election not to enroll in the FEHB Program by following the applicable instructions under "[Tribal Employer Review of SF 2809](#)."

### **Processing an Election Change**

The tribal employer will process tribal employees' election change as outlined in "[Tribal Employer Review of SF 2809](#)."

### **SF 2810**

Tribal employers use the Notice of Change in Health Benefits Enrollment form (SF 2810) to record certain changes in an FEHB enrollment not requiring a tribal employee signature. It is used for an FEHB enrollment [termination](#) (but not a [cancellation](#)), reinstatement, change in payroll office, and a name change. In case of an FEHB enrollment termination, the back of the original (tribal employee) copy of the SF 2810 serves as the tribal employee's official notice of the [31-day temporary extension of coverage](#) and [conversion right](#). The back of the form also explains other rights the tribal employee may have (continuation of FEHB enrollment on transfer). Like the SF 2809, the tribal employer must notify the paymaster by either entering the data from the SF 2810 into TIPS or mailing or faxing a paper copy to the paymaster. In addition, on the SF 2810 the tribal employer must enter in the Remarks field the Tribal Employer's Personnel Office Identifier (a four-digit numeric identifier).

### **Temporary Employee's Change in Employment Status**

If a tribal employee's [employment status changes](#) from a temporary tribal employee enrolled under 5 U.S.C. 8906a to a position in which the tribal employee becomes eligible to receive the tribal employer contribution, the tribal employer will document the change on the Notice of Change in Health Benefits Enrollment (SF 2810). The SF 2810 documents the change in premium withholding (tribal employees may [change their enrollment](#) if they wish.). Tribal employers should also use any applicable paymaster/TIPS process. Tribal employers will complete parts A, G, and H of the SF

2810, and enter the following remark in Part G: “Tribal employee is now in a position in which he/she is eligible for the tribal employer's share of the premium.”

### **Name Change**

If a tribal employee's name changes but his/her FEHB enrollment does not, the tribal employer must report it to the paymaster. The tribal employer prepares a Notice of Change in Health Benefits Enrollment (SF 2810) and notes in the Remarks section the reason and date of the change (e.g., “Employee married [date]).”

### **Reinstatement of FEHB Enrollment**

When a tribal employee's FEHB enrollment is reinstated, the tribal employer will complete parts A, D, and H of Notice of Change in Health Benefits Enrollment (SF 2810). It will note in the Remarks section the event permitting reinstatement (e.g., “Returned from military service”, “Tribal employee reinstated”, or “Correction of erroneous termination of FEHB enrollment”).

The tribal employer will send the tribal employee a copy, file a copy in the Tribal Employer Personnel Folder, and notify the paymaster either electronically, via TIPS, or by mailing or faxing a paper copy.

### **Transfer Between Tribal Employers**

- [Continued Coverage](#)
- [Gaining Tribal Employer Actions](#)
- [Mass Transfers](#)

#### **Continued Coverage**

Tribal employees' FEHB enrollment and coverage continue without change when they transfer from one tribal employer to another without a break in service of more than 3 days. The tribal employer will promptly take action to transfer tribal employees' FEHB enrollment.

#### **Gaining Tribal Employer Actions**

When tribal employees enter on duty, the gaining tribal employer will:

- complete a Notice of Change in Health Benefits Enrollment (SF 2810), including parts C and H, transferring the FEHB enrollment to the gaining tribal employer;
- give tribal employees a copy of the new SF 2810. It will keep a file copy for tribal employees' Tribal Employer Personnel Folder, and notify the paymaster either electronically, via TIPS, or by mailing or faxing a paper copy;

- verify the transfer-in action on the basis of the health benefits documents located in tribal employees' Tribal Employer Personnel Folder. If the action was correct, it will file a copy of SF 2810 in the Tribal Employer Personnel Folder (or its equivalent). If the action was not correct, it will [correct the error](#). (If the losing office erroneously terminated a tribal employee's FEHB enrollment, the gaining tribal employer will use part D to show a reinstatement of the FEHB enrollment rather than part C to show a transfer in.)

### **Mass Transfers**

When tribal employees are part of a group of 25 or more tribal employees enrolled in the same plan to be transferred on the same day from one Personnel Office Identifier (four-digit numeric code to identify a tribal employer's billing unit) to another Personnel Office Identifier, the tribal employer doesn't need to prepare a separate transfer-in Notice of Change in Health Benefits Enrollment (SF 2810) for each tribal employee. The gaining tribal employer may make a list of all the tribal employees involved in the transfer and attach several copies to only one SF 2810 documenting the mass transfer in. It will post the change in payroll office number on the latest SF 2809 in each tribal employee's Tribal Employer Personnel Folders so that the payroll office number is up to date.

The gaining tribal employer will prepare the list in three columns, with column 1 for the tribal employee's name, column 2 for the Social Security Number, and column 3 for the FEHB enrollment code number.

The tribal employers will follow any necessary paymaster/TIPS procedures.

### **Voiding Health Benefits Actions**

- [When Voiding is Appropriate](#)
- [Procedure](#)

#### **When Voiding is Appropriate**

Voiding is appropriate only when an incorrect health benefits action must be withdrawn and the tribal employees' FEHB enrollment status must revert to what it was before the incorrect action was taken. Voiding has the effect of removing the incorrect action as though it never occurred.

#### **Procedure**

Follow any required paymaster/TIPS procedures. The tribal employer will notify the paymaster of the voided procedure either electronically, via TIPS, or by mailing a paper copy of the voided action. The tribal employer will keep a copy of the voided action in the tribal employee's Tribal Employer Personnel Folder.

To void an action through a paper copy, the tribal employer marks “VOID” in bold letters on the Tribal Employer Personnel Folder and payroll office copies of the form on which the incorrect action was taken (either the SF 2809 or SF 2810), and explains the action in the Remarks section. Additional remarks are required when an [erroneous enrollment is voided](#). The paper copy is mailed or faxed to NFC.

## **Correction of Information on Forms**

Tribal employers must correct and report to tribal employees’ carriers erroneous information given on the Health Benefits Election Form (SF 2809) or Notice of Change in Health Benefits Enrollment form (SF 2810) that would affect tribal employees’ entitlement to benefits. Significant errors include errors in tribal employee name, FEHB enrollment code, Social Security number, the effective date of a health benefits action, or an incorrect listing of family members.

Follow any required paymaster/TIPS procedures. Otherwise, tribal employers will make a correction on SF 2809 or SF 2810 (depending on which of these forms contains the erroneous information), and clearly label the form “CORRECTION.” The corrected form must give the tribal employee’s name, Social Security number, and other identifying data. The form may show only the specific item(s) being corrected, or the tribal employer may substitute another complete corrected form for the one previously submitted. The tribal employer will notify the paymaster of the correction either electronically, via TIPS, or by mailing or faxing an updated paper copy.

## **Reporting FEHB Enrollment and Changes in FEHB Enrollment to the Paymaster**

### **Transmittal of Paper or Fax Copies to the Paymaster**

When a tribal employer sends the paymaster paper copies of SF 2809s and SF 2810s through mail or fax, the tribal employer must also transmit a confirmation (e.g., a fax cover sheet or cover letter). The confirmation must state the name of the tribal employer; the Personnel Office Identifier of the tribal employer; the total number of 2809s and 2810s in the transmittal; the number of 2809s and 2810s separately; and contact information (at least a name and telephone number).

*For example, John Doe from Tribal Employer Y (POI 1234) sends NFC a fax with 4 SF 2809s and 3 SF 2810s. The confirmation would read:*

Tribal employer name: Tribal Employer Y  
POI: 1234  
Total number of actions: 7  
Number of SF 2809s: 4  
Number of SF 2810s: 3

Contact information: John Doe, (555) 555-5555.

### **Carrier FEHB Enrollment Records**

OPM does not require a specific FEHB enrollment records system for carriers. Carriers must maintain their records in a way that allows for easy determination of the number and identity of tribal employees served by individual payroll offices for control and statistical reporting and for reconciliations.

#### **Reconciliation**

- [Joint Paymaster-Carrier Reconciliation](#)
- [Use of Social Security Number in Reconciling](#)
- [FEHB Enrollments](#)
- [Disenrollment](#)
- [Other Disenrollment Actions](#)

OPM requires the quarterly reconciliation of carrier FEHB enrollment records with the tribal employer records in TIPS. These reconciliations are critical to ensure that tribal employees receive the health benefits to which they are entitled.

#### **Joint Paymaster-Carrier Reconciliations**

FEHB enrollment reconciliation must take place on a quarterly basis. The paymaster will perform this function, which requires resolution of any FEHB enrollment discrepancies so the records for the carrier and the tribal employer agree (e.g., whether a tribal employee is in a Self Only or Self and Family enrollment in a specific plan).

The paymaster will contact the respective tribal employer to determine correct FEHB enrollment information. If there is a discrepancy in the tribal employer's records, the tribal employer must correct the information in TIPS.

OPM urges tribal employers, the paymaster, and carriers to fully cooperate to maintain accurate and up-to-date FEHB enrollment files and to work with each other to resolve FEHB enrollment discrepancies.

The social security number is the principal identifying number and must be submitted by all parties. The paymaster will conduct a computer match of records submitted by tribal employers versus records submitted by carriers and identify discrepancies. These discrepancies are then posted on a secure website known as the Centralized Enrollment Reconciliation Clearinghouse, or CLER. The paymaster will then resolve the discrepancies with the carriers. Carriers may also contact the paymaster to request resolution of specific discrepancies.

For those FEHB enrollments that are reported to CLER only by the carriers, the carriers may use the FEHB Disenrollment Procedures to unilaterally resolve these discrepancies.

The carrier must keep the reconciliation results and work papers for inspection by OPM and the General Accounting Office.

### **Use of Social Security Numbers in Reconciling FEHB enrollments**

Carriers are required to use tribal employees' Social Security number to reconcile FEHB enrollments. Social Security numbers must be clearly shown on any Health Benefits Election forms (SF 2809) and Notice of Change in Health Benefits Enrollment forms (SF 2810) processed and forwarded to the carriers. Social Security numbers must be available for use in the reconciliation process either within the tribal employer or during the joint paymaster-carrier reconciliations.

If a tribal employee objects to giving their carrier their Social Security number, the tribal employer may make special provisions to accommodate their wishes. However, it may be difficult for the carrier to pay claims or provide services without using their Social Security number as an identifier.

### **Disenrollment**

When a carrier cannot [reconcile](#) its records of a tribal employee's FEHB enrollment with the paymaster's records and the tribal employer's FEHB enrollment records, or when it does not receive the necessary documentation from the paymaster to resolve the discrepancy within 31 days from its request, the carrier may proceed with the tribal employee's disenrollment.

The carrier must provide tribal employees with written notice that the paymaster does not show them as enrolled in the carrier's plan and that they will be disenrolled 31 calendar days after the date of the notice unless they can provide documentation of their FEHB enrollment. This documentation may include:

- a copy of the Health Benefits Enrollment Form (SF 2809) or a letter confirming an electronic transaction;
- a Notice of Change in Health Benefits Enrollment (SF 2810) (or the equivalent electronic submission) transferring the tribal employee's FEHB enrollment;
- copies of earnings and leave statements showing withholdings for the plan; or
- a document or other credible information from the tribal employer stating that the tribal employee is entitled to continued FEHB enrollment in the plan and that premiums are being paid.

After receiving the documentation, the carrier must notify the tribal employee and the paymaster of its decision on the tribal employee information. If the carrier does not receive documentation of FEHB enrollment within 31 calendar days from its notice, the tribal employee will be disenrolled from the plan, without further notice.

Tribal employees may request the paymaster and their tribal employer to [reconsider](#) the carrier's disenrollment decision. Reconsideration requests must be filed within 60 calendar days of the date of the carrier's disenrollment notice. A tribal employer must notify the paymaster when it receives such a request.

If, at any time after disenrollment, the paymaster and the tribal employer determine that the tribal employee should be enrolled under another coverage provision, or if the carrier receives appropriate documentation showing that the tribal employee should be enrolled, the disenrollment is void and coverage is reinstated retroactively. Both the tribal employer's share and the tribal employee's share of premium is due for any period of coverage.

### **Other Disenrollment Actions**

A carrier also has the right to disenroll:

- a tribal employee with a Self Only FEHB enrollment when it receives reliable information that the tribal employee has died;
- a tribal employee who notifies the carrier that he/she has separated from employment with the tribal employer and is no longer eligible for FEHB coverage.

Notice of disenrollment must be provided to a former tribal employee.

If, at any time after disenrollment, the paymaster or the tribal employer determines that coverage should be extended under another coverage provision, or if the carrier receives appropriate documentation of the FEHB enrollment, the disenrollment is void and coverage is reinstated retroactively. Both the tribal employer's share and the tribal employee's share of premium is due for any period of coverage

## Chapter 5: FEHB Enrollment

- [Types of FEHB Enrollment](#)
- [FEHB Enrollment Codes](#)
- [Opportunities to Enroll or Change FEHB Enrollment](#)
- [Dual FEHB Enrollment](#)
- [Initial Enrollment Opportunity](#)
- [Annual Open Season](#)
- [Continuation of FEHB Enrollment](#)
- [Restoration to Duty After Erroneous Removal or Suspension](#)
- [Following Separation from Service](#)
- [During an Interim Appointment](#)

### Types of FEHB Enrollment

- [Self Only](#)
- [Self and Family](#)
- [Both Spouses Eligible To Enroll](#)

There are only two types of FEHB enrollment available:

#### Self Only

A Self Only FEHB enrollment provides benefits only for an enrolled tribal employee. A tribal employee may enroll for Self Only even though the tribal employee may have a family. The tribal employee's family, however, would not be eligible for FEHB coverage (even upon the tribal employee's death or disability) under a Self Only FEHB enrollment.

#### Self and Family

A Self and Family FEHB enrollment provides benefits for a tribal employee and his or her [eligible family members](#) (this generally includes a spouse and children under age 26). All of a tribal employee's eligible family members are automatically covered, even if the tribal employee did not list them on the Health Benefits Election Form (SF 2809) or other appropriate request. A tribal employee cannot exclude any eligible family member and a tribal employee cannot provide coverage for anyone who is not an eligible family member.

*For example, Andrew is a tribal employee. He has a Self and Family plan to cover his two children: Sarah and Kyle. Kyle is estranged from Andrew, and Andrew would like to disenroll Kyle under his Self and Family plan. Andrew is not allowed to exclude Kyle from his Self and Family plan.*

A tribal employee may enroll for Self and Family coverage before having any eligible family members. Then, a new eligible family member (such as a new spouse) will be automatically covered by a tribal employee's Self and Family FEHB enrollment from the date he/she becomes an eligible family member. When a new family member is added to a tribal employee's existing Self and Family FEHB enrollment, a tribal employee does not have to complete a new Standard Form (SF) 2809 or other appropriate request. In addition, the tribal employer does not have to fill out anything into the Tribal Insurance Processing System (TIPS). A tribal employee's health plan carrier, however, may ask the tribal employee for information about his/her new family member. A tribal employee will send the requested information directly to the health plan carrier. **Exception:** if a tribal employee wants to add a [foster child](#) to his/her coverage, the tribal employee must provide eligibility information to the tribal employer.

*For example, Erik, a tribal employee, is enrolled in a Self and Family plan. He is the only individual that is on his Self and Family plan. Erik marries Amanda. Erik does not have to fill out an SF 2809 and Erik's tribal employer does not have to do anything. Amanda is automatically covered. However, Erik's health plan carrier may ask Erik for supporting documentation, such as a marriage license.*

### **Both Spouses Eligible to Enroll**

If both a tribal employee and his/her spouse are eligible to enroll (i.e., both are tribal employees), one of them may enroll for Self and Family to cover their entire family. If they have no eligible children to cover, both of them may enroll for Self Only in the same or different plans. Generally, they would pay lower premiums for two Self Only FEHB enrollments, but may incur additional out of pocket expenses. The tribal employees should review the terms of the plan and decide which plan and enrollment option is best for them.

### **FEHB Enrollment Codes**

An FEHB enrollment code identifies the plan, the option (such as a high or standard option), and the type of FEHB enrollment (Self Only or Self and Family) that a tribal employee has chosen. The tribal employer does not choose the health plan or FEHB enrollment code for its tribal employees.

The first two digits in the three-digit code identify the plan, and the third digit identifies the option and type of FEHB enrollment. FEHB enrollment codes are found on the front cover of each plan's brochure and in the FEHB Guide.

## **Opportunities to Enroll or Change FEHB Enrollment**

Tribal employees can enroll in FEHB during the Initial Enrollment Opportunity, when they become a new or newly eligible employee, the annual Open Season, and if they experience a qualifying life event (QLE) that allows them to enroll.

- [Effective Date](#)
- [If a Tribal Employer Offers Participation in Premium Conversion and a Tribal Employee Participates in Premium Conversion, Can a Tribal Employee Still Change His/Her FEHB Enrollment?](#)
- [Change to Self Only](#)
- [What is a Qualifying Life Event \(QLE\)?](#)
- [Open Season](#)
- [Change in Family Status](#)
- [New Spouse](#)
- [Divorce or Separation](#)
- [Change in Employment Status](#)
- [Return to Duty after 365 Days in Nonpay Status or Termination During Nonpay Status](#)
- [Reemployment after more than 3 Day Break in Service](#)
- [Return from Military Service](#)
- [Change from Temporary Appointment to Another Type of Covered Appointment](#)
- [Separating from Service](#)
- [Transfer to or from Overseas Employment](#)
- [Change to or from Part-time Career Employment](#)
- [A Tribal Employee Loses Coverage under FEHB or Another Group Insurance Plan](#)
- [Former TCC Enrollee Loses Regular FEHB Coverage](#)
- [Termination of Membership in Employee Organization](#)
- [Tribal Employee Enrollment in a Plan that is Discontinued](#)
- [Change to Position out of Commuting Area](#)
- [Loss of Coverage under Spouse's Non-FEHB Plan](#)
- [Move from an HMO's Service Area](#)
- [Tribal Employee Becomes Eligible for Medicare](#)
- [Salary of Temporary Tribal Employee Insufficient to Pay Withholdings](#)
- [Continuation of Old Plan During Confinement](#)
- [Change in Employment Status](#)
- [Return to Duty after 365 Days in Nonpay Status or Termination During Nonpay Status](#)
- [Reemployment after more than 3 Day Break in Service](#)

- [Return from Military Service](#)
- [Change from Temporary Appointment to Another Type of Covered Appointment](#)
- [Separating from Service](#)
- [Transfer to or from Overseas Employment](#)
- [Change to or from Part-Time Employment](#)
- [A Tribal Employee Loses Coverage under FEHB or Another Group Insurance Plan](#)
- [Former TCC Enrollee Loses Regular FEHB Coverage](#)
- [Termination of Membership in Employee Organization](#)
- [A Tribal Employee is Enrolled in a Plan that is Discontinued](#)
- [Change to Position out of Commuting Area](#)
- [Loss of Coverage under Spouse's Non-Federal Plan](#)
- [Move from an HMO's Service Area](#)
- [A Tribal Employee Becomes Eligible for Medicare](#)
- [Salary of Temporary Tribal Employee Insufficient to Pay Withholdings](#)
- [Continuation of Old Plan During Confinement](#)

### **Effective Date**

Unless otherwise specified (e.g., the Initial Enrollment Opportunity), FEHB enrollments or changes in FEHB enrollment become effective on the first day of the first pay period that begins after the tribal employer receives a tribal employee's FEHB enrollment request and that follows a pay period during any part of which the tribal employee was in pay status.

*For example, John is a tribal employee. The tribal employer has a biweekly pay period that runs from March 1st to March 14th. John makes a change of FEHB enrollment based on a qualifying life event on March 3rd. John switches from XYZ plan to 123 plan. John's effective date of coverage for 123 plan is March 15th.*

A tribal employee's Open Season election will take effect January 1st of the following year.

### **If a Tribal Employer Offers Participation in Premium Conversion and a Tribal Employee Participates in his or her Tribal Employer's Premium Conversion Plan, Can a Tribal Employee Still Change His/Her FEHB Enrollment?**

Yes, a tribal employee can still make changes to his or her FEHB enrollment as detailed in this section with two exceptions. A tribal employee must have a [qualifying life event](#) (QLE) to [change from Self and Family to Self Only](#) or to [cancel his/her FEHB coverage](#) outside of Open Season.

## New Tribal Employee

If you are a new tribal employee, you may enroll in any available plan, option, and type of enrollment within 60 days after your date of appointment, unless your position is [excluded from coverage](#). If you were employed in a position that was excluded from coverage and then appointed to a position that conveys coverage, you may enroll within 60 days after the change.

## Change to Self Only

If a tribal employer offers participation in premium conversion to its tribal employees and if the tribal employees participate in premium conversion, tribal employees may only change their FEHB enrollment from Self and Family to Self Only:

- During the annual Open Season; or
- Within 60 days after having a qualifying life event. An FEHB enrollment change must be consistent with and correspond to the qualifying life event.

### *Example*

*Joel gets divorced, and since he does not have children, he wants to change to a Self Only FEHB enrollment. He can make this FEHB enrollment change outside of Open Season since it is consistent with and corresponds to his qualifying life event (divorce).*

If a tribal employee does not participate in premium conversion, he/she may change his/her FEHB enrollment from Self and Family to Self Only at any time.

A change from Self and Family to Self Only becomes effective on the first day of the first pay period that begins after the tribal employer processes a tribal employee's FEHB enrollment request.

Any change in family status that results in an increase or decrease in the number of eligible family members is a [qualifying life event](#) (QLE). For example, the death of a tribal employee's spouse, or a tribal employee's divorce, or a tribal employee's child reaching age 26, may leave a tribal employee as the only person covered by a Self and Family FEHB enrollment. If a tribal employee is the only person left in a Self and Family FEHB enrollment because of a QLE then a tribal employee should change to a Self Only FEHB enrollment promptly so that he/she is not unnecessarily paying premiums for a family FEHB enrollment.

The tribal employer can make a change to Self Only retroactive to the first day of the pay period after the pay period in which a tribal employee has no remaining [eligible family members](#). The tribal employer will make a retroactive change only upon a tribal employee's written request stating the event and date when he/she became the only

person covered by the family FEHB enrollment. There will be an adjustment in the tribal employee's health benefits withholdings and contributions.

### **What is a Qualifying Life Event?**

IRS Code section 125 allows employers to offer "premium conversion" plans to their employees as a way to pay for health insurance on a pre-tax basis. Not all employers offer premium conversion plans. A qualifying life event (QLE) is a term defined by OPM to describe events deemed acceptable by the IRS that may allow premium conversion participants to change their participation election for premium conversion outside of an Open Season. This is contingent upon a tribal employer offering participation in premium conversion to its tribal employees. (A tribal employer is not required to offer participation in premium conversion to its tribal employees.)

The qualifying life events that may allow a tribal employee to change his/her premium conversion election, if the tribal employee participates in a premium conversion plan offered by the employer are:

#### **1A** Initial opportunity to enroll, for example:

- New tribal employee
- Change from excluded position
- Temporary tribal employee who completes one year of service and is eligible to enroll as described by 5 U.S.C. 8906a

#### **1C** Change in family status that results in increase or decrease in number of eligible family members, for example:

- Marriage, divorce, or annulment
- Birth, adoption, acquiring foster child or stepchild, or issuance of court order requiring a tribal employee to provide coverage for child
- Last child loses coverage, for example, child reaches age 26, foster child moves out of tribal employee's home and/or becomes financially independent, disabled child becomes capable of self-support, or child acquires other coverage by court order
- Death of spouse or dependent

#### **1D** Any change in tribal employee's employment status that could result in entitlement to coverage, for example:

- Reemployment after a break in service of more than three days
- Return to pay status from nonpay status, or return to receiving pay sufficient to cover premium withholdings, if coverage terminated

#### **1E** Any change in tribal employee's employment status that could affect cost of

insurance, including:

- Change from full-time to part-time employment or the reverse

**1F** Tribal employee restored to civilian position after serving in uniformed services.

**1G** Tribal employee, spouse or dependent:

- Begins nonpay status or insufficient pay or
- Ends nonpay status or insufficient pay if coverage continued
- (If tribal employee's coverage terminated, see 1D.)
- (If spouse's or dependent's coverage terminated, see 1M.)

**1H** Salary of temporary tribal employee insufficient to make withholdings for plan in which enrolled.

**1I** Tribal employee (or covered family member) enrolled in FEHB health maintenance organization (HMO) moves or becomes employed outside the geographic area from which the FEHB carrier accepts FEHB enrollments or, if already outside the area, moves further from this area.

**1J** Transfer from post of duty within a state of the United States or the District of Columbia to post of duty outside a state of the United States or District of Columbia, or reverse.

**1K** Separation from tribal employment when the tribal employee or tribal employee's spouse is pregnant.

**1L** Tribal employee becomes entitled to Medicare and wants to change to another plan or option. This event may only be used once.

**1M** Tribal employee or eligible family member loses coverage under FEHB or another group insurance plan including the following:

- Loss of coverage under another FEHB enrollment due to termination, cancellation, or change to Self Only of the covering FEHB enrollment
- Loss of coverage due to termination of membership in employee organization sponsoring the FEHB plan
- Loss of coverage under another Federally-sponsored health benefits program, including: TRICARE, Medicare, Indian Health Service
- Loss of coverage under Medicaid or similar state-sponsored program of medical assistance for the needy
- Loss of coverage under a non-Federal health plan, including foreign, state, or local government, private sector

- Loss of coverage due to change in worksite or residence (Tribal employees in an FEHB HMO, also see 1I.)
- 1N** Loss of coverage under a non-Federal group health plan because a tribal employee moves out of the commuting area to accept another position and the tribal employee's non-Federally employed spouse terminates employment to accompany the tribal employee.
- 1O** Tribal employee or eligible family member loses coverage due to discontinuance in whole or part of FEHB plan.
- 1P** Enrolled tribal employee or eligible family member gains coverage under FEHB or another group insurance plan, including the following:
- Medicare (Tribal employees who become eligible for Medicare and want to change plans or options, see 1L.)
  - TRICARE for Life, due to FEHB enrollment in Medicare
  - TRICARE due to change in employment status, including: (1) entry into active military service, (2) retirement from reserve military service under Chapter 67, title 10 U.S.C.
  - Medicaid or similar state-sponsored program of Medical assistance for the needy
  - Health insurance acquired due to change of worksite or residence that affects eligibility for coverage
  - Health insurance acquired due to spouse's or dependent's change in employment status (includes state, local, or foreign government or private sector employment).
- 1Q** Change in spouse's or dependent's coverage options under a non-Federal health plan, for example:
- Employer starts or stops offering a different type of coverage (If no other coverage is available, also see 1M.)
  - Change in cost of coverage
  - HMO adds a geographic service area that now makes spouse eligible to enroll in that HMO
  - HMO removes a geographic area that makes spouse ineligible for coverage under that HMO, but other plans or options are available (If no other coverage is available, see 1M)
- 1R** Tribal employee or eligible family member becomes eligible for assistance under Medicaid or a State Children's Health Insurance Program (CHIP).

*Please see Appendix C for the complete Table of Permissible Changes reflecting qualifying life events.*

## Open Season

Eligible tribal employees may enroll during the [Open Season](#) (enrollment code 1B). If they are already enrolled, they may change plans, options, or type of FEHB enrollment.

The effective dates of the annual Open Season enrollments and changes in FEHB enrollment are as follows:

- A new FEHB enrollment is effective January 1 of the year following Open Season and the tribal employee must be employed before or on January 1.
- A change in FEHB enrollment is effective January 1 of the year following Open Season regardless of whether a tribal employee is in pay status.
- When the tribal employer accepts a late Open Season FEHB enrollment or change in FEHB enrollment, it is effective retroactive to January 1 of the year following Open Season which would be the same date that it would have been effective if it had been received on time.

## Change in Family Status

A tribal employee may enroll or change FEHB enrollment from Self Only to Self and Family, from one plan or option to another, or make any combination of these changes during the period beginning 31 days before and ending 60 days after a [change in his/her family status](#). A tribal employee can change his/her FEHB enrollment only once during this time period (unless there is another event during this time that would permit an FEHB enrollment change). A tribal employee can also change his/her premium conversion status as long as the change in FEHB enrollment is on account of and consistent with a qualifying life event (provided the tribal employer offers premium conversion to its tribal employees.)

If a tribal employee changes from Self Only to Self and Family because of the birth or addition of a child, the effective date of his/her FEHB enrollment change is the first day of the pay period in which the child becomes a family member. This QLE is the only QLE that allows for a retroactive effective date.

*For example, Carolyn is a tribal employee enrolled in a Self Only plan. The tribal employer has a pay period that runs from April 1 through April 14. Carolyn gives birth to a child on April 10. When Carolyn switches to a Self and Family plan, the FEHB enrollment change is effective on April 1.*

If a tribal employee and his/her spouse each are enrolled for Self Only and the tribal employee wants a Self and Family FEHB enrollment because of a change in family status, then one of them may change to a Self and Family FEHB enrollment if the other cancels his/her Self Only FEHB enrollment.

## **New Spouse**

If a tribal employee wants to provide immediate coverage for his/her new spouse, the tribal employee may submit an FEHB enrollment request during the pay period before the anticipated marriage date. If the effective date of the change is before a tribal employee's marriage, then his/her new spouse does not become eligible for coverage until the actual marriage date.

If a tribal employee enrolls or changes his/her FEHB enrollment before his/her marriage date and intends to change his/her legal name, the tribal employee must note on his/her request: "Now: [Current Name] will be: [Married Name]." The reason for the change and the marriage date must be given in the tribal employee's request. The name change is done using the SF 2810.

If a tribal employee enrolled or changed his/her FEHB enrollment before his/her anticipated marriage date and he/she does not get married, the tribal employer must [void](#) the request. If a tribal employee changed plans, the tribal employer must be sure to notify both the old and the new carrier that the tribal employee's change was voided.

## **Divorce or Separation**

Even if a tribal employee is legally separated, his/her spouse is still considered a family member and eligible for coverage under his/her Self and Family FEHB enrollment. To continue to provide health benefits coverage for a tribal employee's children, a tribal employee must continue his/her Self and Family FEHB enrollment. Upon a final divorce decree, a tribal employee's spouse is no longer an eligible family member and is not covered under a tribal employee's FEHB enrollment.

When two tribal employees divorce, one person usually continues a Self and Family FEHB enrollment to provide coverage for the children, while the other enrolls for Self Only. If the FEHB enrollment covering the children is canceled or changed to Self Only, the tribal employee may change to a Self and Family FEHB enrollment to provide immediate coverage for his/her children.

A former spouse who has coverage under the [temporary continuation of coverage](#) (TCC) provisions of FEHB law (see Chapter 8) may change from Self Only to Self and Family or from one plan or option to another, or both, within 60 days after the birth or acquisition of an eligible child. To be eligible, the child must be that of both the former spouse and the tribal employee on whose employment the FEHB coverage is based.

## **Change in Employment Status**

Generally, a tribal employee may enroll or change FEHB enrollment from Self Only to Self and Family, from one plan or option to another, or make any combination of these changes within 60 days after a change in his/her employment status. A tribal employee can also change his/her premium conversion status if the FEHB enrollment change is on

account of and consistent with a qualifying life event. Various changes in employment status and the allowable FEHB enrollment changes that a tribal employee may make are described below.

### **Return to Pay Status after 365 Days in Leave Without Pay Status or Termination During Leave Without Pay Status**

If a tribal employee's FEHB enrollment is terminated:

- after he/she has been in leave without pay status for 365 days; or
- when he/she has entered leave without pay status; or
- at any time during the first 365 days in leave without pay status,

a tribal employee may enroll for Self Only or Self and Family in any available plan or option when he/she returns to pay status. If a tribal employee was not enrolled at the time leave without pay status began, he/she may enroll upon return to pay status only if a [qualifying life event](#) occurred while he/she was on leave without pay.

For more information, please see Chapter 6,(Leave Without Pay) of this Handbook.

### **Reemployment after More than 3-Day Break in Service**

If a tribal employee moves from one tribal employer to another (other than by retirement) with a break in service of more than 3 days, he/she may enroll the same as a new tribal employee.

### **Return from Military Service**

If a tribal employee is restored to a civilian position after serving in the uniformed services under conditions that entitle him/her to benefits under legal authority similar to those set forth for federal employees at 5 CFR part 353, he/she may enroll in any option of any available plan after returning to civilian duty. If a tribal employee's FEHB enrollment was [terminated on entry into military service](#), he/she will have the same FEHB enrollment reinstated effective on the day of restoration to duty in a civilian position. In addition, a tribal employee may change his/her FEHB enrollment based on his/her return to civilian duty.

For more information, please see Chapter 9 (Military Service) of this Handbook.

### **Change from Temporary Appointment to Another Type of Covered Appointment**

When a tribal employee is eligible to enroll as a [temporary tribal employee](#) as described by 5 U.S.C. 8906a and that tribal employee changes to an appointment that makes him/her eligible for FEHB coverage with a tribal employer contribution, he/she may change plans, options, and types of FEHB enrollment.

The change in health benefits status is effective either:

- on the same date as the change in employment status, if the change is on the first day of a pay period, or
- at the beginning of the pay period following the change in employment status, if the change is after the first day of the pay period.

If there is a break in service of more than 3 days, the tribal employee's old FEHB enrollment terminates at the end of the pay period in which his/her temporary appointment ends. He/she will have a new opportunity to enroll based on the [new appointment](#).

### **Separating from Service**

If the tribal employee is separating from service and the tribal employee or the tribal employee's spouse is pregnant, the tribal employee may enroll or change his/her FEHB enrollment during his/her final pay period. The tribal employee must provide medical documentation of the pregnancy to his/her tribal employer.

The effective date of the change is the first day of the pay period in which the tribal employer receives the tribal employee's appropriate request.

Although a tribal employee can usually enroll for family coverage under [temporary continuation of coverage](#) (TCC) provisions, it does not become effective until the day after the 31-day extension of coverage. An FEHB enrollment election prior to separation will ensure that the baby's health care costs will be covered if he/she is born during the [31-day extension of coverage](#). If a tribal employee is not eligible for TCC, a change to a Self and Family FEHB enrollment during his/her final pay period will allow him/her to [convert](#) to an individual policy for the whole family.

### **Transfer To or From Overseas Employment**

A tribal employee may enroll or change FEHB enrollment when he/she transfers from a job or duty post within the United States to a job or duty post outside the United States or the reverse. A tribal employee has 31 days before the date he/she is expected to leave his/her former job or duty post and 60 days after his/her arrival at the new job or duty post to enroll or change FEHB enrollment.

### **Change To or From Part-Time Employment**

When a tribal employee changes to part-time employment of 16 to 32 hours per week with a break in service of 3 days or less, he/she may enroll or change his/her FEHB enrollment within 60 days from the change in his/her employment status. Similarly, when a tribal employee changes from part-time employment of 16 to 32 hours per week to full-time employment, he/she may enroll or change FEHB enrollment. This does not apply to part-time appointments of other than 16 to 32 hours per week or 32 to 64 hours biweekly.

## **A Tribal Employee Loses Coverage under FEHB or Another Group Insurance Plan**

If a tribal employee is eligible for FEHB coverage, he/she may enroll or change his/her FEHB enrollment from Self Only to Self and Family, from one plan or option to another, or make any combination of these changes when he/she *or an eligible family member* lose coverage under FEHB or any other group health benefits plan (including coverage under another Federally-sponsored health benefits program or under Medicaid). Except as otherwise provided below, a tribal employee must enroll or change his/her FEHB enrollment within the period beginning 31 days before and ending 60 days after the date he/she lost coverage. A tribal employee can also change his/her premium conversion status if the FEHB enrollment change is on account of and consistent with a qualifying life event (provided the tribal employer participates in premium conversion).

### **Former TCC Enrollee Loses Regular FEHB Coverage**

If a tribal employee is enrolled under [temporary continuation of coverage](#) (TCC) provisions and he/she acquired regular FEHB coverage (either as a tribal employee or family member), he/she may reenroll in TCC if the regular coverage ends before the original TCC FEHB enrollment would have [expired](#). A tribal employee may reenroll in the same plan and option as his/her original TCC enrollment. If a tribal employee is not eligible to enroll in the plan he/she had when his/her TCC enrollment ended, he/she may enroll in the same option of any available plan. The second TCC enrollment cannot extend beyond the date the original TCC enrollment would otherwise have stopped.

*For example, Jen is on temporary continuation of coverage (TCC) as a former spouse of a tribal employee. She is on TCC for sixth months in Plan XYZ. Jen then becomes employed by tribal employer X and enrolls in Plan 123. Jen works for tribal employer X for five months and then leaves employment (11 months since originally being placed on TCC). After leaving employment, she can continue on her original TCC on Plan XYZ for seven months.*

### **Termination of Membership in Employee Organization**

If the tribal employee is enrolled in a FEHB plan sponsored by a union or employee organization and he/she stops being a member of that organization, that FEHB plan can ask the employee's tribal employer to terminate the tribal employee's enrollment, subject to a [31-day extension of coverage](#).

The tribal employee's FEHB plan's carrier will send a notice to the tribal employee's tribal employer and a copy to the tribal employee. The tribal employer will terminate the tribal employee's enrollment on a Notice of Change in Health Benefits Enrollment (SF 2810), effective at the end of the pay period in which it receives the notice. The tribal employee may then enroll for Self Only or Self and Family in any available plan or option.

In order to terminate, the tribal employer must either promptly:

- process the Notice of Change in Health Benefits Enrollment (SF 2810) into the Tribal Insurance Processing System (TIPS) to notify the paymaster and the tribal employee's health benefits carrier that the tribal employee ended their FEHB enrollment. The tribal employer must also print for the tribal employee copies of the TIPS confirmation page and keep a copy in the Tribal Employer Personnel File, or
- complete a paper Notice of Change in Health Benefits Enrollment (SF 2810) and send a copy to NFC (either by mail or fax). The tribal employer must distribute the appropriate copies of the SF 2810 to the tribal employee, and file a copy with the tribal employee's personnel records.

### **A Tribal Employee is Enrolled in a Plan that is Discontinued**

A tribal employee may change to another plan when he/she is enrolled in a plan that is discontinued in whole or in part. A tribal employee may enroll in the new plan for either Self Only or Self and Family coverage. If the tribal employee's plan is discontinued at the end of a contract year, he/she must change his/her FEHB enrollment during Open Season unless OPM establishes a different time. If the whole plan is discontinued and the employee did not change to another plan, he/she is considered to have [canceled](#) his/her FEHB enrollment. If one option of a two-option plan is discontinued and the tribal employee did not change to another plan, he/she is considered to have enrolled in the remaining option of the plan.

Normally, a plan that terminates its participation in the FEHB Program will terminate as of December 31 of a given year. The plan will continue to provide benefits until the new coverage [takes effect](#). When a plan is discontinued at any time other than at the end of a contract year, OPM will announce a special FEHB enrollment period and give instructions about the proration of premiums and the effective date of FEHB enrollment changes.

### **Change to Position out of Commuting Area**

When a tribal employee or a tribal employee's spouse loses non-FEHB coverage due to a move outside of the commuting area, a tribal employee must enroll or change FEHB enrollment within the period beginning 31 days before the date he/she left employment in the old commuting area and ending 180 days after he/she entered on duty at the place of employment in the new commuting area.

### **Loss of Coverage under Spouse's Non-FEHB Plan**

The tribal employee's spouse may be eligible to elect to temporarily continue the employer-provided group insurance under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The tribal employee may choose to enroll either at the time the tribal employee's spouse or child loses coverage through the non-Federal employer or whenever the COBRA coverage terminates for any reason.

### **Move from an HMO's Service Area**

If a tribal employee is enrolled in an HMO and he/she moves or becomes employed outside the HMO's service area (or, if a tribal employee is already living or working outside this area, he/she moves or becomes employed further away), a tribal employee may change his/her FEHB enrollment. Also, a tribal employee may change his/her FEHB enrollment if an enrolled family member moves outside the service area (or moves further away). A tribal employee must notify his/her tribal employer of the move.

The effective date of the change is the first day of the pay period that begins after a tribal employee's employer receives his/her appropriate request.

### **A Tribal Employee Becomes Eligible for Medicare**

A tribal employee may change his/her FEHB enrollment to any option of any available plan at any time beginning on the 30th day before he/she becomes eligible for Medicare. A tribal employee may make an FEHB enrollment change under this event only once.

### **Salary of Temporary Tribal Employee Insufficient to Pay Withholdings**

If the tribal employee is a [temporary tribal employee](#) eligible as described by 5 U.S.C. 8906a and his/her salary is not sufficient to pay his/her plan's premiums, the tribal employer must notify the tribal employee of the plans available at a cost that does not exceed the tribal employee's available salary. The tribal employee may enroll in another plan where the cost is no greater than his/her available salary within 60 days after receiving notification from the tribal employer.

Coverage under the tribal employee's new plan is effective immediately upon the tribal employer's processing of the termination of his/her old plan's coverage.

### **Continuation of Old Plan during Confinement**

If a tribal employee changed his/her FEHB enrollment from one plan or option to another and the tribal employee or a covered family member is an inpatient in a hospital or other institution on the last day of FEHB enrollment under the prior plan or option, the benefits of the prior plan or option will continue for the confined person for the length of the inpatient stay, up to 91 days from the last day of FEHB enrollment in the prior plan or option. This provision does not apply when a plan is discontinued or when OPM orders a FEHB enrollment change.

The tribal employee's new plan or option does not pay benefits for the tribal employee while he/she is receiving continued inpatient benefits from his/her old plan or option. The new plan or option will begin coverage on the earlier of:

- the day of discharge;

- the day after maximum inpatient benefits available under the old plan or option have been paid or provided; or
- the 92nd day after the last day of FEHB enrollment in the old plan or option.

Coverage for other family members (who are not confined in a hospital or other institution) under the new plan begins on the normal effective date of coverage.

*For example, Jake is a tribal employee and enrolled in XYZ plan with a Self and Family enrollment. Jake has a wife and daughter under XYZ plan. Jake makes an Open Season change from XYZ plan to 123 plan (a Self and Family enrollment). Open Season changes are effective the first day of the new year (January 1, 2013). The last day of enrollment in XYZ plan is December 31, 2012. Jake is admitted to a hospital as an inpatient on December 30, 2012. XYZ plan will continue to pay for Jake's hospital care for up to 91 days from December 31, 2012. Jake's wife and daughter, who are not hospitalized, will have coverage under 123 plan on the normal effective date of coverage, January 1, 2013.*

## **Dual FEHB Enrollment**

- [Dual FEHB Enrollment Generally Prohibited](#)
- [Tribal Employer Actions](#)
- [When Dual FEHB Enrollment is Allowed](#)

### **Dual Enrollment Generally Prohibited**

Dual enrollment occurs when a tribal employee or an eligible family member under that tribal employee's Self and Family enrollment are covered under more than one FEHB enrollment. Generally, dual FEHB enrollment is prohibited except when a tribal employee or a family member would otherwise lose coverage.

For example, both the tribal employee's children and the tribal employee's spouse's children are all covered under one FEHB Self and Family enrollment. If both the tribal employee and the tribal employee's spouse have FEHB Self and Family enrollments, the tribal employee must cancel one of the FEHB enrollments to eliminate the dual enrollment.

### **Tribal Employer Actions**

The FEHB carrier must contact the tribal employers involved when it discovers an unauthorized dual FEHB enrollment case. One of the enrollments must be [voided](#) or canceled from the date that dual enrollment began. The health benefits premiums paid during the unallowable enrollment will be refunded, and the tribal employer must make a corresponding adjustment in the tribal employer's contribution. The carrier of the enrollment that is voided or canceled may require that the provider(s) or the tribal employee refund any benefits the carrier paid under the unallowable enrollment, although these benefits may be payable under the allowable enrollment.

If the tribal employee and the tribal employee's spouse are unable to agree on which enrollment to continue, the enrollment of the spouse with a court order to provide coverage for the children will be continued. Otherwise, the second (or more recent) enrollment must be voided or canceled.

### **When Dual Enrollment is Allowed**

Dual enrollment must be authorized by the tribal employer(s) and will only be allowed when the tribal employee or an eligible family member would otherwise lose coverage. Some examples of allowable dual enrollment include when:

- the tribal employee and the tribal employee's spouse legally separate and the tribal employee or his/her children would lose full health benefits coverage (e.g., the tribal employee moves outside his/her HMO's service area and the tribal employee's spouse refuses to change health plans; the tribal employee's spouse refuses to pass along reimbursements for health benefits claims filed);
- the tribal employee and the tribal employee's spouse divorce and each has children from a previous marriage;
- the tribal employee is under age 26, covered by his/her parent's FEHB enrollment, have his/her own family (spouse/children) and chooses to cover them;
- the tribal employee is under age 26, covered by his/her parent's FEHB enrollment and lives outside the coverage area of his/her parent's HMO plan;
- the tribal employee and the tribal employee's spouse each have Self Only enrollments and one of them changes to a Self and Family enrollment and the other cancels their enrollment. A brief overlap of coverage is allowed to avoid a gap in coverage.

No tribal employee or family member may receive benefits under more than one FEHB enrollment. A tribal employee must inform the carriers involved which family members will be covered and receive benefits under which enrollment. If a tribal employee or a family member receives benefits under more than one plan, it may be considered fraud and the tribal employee may be subject to disciplinary action.

### **Initial Enrollment Opportunity**

- [Time Period](#)
- [Effective Date](#)
- [Enrollment](#)

After a tribal employer first elects to participate in the FEHB Program, the tribal employees will have an Initial Enrollment Opportunity. It is the initial time period for tribal employees to enroll in the FEHB Program.

## **Time Period**

The specific dates and specific time period for a tribal employee's Initial Enrollment Opportunity is set by the tribal employer and is based upon when a tribal employer elects to participate in the FEHB Program. OPM has created a timeline for the 2012 Initial Enrollment Opportunities that is available at [www.opm.gov/tribalprograms](http://www.opm.gov/tribalprograms).

## **Effective Date**

Generally, the effective date of coverage is the first day of the month following the end of the Initial Enrollment Opportunity.

## **Enrollment**

To enroll during the Initial Enrollment Opportunity, a tribal employee must complete an SF 2809, enrolling in a particular FEHB health plan, and submit it to his or her tribal employer. The tribal employer will enter the information on the SF 2809 into the Tribal Insurance Processing System (TIPS). For more information, see the Guidance on the SF 2809 for Tribal Employers available at [www.opm.gov/tribalprograms](http://www.opm.gov/tribalprograms).

If a tribal employee does not complete and submit an SF 2809 enrolling in a particular FEHB health plan during the Initial Enrollment Opportunity, the tribal employee will not have FEHB health insurance coverage. The tribal employee will not be able to enroll in a FEHB health plan until the earlier of (1) the next annual Open Season (approximately mid-November through mid-December each year) or (2) the enrollment date permitted upon experiencing a qualifying life event.

All tribal employees must fill out an SF 2809. When tribal employees elect not to enroll, they certify by their signature on the SF 2809 that they are aware that they may not enroll again until an event occurs that permits FEHB enrollment.

## **Annual Open Season**

- [Dates for Open Season](#)
- [Notification to Tribal Employers](#)
- [Other FEHB Enrollment Actions during Open Season](#)
- [Timely Election](#)
- [If a Tribal Employee Doesn't Want to Make an Open Season Change](#)
- [Changing from One Health Plan to Another during Open Season](#)
- [Processing Open Season Changes](#)

### **Dates for Open Season**

Each year OPM provides an Open Season from the Monday of the second full workweek in November through the Monday of the second full workweek in December.

The Director of OPM may modify the dates of Open Season or announce additional open seasons.

A tribal employee's Open Season election [will take effect](#) January 1st of the following year.

### **Notification to Tribal Employers**

OPM notifies tribal employers of each regular Open Season by a Benefits Administration Letter (T-BAL). OPM provides all Open Season materials via the Tribal Programs Listserv. OPM gives specific instructions on the coordination of Open Season, and lets the tribal employers know of any changes in materials to be issued or procedures to be followed during that period. Any interested individual may join the Tribal Programs Listserv. However, only Tribal Benefit Officers may contact OPM to receive this information by mail or fax.

To subscribe to OPM's Tribal Programs Listserv type "Subscribe" in an email to [tribalprograms@listserv.opm.gov](mailto:tribalprograms@listserv.opm.gov).

If a tribal employee needs additional Open Season information or assistance, he or she should contact the Tribal Benefits Officer. Only the Tribal Benefits Officer may contact OPM with questions.

### **Other FEHB Enrollment Actions During Open Season**

While new FEHB enrollments and other [permissible enrollment changes](#) can be made as usual during the Open Season, these should not be identified as Open Season changes on the appropriate request because Open Season changes [do not take effect until January](#). A tribal employee should make sure that he/she specifies the reason for his/her enrollment change on his/her enrollment request by using the correct event code.

### **Timely Election**

The tribal employer must receive its tribal employees' Open Season elections no later than the last day of Open Season to be considered timely filed.

The tribal employer may accept and process a late election if it determines that a tribal employee was unable to submit it timely for reasons beyond his/her control, (e.g., the tribal employee was in the hospital). A tribal employee's failure to read the available material is not considered a reason beyond his/her control.

If the tribal employer decides to accept a late election, it enters "belated Open Season enrollment/change" in the Remarks section of the tribal employee's FEHB enrollment request. Either the tribal employee or the tribal employer must explain why the tribal employee could not make a timely election and attach the statement to the file copy of the tribal employee's FEHB enrollment request.

If the tribal employer decides that a tribal employee's late election was not beyond his/her control, the tribal employer must explain to the tribal employee in writing why it did not accept the employee's late request and give the tribal employee notice of his/her enrollment [reconsideration rights](#).

### **If a Tribal Employee Doesn't Want to Make an Open Season Change**

A tribal employee does not need to do anything if he/she wants to continue his/her current FEHB enrollment (unless his/her plan is dropping out of the FEHB Program). If a tribal employee does not change his/her FEHB enrollment, then any benefit and/or rate changes will apply beginning January 1 of each year.

### **Changing from one Health Plan to Another during Open Season**

If the tribal employee makes an Open Season FEHB enrollment change, the tribal employer and the paymaster will automatically cancel the tribal employee's FEHB enrollment in his/her former health plan at the time his/her FEHB enrollment in his/her new health plan becomes effective. The tribal employee does not need to contact his/her former health plan to cancel his/her FEHB enrollment. The tribal employee will not be charged the premiums for both his/her former plan and his/her new plan.

### **Processing Open Season Changes**

OPM provides tribal employers with instructions for processing Open Season enrollments and FEHB enrollment changes each year via a Benefits Administration Letter (T-BAL).

### **Continuation of FEHB Enrollment**

- [Upon Transfer to Different Tribal Employer](#)
- [Effective Date](#)
- [Leave Without Pay Status](#)

#### **Upon Transfer to Different Tribal Employer**

When a tribal employee changes employment from one tribal employer to another that also participates in FEHB, his/her FEHB enrollment continues without interruption (see [Employees Excluded from Coverage](#) for the only exceptions to this) as long as he/she does not have a break in service of more than three calendar days. This is regardless of whether or not the tribal employee's move is designated as a transfer. The tribal employee does not need to do anything to ensure his/her continued FEHB enrollment, but the gaining tribal employer must [transfer the tribal employee's enrollment](#) using SF 2810.

If the tribal employee is enrolled in an HMO and transfers to a location outside of the HMO's service area, his/her FEHB enrollment continues. However, the tribal employee will be covered only for emergency care, Point of Service (POS) benefits (if applicable),

or care that he/she travels back to an HMO participating provider to receive. The tribal employee may [change to another plan before or after the move](#).

### **Effective Date**

The effective date of the FEHB enrollment transfer for the gaining tribal employer is the first day a tribal employee starts working for the gaining tribal employer.

### **Upon change of employment from Tribal Employer to Federal Government or Federal Government to Tribal Employer**

There is no transfer or continuation of health benefits when a tribal employee of a tribal employer separates from employment with the tribal employer and becomes employed with the Federal government. If the tribal employee is ending employment with the tribal employer, the tribal employer must complete a Standard Form 2810 to terminate the tribal employee from coverage and upon becoming a Federal employee, the Federal employee will complete an SF 2809 to commence FEHB coverage as a Federal employee. Similarly, if a Federal employee separates from Federal service and commences employment with a tribal employer, the Federal agency will complete an SF 2810 to terminate the Federal employee's FEHB coverage and the tribal employer must have the tribal employee complete a Standard Form 2809. In either case, the tribal employer must also enter the information into TIPS or paper equivalent.

### **Leave Without Pay Status**

Generally, a tribal employee's FEHB enrollment may continue for up to 365 days of [leave without pay](#). A tribal employee must pay the tribal employee share of premiums for every pay period that his/her FEHB enrollment continues. For additional information, please see Chapter 6 (Leave Without Pay).

### **Restoration to Duty After Erroneous Removal or Suspension**

- [Election](#)
- [Reinstatement of FEHB Enrollment](#)
- [New FEHB Enrollment](#)

#### **Election**

If a tribal employee is suspended without pay, his/her FEHB enrollment may continue for up to 365 days in [leave without pay status](#). If a tribal employee is removed from service, his/her FEHB enrollment [terminates](#) at the end of the pay period in which he/she is removed. If a tribal employee's FEHB enrollment terminated and he/she is ordered restored to duty because the suspension or removal was unwarranted or unjustified, a tribal employee may elect either to:

- have his/her prior FEHB enrollment [reinstated retroactive](#) to the date it was terminated, or
- enroll the same as a [new tribal employee](#).

The tribal employer must notify a tribal employee of the health benefits coverage choices available.

### **Reinstatement of FEHB Enrollment**

If the tribal employee elects to have his/her prior FEHB enrollment reinstated retroactively, the tribal employer's share and tribal employee's share of premium (if applicable) must also be paid retroactively as if the erroneous suspension or removal had not taken place. The tribal employee's health benefits coverage is considered to have been continuously in effect and the tribal employee and his/her covered family members are retroactively entitled to full plan benefits. If the tribal employee had [converted to an individual policy](#), the tribal employee may get a refund of the premiums he/she paid for that coverage.

### **New FEHB enrollment**

If the tribal employee elects to enroll the same as a new tribal employee instead of having his/her prior FEHB enrollment reinstated, the tribal employee's FEHB enrollment is effective the first day of the first pay period that begins after the tribal employer receives the tribal employee's appropriate request and that follows any part of a pay period in which the tribal employee is in pay status. The tribal employee is not retroactively entitled to plan benefits and no retroactive premium will be due.

### **Following Separation from Service**

If the tribal employee loses health benefits coverage because he/she separates from the tribal employer, whether voluntary or involuntary (except for removal due to gross misconduct), the tribal employee may elect [temporary continuation of coverage](#) (TCC).

## Chapter 6: Leave Without Pay Status and Insufficient Pay

- [Background](#)
- [Coverage](#)
- [When You Enter Leave Without Pay or Insufficient Pay Status](#)
- [When You Choose to Continue Your Enrollment](#)
- [When You Allow Your Enrollment to Terminate](#)
- [Special Circumstances](#)

### Background

**Leave Without Pay** (“LWOP”) refers to a temporary nonpay status and nonduty status (or absence from a prescheduled tour of duty) granted at the tribal employee’s request. In most instances, granting leave without pay is a matter of tribal employer discretion and may be limited by tribal employer policy. Tribal employees, however, may be placed in LWOP status under a generally applicable law, such as in the following situations:

- The Family and Medical Leave Act of 1993 (FMLA) (Public Law 103-3, February 5, 1993), provides certain employees with an entitlement to a total of up to 12 weeks of leave without pay during any 12-month period for certain family and medical needs. (See 29 C.F.R. Part 825.)
- The Uniformed Services Employment and Reemployment Rights Act of 1994 (Pub.L. 103-353) provides employees with an entitlement to leave without pay when employment with an employer is interrupted by a period of service in the uniformed service. (See 29 C.F.R. Part 1002.)
- Employees may not be in a pay status while receiving workers' compensation payments from the Department of Labor.

For purposes of this chapter, the term “leave without pay” or “LWOP” refers to all types of nonpay status.

Insufficient Pay refers to situations in which a tribal employee’s pay is not enough to withhold his/her FEHB premium.

### Coverage

- [Continued Coverage](#)
- [Termination](#)
- [4-Month Rule](#)

- [Return to Pay Status After 365 Days in Leave Without Pay Status](#)

### **Continued Coverage**

Generally, a **tribal** employee's enrollment in FEHB may continue for up to 365 days of leave without pay unless he/she wants it to terminate or does not respond to the [tribal employer's notice](#) about continuing coverage during a period in leave without pay status. A **tribal** employee must continue to [pay the tribal employee share of premiums](#) for every pay period that his or her FEHB enrollment continues.

### **Termination**

A **tribal** employee's enrollment will terminate at the end of the pay period which includes the 365th day in consecutive leave without pay status. A **tribal** employee will have a [31-day extension of coverage](#) and [conversion rights](#). The tribal employer must promptly either:

- Process the Notice of Change in Health Benefits Enrollment (SF 2810) into the Tribal Insurance Processing System (TIPS) to notify the paymaster and the tribal employee's health plan carrier that the tribal employee's enrollment terminated. The tribal employer must also give a copy of the TIPS confirmation page to the tribal employee and file a copy with the tribal employee's personnel records, or
- Complete a paper Notice of Change in Health Benefits Enrollment (SF 2810) and send a copy to the paymaster by mail or fax. The tribal employer must distribute the appropriate copy of the SF 2810 to the tribal employee, and file a copy with the tribal employee's personnel records.

### *Example*

*Paul is in leave without pay status. His 365th consecutive day on leave without pay is December 5th. The tribal employer pay period runs from November 25th through December 8th. Paul's enrollment will terminate on December 8th. His 31-day extension of coverage starts on December 9th.*

### **4-Month Rule**

The enrollment of a **tribal** employee continues while he/she is on leave without pay for up to 365 days. The 365 days of leave without pay may be continuous or may be broken by periods of less than 4 consecutive months in pay status. If a **tribal** employee is on leave without pay and returns to pay status for less than 4 consecutive months, then returns to leave without pay status, the **tribal** employee does not begin a new 365-day period of continued enrollment. Instead, the second (and any other) period of leave without pay is treated as continuation of the first. If a **tribal** employee is in a pay status during any part of a pay period, the entire pay period is not counted toward the 365-day limit.

If a **tribal** employee returns to pay status for at least 4 consecutive months during which he/she is paid for at least part of each pay period, the tribal employee is entitled to begin a new 365-day period of continued enrollment while in leave without pay status.

*Example 1*

*Arthur begins leave without pay status on January 15, 2012. He returns to pay status on July 15, 2012. He then returns to LWOP status on September 15, 2012 (a period in pay status of two months). Since Arthur’s return to pay status is only for two consecutive months, his tribal employer must resume counting his time in LWOP until he reaches 12 months of LWOP. His enrollment terminates at the end of the pay period that includes March 15, 2013.*

<b>Date</b>	<b>Action</b>	<b>Months in LWOP</b>	<b>Consecutive Months in Pay Status</b>
January 15, 2012	LWOP begins	6	
July 15, 2012	Return to pay status		2
September 15, 2012	LWOP resumes	6	
March 15, 2013	365 days LWOP terminate end of pay period		

*Example 2*

*Francine begins leave without pay (LWOP) status on January 15, 2012. She returns to pay status on July 15, 2012. She then returns to LWOP status on December 15, 2012 (a period in pay status of 5 months). Since Francine’s time in pay status is for 5 consecutive months, she begins a new 12-month period of LWOP. Her enrollment terminates at the end of the pay period that includes December 15, 2013.*

Date	Action	Months in LWOP	Consecutive Months in Pay Status
January 15, 2012	LWOP begins	6	
July 15, 2012	Return to Pay Status		5
December 15, 2012	LWOP resumes	12	
December 15, 2013	365 days LWOP terminate end of pay period		

**Return to Pay Status After 365 Days in Leave Without Pay Status**

If a **tribal** employee’s enrollment terminated because he/she exhausted the 365 days continuation of coverage while in leave without pay status, the employee must [elect to enroll](#) when he/she returns to pay status (if he/she is [eligible](#)). A **tribal** employee is not eligible for another 365-day period of continued coverage unless the tribal employee is first in pay status for at least 4 months. If a **tribal** employee enrolls, and then works less than 4 months, the tribal employee’s enrollment must again be terminated on the last day of his/her last pay period in pay status.

The tribal employer should have a follow-up system that will trigger an enrollment termination at the end of the pay period that includes the 365th day of leave without pay status.

**When A Tribal Employee Enters Leave Without Pay or Insufficient Pay Status**

- [Tribal Employer Notification](#)
- [Sample Notice](#)

**Tribal Employer Notification**

The tribal employer must be able to identify through timekeeping/payroll data all tribal employees in leave without pay status and tribal employees whose pay is insufficient to withhold the tribal employee’s share of premiums. The tribal employer must give the

tribal employee a written notice as soon as it becomes aware that premium payments cannot be withheld from the tribal employee's salary because he/she is in leave without pay status or the tribal employee's pay is insufficient to withhold his/her share of the premiums. The tribal employer must use the sample notice provided below. This notice constitutes due process.

The notice informs the tribal employee of his or her options regarding continuing or terminating FEHB enrollment; explains the effect of a termination; explains that if he or she decides to continue coverage, he or she must agree to pay the tribal employee's share of the premium directly, incur a debt, or (if the tribal employer allows) pre-pay premiums; provides a form to document continuation or termination of enrollment; and requires the notice to be returned within 31 days after receipt to prevent automatic termination.

If the tribal employer cannot give the tribal employee the written notice in person, it must send the notice by first class mail. Electronic mail cannot be used to give the written notice because the tribal employee may not be at his/her desk to receive it. The tribal employee's receipt is especially important because if he/she does not timely respond, the tribal employee's coverage will be terminated.

The tribal employer must keep track of whether a **tribal** employee signed and returned the notice within the required time frame. A notice that is mailed is considered to be received by a **tribal** employee ten (10) days after the date of the notice. When a **tribal** employee mails the signed form, the date of the postmark is considered to be the date the notice is returned to the tribal employer.

### Sample Notice

**FEDERAL EMPLOYEES HEALTH BENEFITS (FEHB)  
TRIBAL EMPLOYEE'S OPTIONS  
WHILE IN LEAVE WITHOUT PAY  
OR INSUFFICIENT PAY STATUS**

Name of Tribal Employee:

Date:

You must respond within 31 days (45 days for tribal employees residing overseas) of this notice or your FEHB enrollment will automatically terminate.

Each month you are enrolled in the FEHB Program, you are responsible for payment of the tribal employee's share of the premium. When you enter leave without pay status, or your pay is insufficient to cover the premium, you must

- terminate the enrollment; or
- continue the enrollment and agree to pay the premium or incur a debt or prepay premiums (optional).

TERMINATING THE ENROLLMENT: If you elect to terminate your enrollment (or the enrollment automatically terminates), the termination will take effect at the end of the last pay period in which premiums were withheld from pay. FEHB coverage will continue at no cost to you for an additional 31 days. During the 31 days, you and your covered family members may convert to an individual contract with your insurance carrier. When you return to pay status, or at the end of the first pay period your pay becomes sufficient to cover your premium (if applicable), you must reenroll within 60 days if you want FEHB coverage.

CONTINUING THE ENROLLMENT AND AGREEING TO PAY THE PREMIUM: If you elect to continue your coverage, you must elect to pay the premiums directly or to incur a debt in the amount of the unpaid premiums, or to pre-pay premiums (optional). If you elect to pay directly, mail a check or money order payable to [tribal employer insert name here]. Include on the check or money order your name and a note that the payment is for "FEHB premium," and the pay period for which the payment is being made. Mail to: [tribal employer insert address here].

If you elect to incur a debt, or if you elect to pay directly but fail to pay the entire amount due, you will receive a notice stating the total amount due. The notice will be sent when you return to pay status, your pay becomes sufficient, or you separate from employment. By electing to continue coverage you agree to repay the resulting debt in full and to allow the debt to be collected through your tribal employer's normal means of debt collection (e.g., withholding salary payments or other applicable repayment methods).

*If you elect to pre-pay your premiums, the amount you prepay in advance may either be deducted from your pay or you may pay out-of-pocket.*

Please check the appropriate space(s) below, sign, and return this notice to your tribal employer at: [tribal employer insert address here].

After reading and understanding the above, I elect to:

- Continue the enrollment (Check one):

\_\_\_\_\_ Submit direct payments

\_\_\_\_\_ Incur a debt

\_\_\_\_\_ Pre-pay premium [Tribal employer may include this option]

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

(Date)

- Terminate the enrollment

---

 (Signature)

(Date)

Refer questions to: (Name)

(Telephone)

## When a Tribal Employee Chooses to Continue FEHB Enrollment

- [The Tribal Employee Must Pay the Tribal Employee's Share](#)
- [Tribal Employer Forwards Both the Tribal Employee's share and the Tribal Employer's Share Each Pay Period](#)
- [Recovering Salary Advances for Paying Tribal Employee's Share of Premiums](#)
- [Current Basis](#)

If a **tribal** employee elects to continue coverage during leave without pay or insufficient pay, he/she can choose either to pay the premiums directly or to incur a debt. The tribal employer may also offer a pre-pay option.

### The Tribal Employee Must Pay the Tribal Employee Share

The tribal employee must still pay the tribal employee share of health benefits premiums if he/she is on leave without pay for an entire pay period, or if a tribal employee's pay during a pay period doesn't cover the full amount of withholdings due, unless the tribal employee wants his/her enrollment to terminate. The tribal employer must notify a **tribal** employee of the choices available to him/her and provide the **tribal** employee with a method to make direct premium payments (e.g., a check or direct deposit).

If a **tribal** employee elects to continue his/her enrollment but does not make direct premium payments, the tribal employer must advance the tribal employee enough pay to cover the employee share of the premiums, as explained below. See "[Tribal Employer Notification](#)" for notification requirements when a **tribal** employee enters leave without pay or when a **tribal** employee's pay becomes insufficient to make the withholdings.

### Pay-As-You-Go Option

Under this option, a **tribal** employee pays his/her share of FEHB premiums directly to the tribal employer while on leave without pay or insufficient pay. These payments generally will be made with after-tax monies, since there is no pay from which to make deductions.

If the tribal employee chooses this option, the tribal employee must agree that if he/she does not pay the premiums, he/she will be incurring a debt to the tribal employer. A **tribal** employee will have to repay this amount once he/she returns to pay status. If a **tribal** employee does not return to work or the tribal employer cannot recover the debt in full from the tribal employee's salary, it may recover the debt through any legal means of debt collection.

### **Catch-up Option**

Under the catch-up option, the tribal employee agrees in advance of the leave without pay or insufficient pay period that:

- The tribal employee will continue FEHB coverage while on leave without pay or insufficient pay;
- The tribal employer will advance the tribal employee's share of FEHB premiums to the paymaster during the tribal employee's leave without pay or insufficient pay period; and
- The tribal employee will repay the advanced amounts when he/she returns from leave without pay or is restored to sufficient pay.

The repayment of the amount owed will be treated on a pre-tax basis, if it is deducted from pay and the tribal employee participates in premium conversion at the time the deduction is made.

If the tribal employer does not offer premium conversion or if a **tribal** employee chooses to repay the amount owed to the tribal employer directly out-of-pocket, the **tribal** employee's taxable income is not reduced.

### **Prepay Option**

The tribal employer may (but is not required to) offer the tribal employee the option to prepay the tribal employee's FEHB premiums from salary before he/she begins a period of leave without pay.

The amount of FEHB premiums the tribal employee prepays in advance may either be deducted from his/her pay or paid directly "out-of-pocket" to the tribal employer. Payments made "out-of-pocket" do not reduce the tribal employee's taxable income because the payments are not taken out of the tribal employee's pre-tax earnings. However, the amount of FEHB premiums that the tribal employee prepays will be treated on a pre-tax basis, if it is deducted from the tribal employee's pay and the tribal employee and tribal employer participate in premium conversion. IRS rules limit the amount a **tribal** employee may prepay on a pre-tax basis. If the tribal employee's period of leave without pay will span two tax years, the amount that the tribal employee may prepay on a pre-tax basis may not exceed the amount of FEHB premiums due for the remainder of the current tax year. If the tribal employee wishes to prepay the amounts due for the subsequent tax year as well, the deductions must be made after-tax. The tribal employee

may use the “pay-as-you-go” or “catch-up” options for amounts due in the subsequent tax year.

**Example**

*Max participates in premium conversion and has \$100 per month in FEHB premiums deducted from his pay. He will go on leave without pay for three months beginning on October 31, 2012 and opts to continue his FEHB coverage. Max uses the pre-pay option to pay the \$300 in FEHB premium payments that will be due while he is on leave without pay. He will receive pre-tax treatment on \$200 of his FEHB premium prepayment (the amount he will owe for November and December 2012). The remaining \$100 he prepaid (the amount due for January 2013) must be given after-tax treatment.*

**Tribal Employer Forwards both the Tribal Employee’s Share and the Tribal Employer’s Share each Pay Period**

The tribal employer must place the full FEHB premium (both tribal employee and tribal employer contributions) in its designated bank account on a [current basis](#) when a tribal employee is on leave without pay or when the tribal employee’s pay is insufficient to make the withholdings and the tribal employee did not terminate coverage. The tribal employee does not make direct premium payments to the paymaster.

**Recovering Salary Advances for Paying the Tribal Employee Share of Premiums**

When the tribal employer advances a **tribal** employee’s salary (the Catch-up Option) to cover the tribal employee share of his/her health benefits premiums, the tribal employee incurs a debt to his/her tribal employer for the advance payments. It can recover that amount through any legal means of debt collection.

The tribal employer that advanced the tribal employee’s salary is permanently responsible for collecting the debt and must retain the tribal employee’s written notice electing to continue FEHB coverage.

A **tribal** employee must sign a statement agreeing that his/her debt may be withheld in full from future pay when the tribal employee receives advance salary to cover his/her health benefits premiums. The tribal employer must give the tribal employee a notice that it intends to recover the advanced salary.

**When a Tribal Employee Allows an FEHB Enrollment to Terminate**

- [Effect of Termination](#)
- [Retroactive Reinstatement of Terminated Coverage](#)
- [When a Tribal Employee May Enroll After Termination](#)

**A tribal employee’s enrollment will terminate if he/she:**

- does not sign and return the written notice within 31 days of receiving the notice (45 days if the tribal employee lives overseas), or
- returns the signed notice, electing to terminate FEHB enrollment.

In either event, the tribal employer must terminate a **tribal** employee’s enrollment on the Notice of Change in Health Benefits Enrollment (SF 2810). It must note in the Remarks section: “Employee (did not timely return written notice)(elected to terminate the enrollment) during a period of (leave without pay status)(insufficient pay).” The tribal employee will have a [31-day extension of coverage](#) and [conversion rights](#). The tribal employer must promptly either:

- process the Notice of Change in Health Benefits Enrollment (SF 2810) into the Tribal Insurance Processing System (TIPS) to notify the paymaster and the tribal employee’s health benefits carrier that the tribal employee’s enrollment terminated. The tribal employer must also give a copy of the TIPS confirmation page to the tribal employee and keep a copy in the tribal employee’s personnel file, or
- complete a paper Notice of Change in Health Benefits Enrollment (SF 2810) and send a copy to the paymaster by mail or fax. The tribal employer must distribute the appropriate copy of the SF 2810 to the tribal employee, and file a copy with the tribal employee’s personnel records.

The file copy of the notice (or if the tribal employee elected to terminate enrollment, the tribal employee’s signed notice) should be attached to the confirmation page from TIPS or a paper SF 2810 and filed in the tribal employee’s personnel file. The effective date of enrollment termination is retroactive to the end of the last pay period that premiums were withheld from the tribal employee’s pay.

**Effect of Termination**

If a **tribal** employee decides not to continue coverage, the **tribal** employee’s enrollment is terminated, not canceled. This means that the **tribal** employee is entitled to a 31-day extension of coverage and conversion privilege. The **tribal** employee does not have to wait until the next Open Season to reenroll, but there may be time limits on when a tribal employee may reenroll. See [“When a Tribal employee may Enroll after Termination.”](#) below.

A **tribal** employee is not eligible for [temporary continuation of coverage](#) (TCC) when his/her coverage terminates during leave without pay or insufficient pay. TCC is available when a **tribal** employee’s coverage terminates because of separation from employment.

**Retroactive Reinstatement of Terminated Coverage**

If a **tribal** employee fails to return the notice within the required time frame for reasons beyond his/her control, the tribal employer may reinstate the **tribal** employee's coverage. The **tribal** employee must file the request within 30 calendar days from the date he/she received notification of the termination by the tribal employer. The notice must describe the circumstances that prevented him/her from returning the notice on a timely basis and include the signed written notice electing to continue coverage and agreeing to either pay the premium directly or incur a debt.

If the tribal employer decides to reinstate the tribal employee's enrollment, it completes parts A, D, and H of the Notice of Change in Health Benefits Enrollment (SF 2810) in paper or electronically in TIPS. The tribal employer must note in the Remarks section "Employee reinstated." Furthermore, the tribal employer must distribute copies of the SF 2810 to the paymaster via TIPS or a paper copy.

The tribal employer must also give a copy of the reinstatement SF 2810 to the tribal employee and file a copy in the tribal employee's tribal employee's personnel file.

If the tribal employer rejects the reinstatement request, it must notify the tribal employee of his/her [reconsideration rights](#).

### **When a Tribal Employee may Enroll after Termination**

If a **tribal** employee terminated enrollment while he/she was on leave without pay status, the tribal employee may reenroll within 60 days of returning to pay status in a position in which he/she is eligible for FEHB coverage.

If a **tribal** employee terminated enrollment due to insufficient pay, the tribal employee may reenroll within 60 days after the end of the first pay period his/her pay becomes sufficient to cover the premium.

#### *Example*

*Nate terminated his FEHB enrollment because of insufficient pay. His tribal employer operates on a biweekly pay cycle. Nate's pay becomes sufficient with the pay period beginning on February 4th. The end of the first pay period in which Nate's pay becomes sufficient to cover the premiums is February 17th. Nate has 60 days, starting on February 18th, to reenroll in a FEHB plan.*

Reenrollment takes effect the first day of the first pay period after the tribal employer receives the tribal employee's request to reenroll and that follows a pay period in which he/she was in pay status for any part of that pay period.

A **tribal** employee can reenroll in any plan or option available to him/her. The **tribal** employee is not restricted to enrolling into the same plan and option he/she had when coverage terminated.

If the **tribal** employee does not reenroll during the 60-day time period, he/she must wait for an Open Season to enroll, unless another [qualifying life event](#) occurs before the next Open Season.

## Special Circumstances

- [Active Duty Military Service](#)
- [Part-Time Tribal Employees](#)
- [Temporary Appointments](#)
- [Family and Medical Leave](#)
- [Appointments to Employee Organizations](#)
- [Appointment to State or Local Governments or Institutions of Higher Education, Indian Tribal Government, or other Organizations](#)
- [Transfers to International Organizations](#)
- [If a Tribal Employee Pays FEHB Premiums Over Less than 12 Months](#)

### Active Duty Military Service

Under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), if a tribal employee [enters active duty military service for more than 30 days](#), he/she may continue his/her health benefits enrollment for up to 24 months, unless he/she elects to have the enrollment terminate before he/she enters active duty. Please see Chapter 9 (Military Service) for more detailed information.

### While Receiving Compensation

Your enrollment [may continue when you receive compensation](#) from the Department of Labor's Office of Workers' Compensation Programs for the first 365 days while in leave without pay status.

### Part-Time Tribal Employees

If a **tribal** employee is a [part-time employee who receives a prorated tribal employer contribution](#), during periods of leave without pay, he/she must pay the same health benefits premiums that are withheld from his/her pay while in pay status in his/her regular work schedule.

### Temporary Appointments

If a **tribal** employee is a [temporary employee](#) enrolled in FEHB coverage, during periods of leave without pay, he/she must continue to pay both the **tribal** employee and tribal employer shares of the premiums.

If a **tribal** employee accepts a temporary position with a tribal employer that participates in FEHB while his/her FEHB enrollment is continuing during leave without pay status, his/her FEHB enrollment must be transferred to the tribal employer for the tribal employee's temporary position. The second tribal employer must transfer the FEHB enrollment by completing SF 2810 and marking the block in Part C.

If the tribal employee is still on leave without pay when his/her temporary employment ends, his/her FEHB enrollment must be transferred back to his/her original tribal employer. The original tribal employer must transfer the FEHB enrollment in by completing SF 2810 and marking the block in Part C. The original tribal employer must determine the remaining [length of time the tribal employee is entitled to continued coverage](#) while on leave without pay. If the tribal employee is no longer being carried as a **tribal** employee in the original position when his/her temporary position expires, the FEHB enrollment must be [terminated](#).

The two tribal employers involved must coordinate these actions so that withholdings and contributions are made timely. The tribal employer that first becomes aware of the situation must contact the other tribal employer and arrange for transfer of the FEHB enrollment, if appropriate.

### **Family and Medical Leave**

Under the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3), the employee may be entitled to up to 12 weeks of leave without pay for certain medical and family needs. See 29 CFR Part 825 for information about family and medical leave.

FMLA leave usually runs concurrently with the 365 day period of coverage during leave without pay status allowed under the FEHB law. In these cases the regular rules for coverage during periods in leave without pay status apply. If the tribal employee is granted leave under FMLA that causes the tribal employee's period of leave without pay to exceed the 365 days of continued coverage allowed under the FEHB law, the tribal employee must pay his/her share of premiums (if applicable) directly to the tribal employer on a current basis during the period that exceeds 365 days. (This may happen if the tribal employee has already used an extensive amount of leave without pay before the tribal employee invokes his/her rights under FMLA).

If the tribal employee's coverage is terminated for nonpayment during FMLA leave, the tribal employee may reenroll when the tribal employee returns to pay and duty status.

### **Appointment to State or Local Governments or Institutions of Higher Education, or other Organizations**

If a tribal employee goes into leave without pay status while assigned to the Federal Government, a State or local government, institution of higher education, Indian tribal government, or certain other organizations specified in 5 CFR Part 334, the tribal

employee is entitled to continue health benefits coverage for the length of the assignment, even if the leave without pay status lasts longer than 365 days.

The tribal employee must elect to continue his/her health benefits coverage and pay the tribal employee share of his/her premiums to the tribal employer (if applicable) before, during, or within three months after the end of each pay period. The tribal employer must continue to pay its contributions as long as the tribal employee makes the premium payments.

The tribal employer must keep the tribal employee informed of all developments that affect health benefits. It must also adjust the tribal employee's share of the premium (if applicable) and the agency contributions when appropriate. The tribal employee's coverage will terminate if he/she does not pay his/her premiums, subject to the [31-day extension of coverage](#) and [conversion right](#). The tribal employee's coverage cannot resume until he/she enters on pay and duty status.

*Exception:* coverage will be restored retroactively if the tribal employer finds that the tribal employee was unable to make the premium payments for reasons beyond his/her control and the tribal employee made the payments at the first opportunity.

If the tribal employee elects to be covered under a State or local government's health benefits program that OPM determines to be similar to the FEHB Program, the tribal employee is not entitled to continue coverage under the FEHB Program. Send a request for OPM's determinations to Office of Personnel Management, Healthcare and Insurance, P.O. Box 436, Washington, D.C. 20044.

### **Transfers to International Organizations**

The tribal employee may continue health benefits coverage if he/she is transferred to an international organization under conditions similar to those provided in 5 U.S.C. 3582. The tribal employee must elect to continue health benefits coverage and pay the tribal employee share of his/her premiums (if applicable) to the tribal employer before, during, or within three months after the end of each pay period. The tribal employer must continue to pay its contributions as long as the tribal employee makes premium payments (if applicable).

The tribal employer must keep its tribal employees informed of all developments that affect health benefits. It must also adjust the tribal employee's share of the premium and the tribal employer contributions when appropriate.

The tribal employee's coverage will terminate if the tribal employee does not pay his/her premiums, subject to the [31-day extension of coverage](#) and [conversion right](#). The tribal employee's coverage cannot resume until the tribal employee enters on pay and duty status.

*Exception:* The tribal employee's coverage will be restored retroactively if the tribal employer finds that the tribal employee was unable to make the premium payments for reasons beyond the tribal employee's control and the tribal employee makes the payments at the first opportunity.

If the tribal employee does not elect to continue his/her health benefits enrollment, he/she is not considered to be a **tribal** employee of the tribal employer for health benefits purposes while employed by the international organization.

Tribal employees transferred into international organizations will be governed by rules similar to 5 CFR part 352 Subpart C.

### **If the Tribal Employee Pays FEHB Premiums over less than 12 Months**

If a **tribal** employee's annual salary is normally paid over a period of less than 12 months (such as a teacher on a 10-month contract), the tribal employer will prorate the tribal employee's annual health benefits contributions over the number of salary installments during the year, so that the tribal employee does not pay any additional premiums during the tribal employee's expected nonpay period. If the tribal employee enters leave without pay during his/her normal working period, the tribal employee must pay premiums for that period the same as other tribal employees in leave without pay status.

## **Chapter 7: Cancellation, Termination and Conversion**

- [Cancellation](#)
- [Termination](#)
- [Processing Terminations](#)
- [31-Day Extension of Coverage and Conversion](#)
- [Termination of Erroneous FEHB Enrollment](#)
- Termination of Enrollment if Tribal Employer Loses Entitlement to Purchase FEHB

### **Cancellation**

- [Electing to Cancel](#)
- [Tribal Employee Responsibility](#)
- [Tribal Employer Responsibility](#)

## **Electing to Cancel**

If a tribal employee's tribal employer offers premium conversion and the tribal employee participates in premium conversion, the tribal employee may cancel his/her FEHB enrollment:

- During the annual Open Season; or
- Within 60 days after the tribal employee has a [qualifying life event \(QLE\)](#). The tribal employee's cancellation must be consistent with and correspond with the tribal employee's qualifying life event.

### ***Example***

*LaTonya gets married, and since her spouse's company provides health insurance for a spouse, she wants to cancel her FEHB enrollment. She can make this FEHB enrollment change outside of Open Season since it is consistent with and corresponds with her qualifying life event (marriage).*

A tribal employee may cancel or change to a Self Only FEHB enrollment at anytime if the tribal employee does not participate in premium conversion. The tribal employee does not need to wait for the next Open Season or experience a qualifying life event.

A tribal employee's cancellation is effective at midnight at the end of the last day of the pay period in which the tribal employer receives the Employee Health Benefits Election Form (SF 2809) or other FEHB disenrollment request. When a tribal employee cancels his/her FEHB enrollment, the tribal employee is not eligible for the [31-day extension of coverage](#) or temporary continuation of coverage (TCC) and the tribal employee cannot [convert his/her coverage](#) to an individual policy.

If a TCC enrollment ends because the tribal employee did not pay his/her premiums, it is considered to be a voluntary cancellation.

When a tribal employee [cancels](#) his/her FEHB enrollment, his/her family members' coverage terminates at midnight at the end of the day that the cancellation is effective, with no 31-day extension of coverage, TCC, or conversion to an individual policy.

### **Tribal Employee Responsibility**

When a tribal employee [cancels his/her FEHB enrollment](#), the tribal employee's signature certifies that he/she is aware that the tribal employee may not enroll again until a [QLE](#) occurs (such as marriage or Open Season) that permits FEHB enrollment.

### **Tribal Employer Responsibility**

The tribal employer will process a cancellation as follows:

- If the tribal employer uses TIPS, process the tribal employee's cancellation SF 2809 into TIPS to notify the paymaster and the tribal employee's health benefits carrier that the tribal employee ended his/her FEHB enrollment. The tribal employer must also print copies of the TIPS confirmation page, and give a copy to the tribal employee and keep a copy in the Tribal Employer Personnel File, or
- If the tribal employer does not have access to TIPS, complete a paper SF 2809 and send a copy to the paymaster by mail or by fax. The tribal employer must distribute a copy of the SF 2809 to the tribal employee, and file a copy in the Tribal Employer Personnel File.

## Termination

- [Tribal Employees](#)
- [Family Members](#)

### Tribal Employees

An FEHB enrollment will terminate, subject to a [31-day extension of coverage](#), at midnight of the earliest of the following dates:

- the last day of the pay period in which a tribal employee separates from employment (unless you [transfer](#) to another tribal employer or begin receiving benefits from the Office of [Workers' Compensation Programs](#));
- the last day of the pay period in which the tribal employee changes to a position that is [excluded from coverage](#) (see Chapter 4 ("Eligibility) for exceptions);
- the last day of the pay period in which the tribal employee dies;
- the last day of the pay period that includes the 365th day of continuous [leave without pay status](#) or the last day of leave under the Family and Medical Leave Act, whichever is later;
- the last day of the last pay period in pay status, if the tribal employee hasn't had 4 consecutive months of pay status after the tribal employee [exhausted the 365 days continuation of coverage in leave without pay status](#);
- the day the tribal employee is separated, furloughed, or placed on leave without pay to serve in the uniformed services [for duty over 30 days](#), if the tribal employee elects in writing to have his/her FEHB enrollment terminated;
- the date that is [24 months](#) after the date of the tribal employee's separation, furlough, or leave of absence to serve in the uniformed services for duty over 30 days, or the date the tribal employee's entitlement to continued coverage ends, whichever is earlier;
- the day on which the tribal employee's temporary continuation of coverage (TCC) expires;
- the last day of the pay period for which withholding was made when the tribal employee is a temporary tribal employee enrolled under 5 U.S.C. 8906a whose [pay is insufficient to pay the withholdings](#) and the tribal employee did not or

- could not choose a plan for which the tribal employee's pay would cover his/her premiums;
- the last day of the pay period for which the tribal employee is no longer a member of the sponsoring employee organization (if enrolled in an employee organization plan).

## Family Members

A tribal employee's family member's coverage terminates, subject to a [31-day extension of coverage](#), at midnight on the earlier of the following dates:

- the day that the tribal employee changes his/her FEHB enrollment to Self Only or [the tribal employee's FEHB enrollment terminates](#);
- the day that the family member is [no longer an eligible family member](#).

A tribal employee cannot continue coverage for his/her spouse under the tribal employee's Self and Family FEHB enrollment after the date the divorce or annulment is final (by court order). The former spouse<sup>1</sup> may be eligible for his/her own FEHB enrollment under the [temporary continuation of coverage](#) (TCC) provisions. A tribal employee's family members cannot enroll in TCC if FEHB coverage is lost because the tribal employee cancels his/her coverage, or the tribal employee's coverage terminates and the tribal employee chooses not to enroll in TCC.

When a tribal employee [cancels](#) his/her FEHB enrollment, family members' coverage terminates at midnight of the day that the tribal employee's cancellation is effective, with no 31-day extension of coverage.

A tribal employee's family members may be eligible to continue Self and Family coverage after the death of the tribal employee as follows:

- if, at the time of death, the tribal employee had a Self and Family FEHB enrollment with only a spouse, the spouse is eligible for a 31-day extension of coverage and conversion to non-group (private) coverage; or
- if, at the time of death, the tribal employee had a Self and Family FEHB enrollment with a child or children, the child(ren) are eligible for TCC and may cover the spouse. Eligible family members are entitled to a 31-day extension of coverage and may convert to non-group (private) coverage when TCC expires at the end of 36 months.

## Processing Terminations

- [Tribal Employer Responsibilities](#)

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<sup>1</sup> As used throughout this Handbook, the term "former spouse" does not equate to the mean of such term as defined by 5 U.S.C. § 8901(10). Rather, it is used generically to refer to an individual who was receiving FEHB coverage as a spouse of a tribal employee and subsequently was divorced or whose marriage was annulled.

- [By Termination of Membership in Employee Organization](#)
- [For Other Reasons](#)

### **Tribal Employer Responsibilities**

When a tribal employee's FEHB enrollment terminates, the tribal employer must:

- Complete a Notice of Change in Health Benefits Enrollment (SF 2810) showing the reason for termination in the Remarks section, and process the termination into TIPS no later than 5 business days later to notify the paymaster and the tribal employee's FEHB carrier that the tribal employee ended his/her FEHB enrollment. The tribal employer must also give the tribal employee a copy of the TIPS confirmation page and keep a copy in the Tribal Employer Personnel File, or
- If the tribal employer does not have access to TIPS, it must send a copy of the SF 2810 to the paymaster by mail or fax. It must also give a copy of the SF 2810 to the tribal employee and file a copy in the Tribal Employer Personnel File.

### **By Termination of Membership in Employee Organization**

When the employee organization plan that a tribal employee is enrolled in instructs the tribal employer to terminate the tribal employee's FEHB enrollment because the tribal employee is no longer a member, the tribal employer will do so on the Notice of Change in Health Benefits Enrollment (SF 2810). The tribal employer will note in the Remarks Section: "Your enrollment was terminated by the plan because you are no longer a member of the sponsoring employee organization. You may enroll in another plan from 31 days before to 60 days after the date in Part A, item 8, above." (This date is the last day of the pay period in which the tribal employer received the plan's notice of termination.) The tribal employee's new enrollment will be processed as an enrollment change on SF 2809.

### **For Other Reasons**

When a tribal employee's enrollment terminates for any reason other than cancellation or termination of the tribal employee's membership in an employee organization, the tribal employer must state the reason for the termination in the Remarks section (e.g., "Employee resigned") and transmit the SF 2810 data to NFC following the processing instructions above under [Tribal Employer Responsibilities](#).

## **31-Day Extension of Coverage and Conversion**

- [Extension of Coverage](#)
- [Conversion Rights](#)
- [Benefits Under a Conversion Contract](#)

- [Conversion for Family Members](#)
- [Conversion for Tribal Employees](#)
- [Late Conversion](#)
- [Effective Date of Conversion Contract](#)
- [Reinstatement of Enrollment after Conversion](#)

### **Extension of Coverage**

Tribal employees' and their eligible family members' coverage continues at no cost for 31 days after the tribal employee's enrollment terminates for any reason except when the tribal employee or tribal employer voluntarily [cancels](#) his/her FEHB enrollment or the tribal employee's plan is discontinued.

If the tribal employee or a family member is an inpatient in a hospital on the 31st day of the tribal employee's extension of coverage, FEHB benefits for the hospitalized person will continue for the length of the hospitalization, up to a maximum of 60 more days, unless the tribal employee [converts to an individual contract](#).

### **Conversion Rights**

When a tribal employee's FEHB enrollment [terminates](#), including TCC, the tribal employee is entitled to convert to an individual policy offered by the carrier of the tribal employee's plan. The tribal employee is not required to provide evidence of insurability.

*Exception:* a tribal employee is not entitled to convert to an individual policy if the tribal employee voluntarily [canceled](#) his/her FEHB enrollment or his/her plan was discontinued.

### **Benefits under a Conversion Contract**

Many conversion contracts provide fewer benefits at a higher cost than what is offered under the FEHB Program. Also, there is no tribal employer contribution to the cost of the individual conversion contract. If a tribal employee anticipates that a family member will lose coverage in the near future, the benefits and cost of a plan's conversion contract may be an important consideration in the tribal employee's choice of a health plan. If the tribal employee or a family member is considering converting to an individual policy, the tribal employee should contact the carrier of his/her plan for information about the benefits and cost of its conversion contract.

### **Conversion for Family Members**

If a family member loses coverage under [a tribal employee's enrollment](#) (including as a result of the tribal employee's change to Self Only), the family member is also entitled to convert to an individual policy offered by the carrier of the tribal employee's plan. The tribal employee's family member is not required to provide evidence of insurability.

*Exception:* a tribal employee's family member is not entitled to convert to an individual policy if the tribal employee voluntarily [canceled](#) his/her FEHB enrollment or the enrollee's plan was discontinued.

It is the responsibility of the tribal employee or the tribal employee's family member to know when he/she is no longer eligible for coverage and to apply for a conversion contract in a timely manner. The tribal employer is not obligated to inform a tribal employee of his/her family member's conversion rights when he/she is no longer eligible for coverage. The tribal employer may, from time to time, publish reminders of family members' right to convert in internal publications.

To apply for conversion, a tribal employee or the tribal employee's family member must make a written request to the carrier of the tribal employee's plan. The tribal employee or family member must apply for conversion within 31 days after his/her coverage as a family member [terminated](#).

### **Conversion for Tribal Employees**

When a tribal employee's FEHB enrollment terminates, the tribal employer **must** give the tribal employee a notice of his/her right to convert to an individual policy on the Notice of Change in Health Benefits Enrollment form (SF 2810). The tribal employer should provide the tribal employee with this notice **immediately** upon the tribal employee's FEHB enrollment termination, but no later than 60 days from the termination date.

To apply for conversion, the tribal employee should complete the back of his/her copy of the SF 2810 and take or mail it to the carrier of his/her plan within 31 days from the date of the tribal employer's notice to the tribal employee (part H of SF 2810), but no later than 91 days from the date the FEHB enrollment terminates (Part A, item 8 of SF 2810). If the tribal employee needs assistance with applying for conversion, he/she should contact his/her FEHB carrier.

### **Late Conversion**

When the tribal employer does not give the tribal employee the required conversion notice within 60 days, or the tribal employee is not able to request conversion on time for reasons beyond his/her control, the tribal employee can request a late conversion by writing directly to the carrier of his/her plan.

The tribal employee must send his/her request within **six** months after the date his/her FEHB enrollment terminated. The tribal employee's request must:

- include some documentation that his/her FEHB enrollment has terminated (for example, a letter from the tribal employer showing separation from employment);
- include proof that the tribal employee was not notified of the FEHB enrollment termination and the right to convert (for example, a letter from the tribal employer

- confirming that it did not provide timely notice of the conversion option), and the tribal employee not otherwise aware of it, or
- include proof that the tribal employee was not able to convert because of reasons beyond his/her control.

If six months or more have passed since the date the tribal employee became eligible to convert, the carrier of the tribal employee's plan is not required to accept a request for conversion.

If the carrier accepts the request for a late conversion, the tribal employee must enroll and pay his/her first premium within 31 days of the carrier's acceptance notice. This first premium payment may include amounts due for retroactive coverage. If the tribal employee does not convert within this time period, the tribal employee is considered to have waived his/her conversion rights, unless the carrier determines that he/she did not convert for reasons beyond his/her control. If the carrier determines that the tribal employee's failure to convert was within his/her control, the tribal employee may request that OPM review its decision. To request an OPM review, write to U.S. Office of Personnel Management, Federal Employee Insurance Operations, 1900 E Street NW; Washington, D.C. 20415.

#### **Effective Date of Conversion Contract**

A tribal employee or his/her family member's conversion contract becomes effective at the end of the [31-day extension of coverage](#), even when the tribal employee or his/her family member is an inpatient in a hospital on the 31st day of extended coverage. A tribal employee is responsible to pay the carrier for premiums attributable to any retroactive period of coverage.

#### **Reinstatement of FEHB Enrollment after Conversion**

If the tribal employee converted to an individual policy after the tribal employee's FEHB enrollment terminated, and the tribal employee's FEHB enrollment is later reinstated retroactive to the effective date of his/her termination (e.g., the tribal employee was removed and later ordered [restored to employment](#) with full restitution of back pay), then the tribal employee may get a refund of all the premiums the tribal employee paid on the conversion contract. The tribal employee must apply in writing to the carrier of his/her plan for the refund. If the tribal employee received benefits when his/her conversion contract was in effect, the tribal employee is entitled to an adjustment of the difference between the benefits paid by the carrier under the conversion contract and the benefits payable under the tribal employee's FEHB enrollment.

If tribal employer reinstates an FEHB enrollment, it must:

- Complete a Notice of Change in Health Benefits Enrollment (SF 2810), check Block D, show the reason for reinstatement in the Remarks section, and process the reinstatement into TIPS. The tribal employer must also give the tribal employee a

copy of the TIPS confirmation page and keep a copy in the Tribal Employer Personnel File, or

- If the tribal employer does not have access to TIPS, it must send a copy of the reinstatement SF 2810 to the paymaster by mail or by fax. It must also give a copy of the SF 2810 to the tribal employee and file a copy in the Tribal Employer Personnel File.

## **Termination of Erroneous FEHB Enrollment**

- [If Premium was Paid](#)
- [If Premium was Not Paid](#)

If a tribal employee's position is [excluded from FEHB coverage](#) but the tribal employee was erroneously allowed to enroll, the tribal employer must [terminate](#) or [void](#) the tribal employee's coverage as soon as the error is discovered. The tribal employer must explain to the tribal employee why he/she is not eligible for coverage and the effect of the termination.

### **If Premium was Paid**

If the tribal employee was erroneously enrolled and the tribal employee's share and tribal employer's share of premium was paid, the tribal employer must [terminate](#) the tribal employee's coverage and discontinue withholdings and contributions at the end of that pay period. No adjustments are made for contributions and withholdings that already have been made. The tribal employee and covered family members are entitled to full plan benefits during the time the tribal employee was erroneously enrolled. The tribal employee is entitled to [convert](#) to an individual contract the same as any other tribal employee whose FEHB enrollment is terminated.

### **If Premium was Not Paid**

If no premium was paid before the tribal employee's erroneous FEHB enrollment is discovered, the tribal employer must [void](#) the tribal employee's FEHB enrollment. In addition, the tribal employer must note in the Remarks Section of the Health Benefits Election Form (SF 2809): "Erroneous enrollment--tribal employee responsible for any benefits provided." The tribal employee will be responsible for any claims paid during his/her erroneous FEHB enrollment. The tribal employee's carrier will contact the tribal employee to recover any payment it made.

## **Termination of Enrollment if Tribal Employer Loses Entitlement to Purchase FEHB**

A tribal employee's enrollment in FEHB will terminate if the tribal employee's tribal employer is no longer entitled to purchase coverage, rights, and benefits under FEHB for its tribal employees. A loss of entitlement may occur if the tribal employer is no longer carrying out programs under ISDEAA or title V of IHCA, or if the tribal employer fails to currently deposit premium payments (see Chapter 11, Finance).

Tribal employees' and their eligible family members' coverage that is terminated due to a tribal employer's loss of entitlement to FEHB participation are entitled to a 31-day extension of coverage and conversion rights.

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## ***Chapter 8: Temporary Continuation of Coverage***

- [Law](#)
- [Eligibility](#)
- [Tribal Employer Responsibilities](#)
- [Notification Requirements for Separating Tribal Employees](#)
- [Time Limits for Electing Temporary Continuation of Coverage](#)
- [Effective Date of TCC Coverage](#)
- [Length of Temporary Continuation of Coverage](#)
- [Premium Payments](#)
- [Nonpayment of Premiums](#)
- [Sample Notice for Delinquent Premiums](#)
- [Effective Date of FEHB enrollment Change](#)
- [Opportunities to Change TCC Coverage](#)
- [Termination of TCC Enrollment or Coverage](#)
- [31-day Extension of Coverage and Conversion to Individual Contract](#)
- [Denial of TCC because of Involuntary Separation for Gross Misconduct](#)
- [General Guidelines for Gross Misconduct Determinations](#)
- [Removal must Result from Gross Misconduct](#)
- [Notification Requirements](#)
- [Response](#)
- [Health Benefits File](#)
- [When Someone has TCC Coverage and Becomes Employed by the Federal Government or an Entitled Tribal Employer](#)

If a tribal employee loses his/her FEHB coverage because the tribal employee separates from tribal employment, the tribal employee may enroll under the Temporary Continuation of Coverage (TCC) provision of the FEHB law to continue his/her coverage for up to 18 months from the date of separation. *Exception:* a tribal employee is not eligible for TCC if the tribal employee's separation is due to [gross misconduct](#).

A tribal employee's family members who lose coverage because they are [no longer eligible family members](#) may enroll under TCC to continue FEHB coverage for up to 36 months.

## Law

Title II of Public Law 100-654, effective January 1, 1990, established the temporary continuation of coverage provision for the FEHB Program.

## Eligibility

- [Tribal Employee](#)
- [Child](#)
- [Former Spouse](#)
- [Death of a Tribal Employee](#)
- [Persons not Eligible](#)

A tribal employee, a child, and a former spouse<sup>2</sup> by divorce are eligible for temporary continuation of coverage based on specific events.

### Tribal Employee

A tribal employee is eligible for temporary continuation of coverage when the tribal employee:

- separates from tribal employment (including retirement), voluntarily or involuntarily, unless the tribal employee's separation is due to [gross misconduct](#); and
- the tribal employee would not otherwise be eligible to continue FEHB coverage (not counting the [31-day extension of coverage](#)).

### Child

A tribal employee's child is eligible for temporary continuation of coverage when he/she:

- has been covered as a [child](#) under the tribal employee's or former tribal employee's FEHB enrollment; and
- [stops meeting the requirements](#) of an eligible child; and
- would not otherwise be eligible to continue FEHB coverage (not counting the [31-day extension of coverage](#)).

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<sup>2</sup> As used throughout this Handbook, the term "former spouse" does not equate to the meaning of such term as defined by 5 U.S.C. § 8901(10). Rather, it is used generically to refer to an individual who was receiving FEHB coverage as a spouse of a tribal employee and subsequently was divorced or the marriage was annulled.

This includes a child who:

- loses coverage because he/she reaches age 26;
- no longer meets coverage requirements as a [foster child](#);
- was covered as a [disabled child age 26 and older](#), and recovers from his/her disability, or becomes self-supporting; or
- loses FEHB coverage upon the death of a tribal employee.

### **Former Spouse**

A tribal employee's former spouse is eligible for temporary continuation of coverage when he/she has been covered as a family member at some time during the 18 months before the tribal employee's marriage ended or was annulled.

### **Death of a Tribal Employee**

A tribal employee's family may be eligible to continue coverage after the death of the tribal employee under the following conditions:

- if, at the time of death, the tribal employee had a Self and Family FEHB enrollment with only a spouse, the spouse is eligible for conversion to non-group (private) coverage (this is not TCC coverage – see Chapter 7 Cancellation, Termination and Conversion); or
- if, at the time of death, the tribal employee had a Self and Family FEHB enrollment with a child or children, the child(ren) are eligible for a 31-day extension of coverage and TCC and may cover the spouse of the deceased tribal employee. Eligible family members are entitled to a 31-day extension of coverage and may convert to non-group (private) coverage when TCC expires at the end of 36 months.

### **Persons Not Eligible**

A tribal employee or eligible family member is not eligible for temporary continuation of coverage (TCC) when:

- the tribal employee transfers to a position that is [excluded from FEHB coverage \(TCC is available for tribal employees who separate from employment\)](#);
- the tribal employee loses coverage after 12 months in a [leave without pay status](#);
- the tribal employee's family member loses coverage when the tribal employee changes to a Self Only FEHB enrollment, [cancels](#) coverage, or separates from tribal employment and does not elect TCC;
- the tribal employee's family member is a spouse who loses coverage because of the death of a tribal employee;

- the tribal employee's family member is a child who enters military service (the child is still considered an eligible child); and
- the tribal employee is involuntarily separated for gross misconduct.

## **Tribal Employer Responsibilities**

- [Providing Information for Tribal Employees](#)
- [Administering the FEHB Enrollment Process](#)
- [Verifying Eligibility to Enroll](#)
- [Collecting Premiums](#)
- [Maintaining the Health Benefits File](#)
- [Denying TCC due to Involuntary Separation for Gross Misconduct](#)
- [Maintaining FEHB enrollment](#)

The tribal employer that is responsible for the tribal employee's FEHB enrollment on the date of the event permitting TCC remains responsible for the tribal employee's TCC enrollment for the length of the tribal employee's TCC enrollment. (The entitled employer contracts with the National Finance Center to administer TCC enrollments and to act as the tribal employer.) The tribal employer's responsibilities in administering temporary continuation of coverage (TCC) include:

### **Providing Information for Tribal Employees**

The tribal employer is responsible for providing all tribal employees who are enrolled or eligible to enroll in FEHB with information about their right to TCC. This information is included in plan brochures.

However, the tribal employer is not obligated to notify a tribal employee or the tribal employee's family member when the family member is no longer eligible for coverage under the tribal employee's enrollment or provide notification of the family member's eligibility for TCC.

### **Administering the FEHB Enrollment Process**

Each tribal employer must establish procedures for notifying former tribal employees about their eligibility to enroll, including what documents are needed to determine eligibility, and accepting FEHB enrollment elections from former tribal employees, children, and former spouses.

### **Verifying Eligibility to Enroll**

The tribal employer must verify the [eligibility of a child or former spouse to enroll](#). If there is conflicting information on a child's date of birth or the date of divorce from the tribal employee, the tribal employer must determine the correct date.

### **Collecting Premiums**

Pursuant to contract with tribal employers, the National Finance Center (NFC) will collect TCC premiums directly from TCC enrollees and forward them to OPM.

### **Maintaining the Health Benefits File**

The tribal employer must [maintain a health benefits file](#) for each TCC enrollee separate from the personnel records of the tribal employee or former tribal employee. If the TCC enrollee is a family member, the name of the tribal employee on whose employment the coverage is based must be included in the health benefits file.

### **Denying TCC Due to Involuntary Separation for Gross Misconduct**

The tribal employer must make [determinations of gross misconduct](#) and follow the required administrative procedures.

### **Maintaining FEHB enrollment**

Entitled tribal employers have contracted with NFC to provide services to TCC enrollees similar to those provided to enrolled tribal employees. For example, NFC must provide Open Season information and process FEHB enrollment changes and cancellations.

## **Notification Requirements for Separating Tribal Employees**

- [Sample Notice for Separating Tribal Employee](#)
- [Notification Requirements for Children](#)
- [Sample Notice for Child](#)
- [Notification Requirements for Former Spouses](#)
- [Sample Notice for Former Spouses](#)
- [Receipt of Notice](#)

When a tribal employee separates from employment with a tribal employer and is eligible for temporary continuation of coverage (TCC), the tribal employer must notify the tribal employee no later than 61 days after the tribal employee's separation of his/her opportunity to elect TCC.

This notice should include the tribal employee's right to [convert](#) to an individual contract offered by his/her plan. This notice must explain his/her right to enroll in TCC and how the tribal employee can get the registration form and additional information.

If the tribal employee wants to elect TCC, the tribal employee must respond within the [specified time limit](#).

### Sample Notice for Separating Tribal Employees

The tribal employer must use the following sample notice to notify a tribal employee of his/her TCC rights upon separation:

*Dear (name):*

*Your coverage in the Federal Employees Health Benefits (FEHB) Program ends on the last day of the pay period in which you separate from employment with a tribal employer, subject to a 31-day extension of coverage (at no cost to you) with opportunity for conversion to an individual contract with your insurance carrier.*

*You also have the right to temporarily continue your FEHB coverage for up to 18 months after your separation instead of converting to an individual contract at this time. You may select any plan in the FEHB Program in which to continue your coverage if you are eligible to enroll in the plan. To continue your coverage, you must pay the full amount of the premium (both the tribal employee and tribal employer shares) plus a 2 percent administrative charge. If you choose to continue your coverage, you have the free coverage described above for the first 31 days. Your Temporary Continuation of Coverage (TCC) enrollment and premium charges begin on the day after the 31-day period of free coverage ends. If you continue TCC to the end of the 18-month period, you will have another 31-day extension of coverage with opportunity for conversion to an individual contract.*

*If you are interested in continuing your FEHB coverage, you can get additional information and an election form by calling (Name of person to contact) at (telephone number) or you can pick up the material at the following address: (enter address).*

*If you want to continue your coverage, your election form must be received at the address shown below within 60 days after the date of separation or 65 days after the date of this notice, whichever is later. Bring or mail your election form to: (enter address)*

*Sincerely,*

*(Name of appropriate tribal employer official)*

If the tribal employer gives this notice directly to the tribal employee, the tribal employer should add the following note and make two copies of the notice:

*I acknowledge receipt of this notice.*

*Tribal employee's signature*

*Date*

## Notification Requirements for Children

If a tribal employee's [child becomes eligible](#) for temporary continuation of coverage (TCC), it is the tribal employee's responsibility as the enrollee to notify his/her tribal employer of the change in his/her child's status. The tribal employee must provide the child's name, address, and date of the event that caused his/her [loss of FEHB coverage](#) eligibility within 60 days from the loss of coverage. The tribal employer then has 14 days to notify the tribal employee's child of his/her TCC rights.

The tribal employee's child or another person may notify the tribal employer of the child's loss of coverage; but the [time limit for electing TCC](#) will be shorter than if the tribal employee provided the notification.

The notice from the tribal employer to the tribal employee's child must include:

- an explanation of the child's right to TCC;
- Health Benefits Election Form (SF 2809);
- how the child can get additional information; and
- if there is doubt about the date of the event permitting TCC, a request for the appropriate information or documentation.

### Sample Notice for Child

Tribal employers must use the following sample notice of TCC rights when the tribal employee timely notifies the tribal employer of his/her child's loss of coverage:

*Dear (child's name):*

*Your coverage in the Federal Employees Health Benefits (FEHB) Program as a family member of (tribal employee's name) ended when you (enter reason), subject to a 31-day extension of coverage (at no cost) with opportunity for conversion to an individual contract with your insurance carrier.*

*You also have the right to temporarily continue your FEHB coverage for up to 36 months after the date of (enter reason) instead of converting to an individual contract at this time. You may select any plan in the FEHB Program in which to continue your coverage if you are eligible to enroll in the plan. If you choose family coverage, your spouse and your children will also be covered. To continue your coverage under the temporary continuation of coverage (TCC) provision, you must pay the full amount of the premium (both the tribal employee and tribal employer shares) plus a 2 percent administrative charge. If you choose to continue your coverage, during the first 31 days you have the free coverage described above. Your TCC enrollment and premium charges begin on the day after the 31-day period of free coverage ends. If you continue the coverage to the end of the 36-month period, you will have another 31-day extension of coverage with opportunity for conversion to an individual contract.*

*An election form and detailed information about your opportunity to continue coverage is enclosed. You may get additional information by calling (name of contact) at (telephone number).*

*If you want to continue your coverage, your election form must be received at the address shown below within 60 days after the date of your (enter reason) or 65 days after the date of this notice, whichever is later. Bring or mail your election form to: (enter address).*

*Sincerely,*

*(Name of appropriate tribal employer official)*

If the tribal employer gives the notice directly to the child or his/her guardian, the tribal employer should add the following note and make two copies of the notice:

*I acknowledge receipt of this notice.*

*Signature of Child or Guardian*

*Date*

If someone other than the tribal employee (the enrollee) notified the tribal employer of the tribal employee's child's loss of coverage, the sample notice's last paragraph should be replaced by the following paragraph:

*If you want to continue your coverage, your election form must be received at the address shown below within 60 days after the date of your (enter reason). Bring or mail your election form to: (enter address).*

### **Notification Requirements for Former Spouses**

If a tribal employee's [former spouse is eligible](#) for temporary continuation of coverage (TCC), either the tribal employee or his/her former spouse must notify the tribal employer within 60 days after the date of the divorce or annulment. The tribal employer then has 14 days to notify the tribal employee's former spouse of his/her rights. The notice to the tribal employee's former spouse must include the same information as the [notice to a child](#). In addition, the notice must request a certified copy of the divorce decree or other document showing the date of the divorce or annulment (if it was not provided by the tribal employee). If he/she wants to elect TCC, he/she must respond within the [specified time limit](#).

Another person may notify the tribal employer of a tribal employee's former spouse's loss of coverage; but the [time limit for electing TCC](#) will be shorter than if the tribal employee or his/her former spouse provided the notification.

The notice from the tribal employer to the tribal employee's former spouse must include:

- an explanation of the former spouse's right to TCC;

- Health Benefits Election Form (SF 2809);
- how the former spouse can get additional information; and
- if there is doubt about the date of the event permitting TCC, a request for the appropriate information or documentation.

### **Sample Notice for Former Spouse**

The tribal employer must use the following sample notice of TCC rights when a tribal employee or his/her former spouse timely notifies the tribal employer:

*Dear (former spouse's name):*

*Your coverage as a family member in the Federal Employees Health Benefits (FEHB) Program ended when you were divorced or your marriage was annulled, subject to a 31-day extension of coverage (at no cost) with opportunity for conversion to an individual contract with your insurance carrier.*

*You also have the right to temporarily continue your FEHB coverage for up to 36 months after your divorce or annulment instead of converting to an individual contract at this time. You may select any plan in the FEHB Program in which to continue your coverage if you are eligible to enroll in the plan. If you choose a family enrollment, it will cover yourself and the children of both you and the tribal employee under whose FEHB enrollment you have been covered. If your former spouse still carries a family enrollment, you can enroll for self only. To continue your coverage under the Temporary Continuation of Coverage provision (TCC), you must pay the full amount of the premium (both the tribal employee and tribal employer shares) plus a 2 percent administrative charge. If you choose to continue your coverage, during the first 31 days you have the free coverage described above. The TCC enrollment and premium charges begin on the day after the 31-day period of free coverage ends. If you continue the coverage to the end of the 36-month period, you will have another 31-day extension of coverage with opportunity for conversion to an individual contract.*

*Enclosed is an election form and detailed information about your opportunity to continue your coverage. You can get additional information by calling (name of contact) at (telephone number).*

*If you want to continue your coverage, your election form must be received at the address shown below within 60 days after the date of your divorce or annulment or 65 days after the date of this notice, whichever is later. Bring or mail your election form and a certified copy of the divorce decree or another document showing your divorce date to: (enter address).*

*Sincerely,*

*(Name of appropriate tribal employer official)*

If the tribal employer gives the notice directly to the former spouse, the tribal employer should add the following note and make two copies of the notice:

*I acknowledge receipt of this notice*

*Former spouse's signature*

*Date*

If someone other than the tribal employee or former spouse notified the tribal employer of his/her loss of coverage, the sample notice's last paragraph should be replaced by the following paragraph:

*If you want to continue your coverage, your election form must be received at the address shown below within 60 days after the date of your divorce or annulment. Bring or mail your election form to: (enter address).*

### **Receipt of Notice**

The tribal employer must either give the notice directly to the person eligible for temporary continuation of coverage (TCC) or send it by first class mail. (A notice that is mailed is considered to be received 10 days after the date of the notice.) If the tribal employee, tribal employee's child, or former spouse is given the notice directly by the tribal employer, the tribal employer must require that the tribal employee acknowledge receipt by signing a copy of the notice. The signed copy must be placed in the Tribal Employer Personnel File for the tribal employee. If the notice is sent by mail, a dated copy of the notice must be filed in the Tribal Employer Personnel File.

### **Time Limits for Electing Temporary Continuation of Coverage**

- [Guardian may File](#)
- [Late Election](#)
- [Election Options](#)
- [Covered Family Members](#)
- [Election Procedures](#)

A tribal employee separating from employment with a tribal employer must submit his/her Temporary Continuation of Coverage (TCC) election to the tribal employer within 60 days after the date of his/her separation or 65 days after the date of the tribal employer's notice, whichever is later.

A tribal employee's eligible child must submit his or her TCC election to the tribal employer within either:

- 60 days after the date of the event permitting TCC, if the tribal employee did not notify the tribal employer within the required 60-day notification period (even if someone else provided notification); or,
- 65 days after the date of the tribal employer's notice, if the tribal employee notified the tribal employer within the required 60-day notification period.

A tribal employee's former spouse must submit his/her TCC election to the tribal employer by the later of:

- 60 days after the date of the tribal employee's divorce or annulment, if the tribal employee or his/her former spouse did not notify the tribal employer within the required 60-day notification period (even if someone else provided notification); or
- 65 days after the date of the tribal employer's notice, if the tribal employee or his/her former spouse notified the tribal employer within the required 60-day notification period.

If the tribal employee or the tribal employee's former spouse does not notify the tribal employer within the 60-day period, the former spouse's opportunity to elect TCC ends 60 days after the divorce or annulment.

### **Guardian May File**

A court-appointed guardian may file a temporary continuation of coverage (TCC) election on behalf of an eligible person that is unable to file because of a mental or physical disability.

### **Late Election**

The tribal employer may allow a late temporary continuation of coverage (TCC) election if it determines that the tribal employee or his/her family member was unable to elect it on a timely basis for reasons beyond his/her control. The tribal employer must accept the TCC election within 31 days after it provides notification of its decision to allow a late FEHB enrollment. Coverage is made retroactive, and retroactive premiums are due, to the date it would have been effective if elected on a timely basis.

The tribal employer cannot accept a late election when it did not receive the required notification of the tribal employee's family member's eligibility for TCC within the [time limits](#) set by law and regulation.

### **Election Options**

When a tribal employee elects Temporary Continuation of Coverage (TCC), the tribal employee may choose Self Only or Self and Family coverage in any plan or option that the tribal employee is eligible to join. The tribal employee is not limited to the plan, option, or type of FEHB enrollment under which he/she had been covered.

## Covered Family Members

If a former tribal employee has a Temporary Continuation of Coverage (TCC) Self and Family enrollment, the [eligibility requirements](#) for family members are the same as for current tribal employees.

When a tribal employee's child enrolls for Self and Family, covered family members are his/her spouse and [eligible children](#).

When a tribal employee's former spouse enrolls for Self and Family, covered family members are limited to the children of both the tribal employee and the former spouse. If the tribal employee's former spouse remarries, the new husband or wife is not covered. Stepchildren who were covered under the tribal employee's FEHB enrollment are not covered under the tribal employee's former spouse's TCC enrollment. The stepchild then becomes [eligible to enroll](#) under TCC in his/her own right because he/she is no longer a covered family member.

*Exception:* If the tribal employee's stepchild continues living with the tribal employee in a parent-child relationship after the tribal employee's divorce, the tribal employee may continue to cover the stepchild as an eligible family member.

After the initial enrollment, a TCC enrollee may change FEHB enrollment during an Open Season or when another event occurs that would allow a [change in FEHB enrollment](#).

## Election Procedures

To make a Temporary Continuation of Coverage (TCC) election, a former tribal employee or family member eligible for TCC should submit a Health Benefits Election Form (SF 2809) to the tribal employer. The tribal employer must assist the individual in completing SF 2809.

For a separated tribal employee, the tribal employer must enter the following information under Remarks: "Eligibility expires: (enter date 18 months after separation date)."

If the enrollee is a child or former spouse, NFC must enter the following information under Remarks: name, date of birth, and Social Security Number of the tribal employee (requested); the expiration date of eligibility for FEHB enrollment; and the family member's relationship to the tribal employee.

*Example:*

*Tribal Employee: Michael T. Smith, SSN 123 45 6789, DOB 12/12/55. Eligibility ends: 4/20/2015. Former spouse.*

## Effective Date of TCC Coverage

The effective date of a tribal employee's Temporary Continuation of Coverage (TCC) enrollment is the day after the [31-day extension of coverage](#) ends. The tribal employee's coverage is retroactive to that date if he/she elects TCC after the 31-day extension of coverage ends. A tribal employee is responsible to pay the carrier for premiums attributable to any retroactive period of coverage.

*Exception:* When a former spouse loses coverage in the 18 month period before the tribal employee's divorce or annulment because the tribal employee changes to a Self Only enrollment, the 31-day extension of coverage takes place after the former spouse loses coverage, not after the divorce or annulment. In this case, the former spouse's TCC enrollment is effective the day after the date of the tribal employee's divorce or annulment. Since there is a gap in FEHB coverage between the end of the 31-day extension of coverage and the beginning of the TCC enrollment, the tribal employee's former spouse may want to [convert](#) his/her coverage to an individual contract until the TCC enrollment can begin.

If a former tribal employee elects a different plan or option when the former tribal employee enrolls under TCC, and the former tribal employee or a covered family member are an inpatient in a hospital on the 31<sup>st</sup> day of the extension of coverage, coverage under the former tribal employee's old plan or option will continue for the hospitalized person for the length of the confinement, up to 60 days. The other family members' coverage will switch to the new plan or option after the 31-day extension of coverage ends.

## Length of Temporary Continuation of Coverage

- [Former Tribal Employee](#)
- [Child](#)
- [Former Spouse](#)
- [Length of Coverage Based on Event](#) Permitting TCC
- [Separating Tribal Employee](#)
- [Child or Former Spouse](#)

### Former Tribal Employee

A former tribal employee's Temporary Continuation of Coverage (TCC) eligibility time period continues up to 18 months from the date the tribal employee leaves employment.

*Example*

*Laura leaves tribal employment on February 3, 2011. She is no longer a tribal employee on February 4. Her period of TCC coverage expires on August 3, 2012.*

**Child**

A tribal employee's child's TCC eligibility time period continues for up to 36 months from the date of his/her change in status as a family member. If the change in status as a family member takes place while he/she is covered as a family member under the tribal employee's TCC enrollment as a former tribal employee, he/she is eligible to enroll under TCC in his/her own right, but the TCC enrollment cannot continue beyond 36 months after the date of the tribal employee's separation from tribal employment.

*Example 1*

*Robert's child turns 26 on April 22, 2012. She is considered to have turned 26 at midnight on April 21 and on April 22 is no longer a family member. She enrolls under TCC; her TCC eligibility ends on April 21, 2015.*

*Example 2*

*Laura separates from service on February 3, 2012. She enrolls under TCC for a Self and Family enrollment. Her child turns 26 on April 22, 2012 and enrolls under TCC. Her child's TCC eligibility ends on February 3, 2015.*

**Former Spouse**

A tribal employee's former spouse's TCC eligibility time period continues for up to 36 months from the date of the divorce or annulment that takes place before the tribal employee's separation from employment. If the tribal employee's divorce or annulment takes place while he/she is covered as a family member under the tribal employee's TCC enrollment as a former tribal employee, he/she is eligible to enroll under TCC in his/her own right, but the TCC enrollment cannot continue beyond 36 months after the date of the tribal employee's separation from service.

*Example 1*

*Paul (the tribal employee) and Betsy's divorce becomes final on December 10, 2012. Betsy is no longer a family member on December 11. She enrolls under TCC; her TCC eligibility ends on December 10, 2015.*

*Example 2*

*Maria separates from tribal employment on September 1, 2012 and enrolls under TCC for a Self and Family enrollment. On December 10, 2013, her divorce from Eugene*

*becomes final. Eugene enrolls under TCC; his TCC eligibility ends on September 1, 2015.*

### **Length of Coverage Based on Event Permitting TCC**

A tribal employee's Temporary Continuation of Coverage (TCC) eligibility time period as a former tribal employee is based on the date of the event that made the former tribal employee eligible for TCC.

### **Separating Tribal Employee**

A separating tribal employee loses regular FEHB coverage at the end of the pay period in which the tribal employee separates. Then the tribal employee has a [31-day extension of coverage](#), at no cost to the former tribal employee, before the TCC coverage begins. The former tribal employee's period of eligibility for TCC (up to 18 months) begins immediately after tribal employment ends, although the first 31 days fall under the 31-day extension of coverage provision. The former tribal employee's TCC coverage is effective on the day after the 31-day extension of coverage ends.

If the former tribal employee changes plans or options upon election of TCC, his/her FEHB enrollment in the previous plan or option will continue through the 31-day extension of coverage. The TCC FEHB enrollment in the new plan or option will become effective the day after the 31-day extension of coverage and will continue for up to 17 months.

After a former tribal employee's TCC coverage ends (except if the former tribal employee canceled his/her FEHB enrollment or the plan was discontinued), the former tribal employee is eligible for another 31-day extension of coverage at no cost to him/her, and the former tribal employee is eligible to [convert](#) to an individual contract offered by his/her health benefits plan.

#### *Example*

*Tyra separates from employment with a tribal employer on January 15, 2012. She enrolls under TCC and changes her FEHB enrollment to a different health benefits plan. Her FEHB enrollment with her previous plan continues for the first 31 days after separation. Her TCC coverage with the new plan begins on February 16, 2012. Her TCC eligibility ends on July 15, 2013. Her 31-day extension of coverage ends on August 16, 2013.*

### **Child or Former Spouse**

If the TCC enrollee is a child or former spouse of a tribal employee, he/she also has a 31-day extension of regular FEHB coverage (at no cost to him/her) before the TCC coverage begins, beginning the day after the event that caused the loss of coverage. The 36-month TCC eligibility time period begins immediately after the event, although the first 31 days

fall under the 31-day extension of coverage provision. TCC coverage is effective on the day after the 31-day extension of coverage ends, and continues for up to 35 more months.

If the child or former spouse changes plans or options upon election of TCC, his/her FEHB enrollment in the previous plan or option will continue through the 31-day extension of coverage. The FEHB enrollment in the new plan or option will become effective the day after the 31-day extension of coverage and will continue for up to 35 more months.

After the TCC coverage for a child or former spouse ends (except if he/she canceled the FEHB enrollment or the plan was discontinued), the child or former spouse is eligible for another 31-day extension of coverage at no cost to him/her, and he/she is eligible to [convert](#) to an individual contract offered by his/her health benefits plan.

*Example*

*Caroline turns age 26 on October 1, 2012 and loses coverage under her father's self and family enrollment. She elects TCC coverage and decides to enroll in the same plan that she was enrolled in under her father's coverage. Her 31-day extension of coverage ends on October 31, 2012 and her TCC eligibility time period ends on September 30, 2015. Her second 31-day extension of coverage ends on October 31, 2015.*

## **Premium Payments**

- [Nonpayment of Premiums](#)
- [Sample Notice for Delinquent Premiums](#)

There is no tribal employer contribution towards the premiums charged for a TCC enrollment. A TCC enrollee must pay the full premium charge (both tribal employee and tribal employer shares) plus a 2 percent administrative charge. Premium charges, and the TCC coverage, begin on the day after the free [31-day extension of coverage](#) ends. If the tribal enrollee elects TCC after the 31-day extension of coverage, he/she will be billed for premiums retroactive to the effective date of coverage.

Each payment is due after the month in which the TCC enrollee is covered according to the schedule established by NFC. NFC submits the premium payments it collects along to OPM.

Unlike most FEHB enrollments, the beginning and ending dates of TCC enrollments are not always the same as the beginning and ending date of a pay period. NFC must prorate the premium charge to calculate a partial monthly premium. It must determine a daily premium rate by multiplying the monthly premium rate (including the administrative charge) by 12 and dividing the result by 365.

## **Nonpayment of Premiums**

If NFC does not receive an enrollee's premium payment by the due date, it must notify the enrollee in writing that he/she must make payment within 15 days (45 days if he/she lives overseas) for his/her coverage to continue. If the enrollee does not make payment within this time frame, the enrollee is considered to have voluntarily canceled his/her FEHB enrollment effective with the last day for which the enrollee paid his/her premiums. If the enrollee does not make any payments within 60 days (90 days if he/she lives overseas) after the date of the notice, his/her FEHB enrollment ends, effective with the end of the last pay period for which the enrollee paid his/her premiums.

If a TCC enrollee's coverage is canceled because he/she did not pay his/her premiums, the enrollee is not entitled to the 31-day extension of coverage and he/she cannot convert to an individual contract. A TCC enrollee may not reenroll or be reinstated unless the enrollee was unable to make payment within the specified time frames for reasons beyond his/her control.

## **Sample Notice for Delinquent Premiums**

NFC may use the following sample notice for TCC enrollees who do not make payments on time:

*Dear (name):*

*We have not received your payment for health benefits coverage in the amount of \$ that was due on (date), and represents payment for coverage for the month of (month, year). If we do not receive the payment within 15 days after the date you receive this letter, your FEHB TCC enrollment will be terminated, effective (last day of coverage for which premiums were paid).*

*Termination of FEHB because of nonpayment of premiums is considered to be a voluntary cancellation by the enrollee. If your FEHB enrollment is canceled, you may not enroll again nor be reinstated (except as explained in the following paragraph). In addition, you will not be entitled to convert your coverage to an individual contract with your insurance carrier or to have the 31-day temporary extension of coverage.*

*If your coverage is canceled, it may be reinstated only if you were prevented by circumstances beyond your control from making the payment within the time frame specified above. You may request reinstatement by writing to the following address: (enter tribal employer address).*

*Sincerely,*

*(Name of appropriate NFC official)*

## Effective Date of FEHB Enrollment Change

Generally, an FEHB enrollment change that is made while an enrollee is covered under TCC is effective on the first day of the first pay period that begins after the date NFC receives the Health Benefits Election Form (SF 2809).

When NFC determines that a TCC enrollee was unable, for reasons beyond his/her control, to change the FEHB enrollment within the specified time limits, the enrollee may do so within 60 days after NFC tells the enrollee of its determination.

At NFC's discretion, a person with the enrollee's authorization to take health benefits actions may enroll or change the enrollee's enrollment on his/her behalf.

## Opportunities to Change A TCC Enrollment

- [Change to Self Only](#)
- [Open Season](#)
- [Change in Family Status](#)
- [Reenrollment under TCC](#)
- [Loss of FEHB Coverage or Coverage under Another Group Insurance Plan](#)
- [Move from an HMO's Service Area](#)
- [When An Enrollee Becomes Eligible for Medicare](#)

When a TCC enrollee makes a change based on one of the following events, NFC will follow the same procedures as for Federal [employees enrolled under FEHB coverage](#).

### Change to Self Only

A TCC enrollee may change his/her FEHB enrollment from Self and Family to Self Only at any time. Generally, the change is effective on the first day of the first pay period that begins after the date NFC receives the request to change the enrollment. NFC may make a change to Self Only retroactive to the first day of the pay period after the one in which the enrollee no longer had any [eligible family members](#). This type of retroactive change will be made only if the TCC enrollee requests it and NFC is satisfied that the last family member lost eligibility for coverage.

### Open Season

During Open Season, a TCC enrollee may change his/her FEHB enrollment from Self Only to Self and Family, from one plan or option to another, or make any combination of these changes.

*Exception:* if a TCC enrollee is a former spouse, the enrollee may change from one plan or option to another, but he/she cannot change from Self Only to Self and Family unless the enrollee is covering a child of both the TCC enrollee (former spouse) and the tribal employee on whose employment the coverage was based.

A TCC enrollee's Open Season enrollment change is effective January 1 of the next year. If NFC accepts a late Open Season change from the enrollee, the effective date is the same date it would have been if submitted timely, even if that means it is effective retroactively.

### **Change in Family Status**

If a TCC enrollee is a former employee or child, the enrollee may change his/her FEHB enrollment from Self Only to Self and Family, from one plan or option to another, or make any combination of these changes, when the enrollee has a [change in family status](#). The enrollee must make the FEHB enrollment change during the period beginning 31 days before and ending 60 days after the date of the change in family status.

If a TCC enrollee is a former spouse, the enrollee may change from one plan or option to another, but he/she cannot change from Self Only to Self and Family unless the enrollee is covering a child of both the TCC enrollee (former spouse) and the tribal employee on whose employment the coverage was based. These changes within the period beginning 31 days before and ending 60 days after the birth or acquisition of a child of both the enrollee and the tribal employee on whose service the TCC coverage was based.

A change that the TCC enrollee makes because of the birth or acquisition of a child is effective on the first day of the pay period in which the child is born or becomes an eligible family member.

### **Reenrollment under TCC**

If a TCC enrollment ended because the enrollee acquired regular FEHB coverage (as a tribal employee or family member), then he/she may reenroll in his/her original TCC if his/her regular FEHB coverage ends before the TCC 18 or 36-month eligibility period ends. The effective date of the reenrollment is the day following the date that his/her regular FEHB coverage ended and the enrollee's TCC coverage does not extend beyond his/her original eligibility period.

*Note: Depending on the circumstances that cause the regular FEHB coverage to end, the individual may be eligible for a new TCC enrollment period. The length of eligibility of the new TCC period may be different from the original TCC period.*

### **Loss of FEHB Coverage or Coverage under Another Group Insurance Plan**

A TCC enrollee may change his/her FEHB enrollment from Self Only to Self and Family, from one plan or option to another, or make any combination of these changes

when his/her eligible family member loses FEHB coverage or coverage under another group health plan. Except as noted, the TCC enrollee must change his/her FEHB enrollment within the period beginning 31 days before and ending 60 days after the loss of coverage. Some examples of loss of coverage are:

- loss of coverage under another FEHB enrollment because the covering enrollment was terminated, canceled, or changed to Self Only
- loss of coverage under another Federally-sponsored health benefits program
- loss of coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy
- loss of coverage under a non-Federal health plan
- loss of coverage because of termination of membership in a employee organization sponsoring or underwriting an FEHB plan
- [loss of coverage because the FEHB plan is discontinued](#).

### **Move from an HMO's Service Area**

If a TCC enrollee is enrolled in an HMO and he/she moves or becomes employed outside the HMO's service area (or, if already living or working outside this area, moves or becomes employed further away), the enrollee may change his/her FEHB enrollment. The TCC enrollee must notify NFC of the change.

### **When a Enrollee Becomes Eligible for Medicare**

A TCC enrollee may change his/her FEHB enrollment from one plan or option to another at any time beginning on the 30th day before he/she becomes eligible for Medicare. The enrollee may make a FEHB enrollment change under this event only once in a lifetime.

## **Termination of TCC Enrollment or Coverage**

An enrollee's Temporary Continuation of Coverage (TCC) enrollment will end either because his/her [eligibility period](#) ends or he/she cancels the FEHB enrollment (this includes cancellation when he/she does not [pay his/her premiums](#)). If a TCC enrollment ends because the enrollee's TCC eligibility period ends, the enrollee is entitled to the [31-day extension of coverage](#) for [conversion](#) to an individual contract.

A TCC enrollee's family member's coverage ends when his/her enrollment ends or when he/she no longer is eligible for [coverage as a family member](#). If a family member loses TCC coverage for any reason other than the enrollee's cancellation (this includes cancellation when the enrollee does not pay his/her premiums), he/she is entitled to the 31-day extension of coverage for conversion to an individual contract. If the TCC enrollee is a former tribal employee, the enrollee's family member that loses coverage is also eligible for TCC in his/her own right.

The TCC enrollment ends when the enrollee's premiums remain unpaid 60 days (90 days if he/she lives overseas) after the date of NFC's notice of nonpayment.

If the TCC enrollment ends because the enrollee didn't pay his/her premiums, it is considered to be a voluntary cancellation effective with the last day of the pay period for which the enrollee made payment. NFC must complete a Health Benefits Election Form (SF 2809) for the enrollee. In part H, which normally would have the enrollee's signature, NFC will enter "Canceled due to nonpayment of premiums." In part I, NFC will enter "N/A" in item 1, and in item 2 it will enter the effective date of the cancellation. In cases where the enrollee never made payment, NFC enters the same effective date as on the original SF 2809 enrolling the TCC member. In the Remarks section NFC enters "This cancellation voids the prior SF 2809 enrolling this individual in your plan on the date in item 2." This voiding action has the same effect as a cancellation for nonpayment of premiums.

### **31-Day Extension of Coverage and Conversion**

If a TCC enrollee loses his/her Temporary Continuation of Coverage (TCC) other than by cancellation (including cancellation by [nonpayment of premiums](#)) or discontinuance of the plan, the coverage is automatically extended for 31 days, at no cost to the enrollee. The enrollee is also entitled to [convert](#) to an individual contract with his/her health benefits carrier, without providing evidence of insurability. The enrollee is eligible for the 31-day extension of coverage and has the right to convert even if he/she is eligible to elect TCC in his/her own right (e.g., is a child of a former tribal employee and the child loses TCC coverage because he/she is no longer considered a covered family member).

### **Denial of TCC because of Involuntary Separation for Gross Misconduct**

- [General Guidelines for Gross Misconduct Determination](#)
- [Separation from Employment Must Result from Gross Misconduct](#)
- [Response](#)
- [Notification Requirements](#)

Under the law, a tribal employee is not eligible for Temporary Continuation of Coverage (TCC) when he/she is involuntarily separated from employment with a tribal employer because of gross misconduct (see 5 C.F.R. 890.1102).

The tribal employee's tribal employer must determine whether the offense for which he/she is being separated constitutes gross misconduct. The determination must be made on a case-by-case basis by tribal employer staff (employee relations, employer's legal counsel, etc.) with a knowledge of case law involving gross misconduct.

## **General Guidelines for Gross Misconduct Determination**

Generally, an offense punishable as a felony is considered gross misconduct. Lesser offenses may also be gross misconduct, depending on the circumstances. Other elements that must be considered are:

- There must be a connection between the offense and the tribal employee's job. Also, some individuals are held to a higher standard of conduct than others.
- The tribal employee must have the ability to understand the gravity of his/her conduct.
- The tribal employee's offense must be affirmative and willful, not simply negligent.

## **Separation Must Result from Gross Misconduct**

In order to be denied Temporary Continuation of Coverage (TCC) eligibility for gross misconduct, a tribal employee's separation (or resignation in lieu of separation) must be a direct result of the tribal employee's gross misconduct. If the tribal employee resigns before his/her tribal employer initiates separation procedures, the tribal employee's separation is considered voluntary and he/she is entitled to TCC. If the tribal employee resigns after receiving notice of his/her tribal employer's proposal to initiate separation procedures, but before he/she is separated from employment, the tribal employee's separation is considered to be involuntary and he/she is not entitled to TCC. If the tribal employee commits an offense that would be considered gross misconduct, but he/she is separated from employment on another basis (e.g., unsatisfactory performance), the tribal employee's separation is not due to the gross misconduct and he/she is entitled to TCC.

### *Example*

*Simon was found to have embezzled money from his tribal employer. His tribal employer notifies him that he will be separated from employment at the end of the pay period. Simon resigns the next day. He is not entitled to TCC since this is considered an involuntary separation.*

## **Notification Requirements**

When the tribal employer determines that a tribal employee's offense constitutes gross misconduct, it must notify the tribal employee in writing that it intends to deny him/her TCC eligibility. The notice must:

- give the reason for the denial;
- give the tribal employee at least 7 days to respond;
- be given to the tribal employee no later than the date of his/her separation.

This notification may be combined with other notifications required for the tribal employer's separation procedures or other procedures for actions based on misconduct.

## **Response**

A tribal employee's response may be oral or in writing. He/she is entitled to be represented by an attorney or other representative. The tribal employer must designate an official who has the authority to either make or recommend a final decision to hear the tribal employee's oral answer. If the tribal employee responds to the notice of denial, the tribal employer must issue a final decision that fully describes its findings and conclusion.

The final decision is not subject to OPM reconsideration.

## **Coordination with the Office of Workers' Compensation Programs (OWCP)**

When informed by a tribal employee or family member that a family member is losing family member status, the tribal employer is responsible for providing [notification to eligible family members](#) and for providing them with information needed to enroll in TCC. NFC will accept valid TCC enrollments for former family members previously covered under an employee's FEHB enrollment and NFC will collect premiums and maintain the former family member's TCC enrollment.

When a tribal employee is a covered compensationner and the tribal employee isn't [entitled to continue his/her FEHB coverage as a compensationner](#) upon his/her separation from employment, the tribal employer must provide the tribal employee with notification of his/her right to elect Temporary Continuation of Coverage (TCC). NFC will accept the tribal employee's enrollment and collect his/her TCC premiums in the same way as for any other separating tribal employee.

If the tribal employee is entitled to continue his/her enrollment as a compensationner, the tribal employer must handle any enrollment matters, and upon request, provide notification to eligible family members who lose family member status, accept their enrollments, and collect their premiums (through the contractual arrangements with NFC).

## **Health Benefits File**

When a person is enrolled under Temporary Continuation of Coverage (TCC), NFC will establish a health benefits file in his/her name. If the person is a former tribal employee, this file must be separate from the former tribal employee's personnel records. If the enrollee is a former spouse or child, the name of the tribal employee on whose service the TCC coverage is based must be noted on the front cover of the file.

NFC must keep the following documents in the enrollee's health benefits file:

- Copies of the Health Benefits Election forms (SF 2809) documenting the FEHB enrollment and any changes in enrollment;
- A copy of the Notice of Change in Health Benefits Enrollment (SF 2810) terminating the FEHB enrollment; and
- Copies of any correspondence or other documents related to the FEHB enrollment (e.g., NFC notice of the premium amount and payment schedule; any notice of overdue premiums; documentation of a child's mental or physical disability before age 26; a cancellation request).

The contents of the enrollee's file are subject to the provisions of the Privacy Act [5 U.S.C. 552a(b)]. An enrollee's health benefits file may be destroyed 2 years after the end of the calendar year in which his/her [TCC eligibility period expires](#).

## **When an Enrollee has TCC Coverage and Becomes Employed by an Entitled Tribal Employer**

When a person has Temporary Continuation of Coverage (TCC) and becomes employed by an entitled tribal employer, the TCC coverage stops when the person enrolls for regular FEHB coverage as a new tribal employee. Either the TCC enrollee or the new tribal employer must send a copy of the Health Benefits Election Form (SF 2809) documenting the new FEHB enrollment to NFC, with a cover letter instructing NFC to stop the TCC enrollment.

If the new tribal employee's regular FEHB coverage ends before the expiration of his/her TCC eligibility, he/she may resume the previous TCC enrollment. The enrollee will likely be eligible for a new TCC enrollment period based on his/her separation from employment. In some cases, it may be more beneficial for the enrollee to continue his/her previous TCC enrollment. This would happen when the previous TCC enrollment was for 36 months and it extends beyond the 18-month eligibility period after a tribal employee's separation from employment.

### *Example*

- *Janice is covered as a family member under her mother's FEHB enrollment. She turns age 26 on May 15, 2012, and elects TCC coverage. Her eligibility period under TCC ends on May 14, 2015 (36 months).*
- *She later becomes an eligible tribal employee and elects to carry regular FEHB coverage, so her TCC coverage is terminated. She leaves employment on April 20, 2013, and is eligible to elect TCC as a separated tribal employee. Her eligibility period would end on October 20, 2014 (18 months).*
- *She chooses instead to resume her original TCC coverage since this would give her a longer eligibility period (until May 14, 2015).*

## Chapter 9: Military Service

- [Entry Into Military Service](#)
- [Return from Military Service After Enrollment Termination](#)

### Entry into Military Service

- [30 Days or Less](#)
- [More than 30 Days](#)
- [If Separated](#)
- [In Support of Contingency Operations](#)
- [Notice Required](#)
- [Termination](#)

#### 30 days or Less

If a tribal employee enters one of the uniformed services for 30 days or less, that tribal employee's FEHB enrollment will continue without change. Tribal employer contributions will also continue, as long as the tribal employee is in pay status or until the tribal employee's military orders are changed so that the tribal employee's period of duty is more than 30 days.

#### More than 30 Days

If a tribal employee enters active duty or active duty for training in one of the uniformed services for more than 30 days, the tribal employee may continue his/her FEHB enrollment for up to 24 months. Or, if the tribal employee elects to terminate enrollment, the termination effective date must be the day the tribal employee separates from tribal employment, furloughs, or is placed on leave without pay for entering military service.

If a tribal employee elects to terminate the enrollment, the tribal employer must either promptly:

- process the Notice of Change in Health Benefits Enrollment (SF 2810) into the Tribal Insurance Processing System (TIPS) to notify the paymaster and the tribal employee's health benefits carrier that the tribal employee ended his/her enrollment. The tribal employer must also print for the tribal employee a copy of the TIPS confirmation page and keep a copy in the Tribal Employer Personnel File, or
- complete a paper Notice of Change in Health Benefits Enrollment (SF 2810) and send a copy to the paymaster. The tribal employer must distribute the appropriate copies of the SF 2810 to the tribal employee, and file a copy with the tribal employee's personnel records.

If a tribal employee keeps his/her FEHB enrollment during military service, the tribal employee may continue his/her FEHB enrollment for up to 24 months while the tribal employee is on military duty. A tribal employee is responsible for the enrollee share of the premium during this period, just like any other tribal employee in leave without pay status. Current Federal law extends the allowable period of LWOP during which FEHB coverage may be retained (normally 365 days of LWOP) by an additional 12 months. During these 24 months, a tribal employee must pay both the tribal employee and the tribal employer shares of the premium, plus an additional 2 percent of the total premium, for administrative expenses.

### **In Support of Contingency Operations**

Federal law allows the tribal employer the authority to waive the requirement that tribal employees pay their share of FEHB premiums during all or any part of the 24-month period, if eligibility requirements are met. In order to be eligible for payment of the tribal employee's share of the FEHB premium, the tribal employee must:

- be enrolled in an FEHB plan;
- be a member of a reserve component of the armed forces;
- be called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10 U.S.C.);
- be placed on leave without pay or separated from service to perform active duty; and
- serve on active duty for a period of more than 30 consecutive days.

If the tribal employer waives collection of the tribal employee share of the FEHB premium (if applicable), it must remit the full premium (tribal employee and tribal employer share) to the paymaster on a current basis.

### **If Separated**

If a tribal employee is separated from tribal employment to enter active military service, the tribal employee is considered to be on military furlough (in leave without pay status) for the 24-month period if the tribal employee continues to be [eligible for reemployment rights](#) under the Uniformed Services Employment and Reemployment Rights Act (USERRA) or similar authority. A tribal employee is entitled to continued coverage for up to 12 months in leave without pay status whether or not his/her eligibility for reemployment rights continues. To be entitled for the additional 12 months of coverage, a tribal employee must continue to be eligible for reemployment rights.

### **Notice Required**

If a tribal employee enters military service for more than 30 days, the tribal employer must give the tribal employee a notice. The notice must explain that the tribal employee's enrollment may continue for up to 24 months. The notice should advise the tribal employee of the tribal employer policy as to whether or not it will pay premiums

for the tribal employee. If not, it should explain that the tribal employee is responsible for the tribal employee share of the premiums for the first 12 months and for 102 percent of the premium afterwards. The tribal employer must advise the tribal employee that FEHB will continue unless the tribal employee elects to have it terminate. If the tribal employee elects to have the enrollment terminate, the tribal employer must either promptly:

- process the Notice of Change in Health Benefits Enrollment (SF 2810) into TIPS to notify the paymaster and the tribal employee's health benefits carrier that the tribal employee ended their enrollment. The tribal employer must also print tribal employee copies of the TIPS confirmation page and keep a copy in the Tribal Employer Personnel File, or
- complete a paper Notice of Change in Health Benefits Enrollment (SF 2810) and send a copy to the paymaster. The tribal employer must distribute the appropriate copies of the SF 2810 to the tribal employee, and file a copy with the tribal employee's personnel records.

### **Termination Effective Date**

If a tribal employee elects to terminate enrollment, the termination effective date must be the day the tribal employee separates from tribal employment, furloughs, or is placed on leave of without pay for entering military service. This applies even if part of the military service is covered by paid leave immediately followed by furlough or other leave without pay. Employees and their covered family members are entitled to a [31-day temporary extension of coverage](#) and to [convert](#) to an individual contract. The tribal employee and his/her family members are not eligible for Temporary Continuation of Coverage (TCC).

### **Return from Military Service After Enrollment Termination**

- [Not in Exercise of Reemployment Rights](#)
- [In Exercise of Reemployment Rights](#)
- [Transitional Healthcare Benefits](#)
- [In Support of Contingency Operations](#)

### **Not in Exercise of Reemployment Rights**

If a tribal employee returns from military duty after his/her enrollment is terminated, but not in the exercise of reemployment rights under USERRA or similar authority, the tribal employee may (if eligible for coverage) elect to enroll within 60 days after returning to tribal employment, the same as a new tribal employee. (If the tribal employee wants to postpone reenrollment because of eligibility for extended TRICARE benefits, please refer to the Transitional Healthcare Benefits section in this chapter.) The tribal employee may elect to enroll for Self Only or for Self and Family in either option of any plan available.

### **In Exercise of Reemployment Rights**

If a tribal employee exercises reemployment rights, under USERRA or similar authority, upon returning from military duty, the tribal employee's terminated enrollment will be reinstated on the Notice of Change in Health Benefits Enrollment (SF 2810), effective on the day the tribal employee returns to civilian duty. The tribal employer must either promptly:

- process the Notice of Change in Health Benefits Enrollment (SF 2810) into TIPS to notify the paymaster and the tribal employee's health benefits carrier that the tribal employee ended their enrollment. The tribal employer will enter in the Remarks section of TIPS that a previously terminated enrollment is being reinstated because of return from military service. The tribal employer must also print for the tribal employee a copy of the TIPS confirmation page and keep a copy in the Tribal Employer Personnel File, or
- complete a paper Notice of Change in Health Benefits Enrollment (SF 2810) and send a copy to the paymaster by mail or fax. The tribal employer will enter in the Remarks section of the SF 2810 that a previously terminated enrollment is being reinstated because of return from military service. The tribal employer must distribute the appropriate copies of the SF 2810 to the tribal employee, and file a copy with the tribal employee's personnel records.

A reinstated enrollment is effective on the day the tribal employee returns to civilian duty and is not retroactive to the date the tribal employee separated from military service. If a gap exists between the tribal employee's separation from military service and return to active employment with the tribal employer, there may also be a gap in health benefits coverage because coverage under the Uniformed Services Health Benefits Program generally ends on the day of discharge without any extension of coverage. However, the tribal employee may be eligible for transitional healthcare benefits under TRICARE for up to 180 days. (Please refer to the Transitional Healthcare Benefits section below in this chapter.)

If the tribal employee returns to employment with the tribal employer in the exercise of reemployment rights, the tribal employee may change his/her reinstated enrollment from Self Only to Self and Family, and to either option of any plan available, within 60 days after the tribal employee returns to tribal employment. If the tribal employee was not enrolled when he or she entered military duty, the tribal employee may enroll within 60 days after he or she returns to civilian service. A tribal employee's election becomes effective on the first day of the pay period that begins after the tribal employer receives the tribal employee's completed enrollment request and that follows a pay period during any part of which the tribal employee was in pay status.

### **Transitional Healthcare Benefits**

If a tribal employee exercises reemployment rights, under USERRA or similar authority, upon returning from military duty, a tribal employee may be eligible to waive

reinstatement of his/her terminated FEHB enrollment and keep his/her military health coverage under the TRICARE Transitional Assistance Management Program (TAMP) for 180 days after the tribal employee is demobilized.

Former active duty and Reserve Component members who are eligible for transitional benefits include:

- members involuntarily separating from active duty under honorable conditions and their eligible family members;
- Reserve Component members separated from active duty after being called up or ordered in support of a contingency operation for an active duty period of more than 30 days and their family members;
- members separated from active duty after being involuntarily retained in support of a contingency operation and their family members; or
- members separated from active duty following a voluntary agreement to stay on active duty for less than one year in support of a contingency operation and their family members.

Tribal employees who are not sure if they qualify for transitional benefits need to check with their military service personnel department. Those who are eligible for transitional benefits may ask their tribal employer to postpone reinstatement of their FEHB coverage from the day they are restored to their civilian position until the day after their transitional TRICARE coverage ends, or any date within this timeframe. The tribal employee should complete the Waiver of Immediate Reinstatement of FEHB. Once the tribal employee completes the waiver, the tribal employer should accept and place this information into TIPS and keep a copy in the Tribal Employer Personnel File. A sample waiver is on the next page.

**WAIVER OF IMMEDIATE REINSTATEMENT OF FEHB**

I, \_\_\_\_\_, was discharged from military service on \_\_\_\_\_ and I qualify for transitional TRICARE until \_\_\_\_\_.

I understand that, pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA), I have a right to reinstatement of my Federal Employees Health Benefits (FEHB) coverage on the day I am restored to my civilian position under appropriate authority similar to the provisions of 5 CFR part 353. However, I hereby clearly and unequivocally waive my FEHB coverage until \_\_\_\_\_.

*(You may select any date between the date you are restored to your civilian position and the day after your transitional TRICARE ends).*

I fully understand that until my FEHB enrollment is reinstated, I will not be eligible for any health benefits that would have been available to me under an FEHB plan. This waiver will be void upon my death.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

***Employees who later decide to revoke the waiver must complete this section:***

I revoke my waiver of FEHB coverage and invoke my right to immediate FEHB coverage.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## *Chapter 10: Family Members*

- [Family Members Eligible for Coverage](#)
- [Change in Family Status](#)
- [When a Court Order Requires a Tribal Employee to Provide Coverage for His/Her Children \(Children's Equity\)](#)
- [Changes that Do Not Effect FEHB enrollment](#)
- [Loss of Family Member Status](#)
- [Child Incapable of Self-Support](#)

### **Family Members Eligible for Coverage**

- [Tribal Employer Responsibilities](#)
- [General Eligibility for Coverage](#)
- [Eligible Family Members Automatically Covered](#)
- [Adopted Children](#)
- [Stepchildren](#)
- [Foster Children](#)
- [How to Get a Foster Child Covered](#)
- [Certification for Foster Children](#)
- [Effective Date](#)
- [When Coverage Ends](#)
- [Grandchildren](#)
- [When a Child is Not Considered a Foster Child](#)
- [A Child's Temporary Absences](#)
- [Parent-Child Relationship](#)
- [Relatives Who are Not Family Members](#)

### **Tribal Employer Responsibilities**

The tribal employer is responsible for making decisions about whether a family member is eligible for coverage. If the carrier of the health benefits plan has any questions about whether someone is an eligible family member, it may ask the tribal employer or the tribal employee for more information. The carrier must accept the tribal employer's decision on the family member's eligibility. The tribal employer can contact OPM for assistance in making difficult determinations.

### **General Eligibility for Coverage**

Family members eligible for coverage under a Self and Family enrollment are the tribal employee, the tribal employee's spouse (from a legally valid marriage including a common law marriage in States where such marriages are recognized), and the tribal employee's children under age 26, including legally adopted children, recognized natural (born out of wedlock) children and stepchildren.

On June 26, 2013, the Supreme Court ruled that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional. As a result of the Supreme Court's decision, legally married same-sex spouses are now eligible family members. The same benefits that are currently available to opposite-sex spouses of Federal employees and annuitants are now available to same-sex spouses. Coverage is available to a legally married same-sex spouse of a Federal employee or annuitant, regardless of his or her state of residency.

In addition, the children of same-sex marriages will be treated in the same manner as those of opposite-sex marriages and will be eligible family members according to the same eligibility guidelines. This includes coverage for children of same-sex spouses as stepchildren.

Foster children are included if they meet the requirements listed under Foster Children:

- the child must be under age 26 (if the child is age 26 or over, he/she must be incapable of self-support);
- the child must currently live with the tribal employee;
- the [parent-child relationship](#) must be with the tribal employee, not the child's biological parent;
- the tribal employee must currently be the primary source of [financial support](#) for the child; and
- the tribal employee must expect to raise the child to adulthood.

A child age 26 or over who is [incapable of self-support](#) because of a mental or physical disability that existed before age 26 is also an eligible family member. In determining whether the child is a covered family member, the tribal employer will look at the child's relationship to the tribal employee.

A grandchild is not an eligible family member, unless the child qualifies as the tribal employee's foster child.

Special rules apply to family members if enrolled under the [temporary continuation of coverage](#) (TCC) provisions.

### **Eligible Family Members Automatically Covered**

When a tribal employee enrolls for Self and Family, this automatically includes all [eligible members of their family](#). If the tribal employee does not list an eligible family member on the Health Benefits Election Form (SF 2809) or other FEHB enrollment request, that person is still entitled to coverage. However, there may be a delay in

receiving benefits if the carrier is not aware of the family member. If a person who is not an eligible family member is listed, the tribal employer needs to explain why the person is not eligible for coverage and needs to remove the name from the list. The listing of an [ineligible person](#) on the SF 2809 does not entitle him/her to benefits. The tribal employer should only include information on eligible family members when the Tribal Benefits Officer enters the data in TIPS to forward FEHB enrollment data to NFC on the electronic Health Benefits Election Form (SF 2809).

### **Adopted Children**

Applicable State law governs whether a child has been adopted. The child is adopted if the adoption decree is final. The child also is considered adopted if the adoption decree is interlocutory and State law provides that the rights of the child generally are the same as those of an adopted child.

### **Stepchildren**

In general, a tribal employee's spouse's legitimate or adopted child, or child born out of wedlock is considered to be a stepchild. However, a spouse's stepchild (by a previous marriage) is not the tribal employee's stepchild.

Generally, a tribal employee's stepchild does not need to live with the tribal employee in order to be an eligible family member.

*Exception:* A tribal employee's stepchild remains a stepchild and an eligible family member after the tribal employee's divorce from, or the death of, the stepchild's natural parent, only if the stepchild continues to live with the tribal employee in a regular parent-child relationship.

Once the tribal employee's stepchild turns age 26, that stepchild is eligible for coverage under [temporary continuation of coverage](#) (TCC) provisions because he/she no longer meets the definition of an eligible child.

If a tribal employee divorces and his/her former spouse is eligible to enroll under TCC provisions, only the natural or adopted children of both the tribal employee and the former spouse are covered under the former spouse's Self and Family enrollment. A tribal employee's stepchildren are not covered even though they may have been covered previously by the tribal employee's Self and Family enrollment. However, they may qualify for a TCC enrollment of their own.

### **Foster Children**

#### **Requirements**

To be considered a foster child for health benefits purposes:

- the child must be under age 26 (if the child is age 26 or over, he/she must be [incapable of self-support](#) due to a condition that existed prior to age 26);
- the child must currently live with the tribal employee;
- the [parent-child relationship](#) must be with the tribal employee, not the child's biological parent;
- the tribal employee must currently be the primary source of [financial support](#) for the child; and
- the tribal employee must expect to raise the child to adulthood.

The tribal employee doesn't need to be related to the child nor does he/she need to legally adopt the child. As long as the above requirements are met, the tribal employee may have a foster parent-child relationship even when:

- the child's natural parents are alive;
- the child's natural parent lives with the tribal employee; or
- the child receives some support from sources other than the tribal employee (for example, social security payments or support payments from a parent).

Common examples of a foster parent-child relationship are:

- A child, whose parents have died, is living with and being supported by, a close relative who is a tribal employee.
- A child who is living with and financially dependent on a grandparent who is a tribal employee. (The natural parent of the child may also be a dependent.)
- A child living with a tribal employee under a preadoption agreement.
- A child who is in the legal custody of a tribal employee.

### **How to Get a Foster Child Covered**

For a tribal employee's foster child to be covered under their FEHB enrollment, the tribal employee must provide the tribal employer with documentation of the tribal employee's regular and substantial support of the child; a certification stating that the tribal employee's foster child meets all the [requirements](#) and that the tribal employee will notify the tribal employer if the foster child moves out of the home to live with a biological parent, or stops being financially dependent on the tribal employee.

### **Certification for Foster Children**

Provided below is the certification form that a tribal employee must complete to establish his/her foster child's eligibility for coverage as a family member. After completion, the tribal employee needs to provide the certification to the tribal employer. The tribal employer must file the original statement in the Tribal Employer Personnel File for the tribal employee.

### CERTIFICATION FOR FOSTER CHILDREN

I have been informed of the following requirements for coverage of a foster child under the Federal Employees Health Benefits Program:

1. The child must be under age 26. (If the child is age 26 or older, he/she can only be covered if he/she is incapable of self-support because of a disabling condition that began before age 26. I must provide documentation of this to my tribal employer.);
2. The child must currently live with me;
3. I must currently be the primary source of financial support for the child;
4. The parent-child relationship must be with me, not with the biological parent. This means that I am exercise parental authority, responsibility, and control. I care for, support, discipline, and guide the child. I make the decisions about the child's education and health care; and
5. I must expect to raise the child into adulthood.

I understand that if the child moves out of my home to live with a biological parent, he/she loses coverage and cannot ever again be covered as a foster child unless the biological parent dies, is imprisoned, or becomes incapable of caring for the child due to a disability, or unless I obtain a court order taking parental responsibility away from the biological parent.

This is to certify that: \_\_\_\_\_ (name of child) lives with me; I am the primary source of financial support for this child; I have a regular parent-child relationship with this child, as described above; and I intend to raise this child into adulthood.

I have provided my employing agency proof of my regular and substantial support for \_\_\_\_\_ (name of child).

I will immediately notify both my tribal employer and the health benefits carrier if this child moves out of my home, or ceases to be financially dependent on me.

(Print name of tribal employee)

(Social Security Number)

(Signature of tribal employee)

(Date)

#### Effective Date

The effective date of a foster child's coverage as a family member is the first day of the pay period in which the tribal employer receives all of the properly completed documents

that establish the eligibility of the child as a foster child. When the foster child's mother is an eligible family member under the tribal employee's FEHB enrollment, the tribal employee may request that the effective date be the first day of the pay period in which the child is born.

### **When Coverage Ends**

A foster child's coverage continues until he/she is no longer living with the tribal employee, reaches age 26, becomes [capable of self-support](#) if age 26 or above and previously determined by the tribal employer or OPM to be incapable of self-support because of a medical condition that existed prior to age 26.

If the tribal employee's foster child moves out of his/her home to live with a biological parent, the child cannot again be covered as a foster child unless:

- the biological parent dies;
- the biological parent is imprisoned;
- the biological parent becomes unable to care for the child due to a disability; or
- the tribal employee obtains a court order for custody that takes parental responsibility from the biological parent and gives it to the tribal employee.

### **Grandchildren**

Grandchildren are not eligible family members. However, a grandchild can qualify as a foster child if all the [requirements](#) are met.

### **When a Child is Not Considered a Foster Child**

A child who has been placed in the tribal employee's home by a welfare or social service agency under an agreement where the welfare or social service agency retains control of the child or pays for maintenance does not qualify as a foster child because there is no regular [Parent-Child Relationship](#). A child living temporarily with the tribal employee as a matter of convenience does not qualify as a foster child. For example, a child who lives with the tribal employee only while attending school normally does not qualify as a foster child because this is considered an arrangement of convenience.

Since it is impossible to cover every family situation, it may be necessary for the Tribal Benefits Officer to contact OPM for assistance in making difficult determinations.

### **A Child's Temporary Absences**

If a [foster child](#) temporarily lives elsewhere while attending school or for other reasons, the child is still considered to be an eligible family member if he/she is otherwise living with the tribal employee in a regular [Parent-Child Relationship](#). A foster child who lives with the tribal employee at least 6 months of a year under a court order directing shared

custody may be considered living with the tribal employee in a regular Parent-Child Relationship.

### **Regular Parent-Child Relationship**

A “regular Parent-Child Relationship” means that the tribal employee is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and health care.

### **Relatives Who are Not Family Members**

A tribal employee’s parents and other relatives are not [eligible family members](#), even if they live with and are dependent upon the tribal employee.

## **Change in Family Status**

- [Election Opportunities](#)
- [Events Considered to be Changes in Family Status](#)

### **Election Opportunities**

When a tribal employee has a change in family status, including a change in marital status, the tribal employee may enroll, change from Self Only to Self and Family, or change from one plan or option to another. The tribal employee must submit his/her FEHB enrollment change from 31 days before to 60 days after the change in family status.

Certain restrictions apply if the tribal employee is enrolled under [temporary continuation of coverage](#) (TCC) provisions.

### **Events Considered to be Changes in Family Status**

Generally, a change in family status is an event that adds to or decreases the number of a tribal employee’s family members. Certain other events are also considered changes in family status. The following events are considered a change in family status for health benefits purposes:

- the tribal employee’s marriage, including a valid common law marriage (in accordance with applicable State or sovereign Indian nation law) or marriage recognized;
- birth of a tribal employee’s child;
- a tribal employee’s legal adoption of a child under age 26 or the acquisition of a [foster child](#) under age 26;

- the tribal employee's child under age 26 or spouse enters into or is discharged from military service;
- issuance or termination of a court order granting to the tribal employee or his/her spouse a final divorce, interlocutory divorce, limited divorce, legal separation, or separate maintenance;
- issuance of a court decree of annulment, or in the case of a marriage void from its beginning (ab initio) also a declaratory judgment, or conviction of the spouse of bigamy;
- issuance of a court order specifically requiring the tribal employee to enroll for his/her children or provide health benefits protection for them;
- the death of the tribal employee's spouse, including a declaration by a court that the tribal employee's missing spouse is presumed dead.

### **When a Court Order Requires a Tribal Employee to Provide Coverage for His/Her Children (Children's Equity)**

- [Court/Administrative Orders](#)
- [Tribal Employer Review](#)
- [If a Tribal Employee Doesn't Have Self and Family Coverage or Coverage that Provides Full Benefits in the Area Where the Children Live](#)
- [Sample Notice](#)
- [What Happens If the Employee Doesn't Enroll or Provide Documentation of Other Coverage by the Due Date?](#)
- [How the Tribal Employer Enrolls a Tribal Employee Involuntarily](#)
- [What is the Effective Date If a Tribal Employee Is Enrolled Involuntarily?](#)
- [How Does the Tribal Employer Identify a Tribal Employee's Eligible Family Members?](#)
- [What Happens If a Tribal Employee Goes into a Nonpay Status or his/her Pay is Insufficient to Make the Withholdings?](#)
- [If the Tribal Employer Enrolls a Tribal Employee, Can the Tribal Employee Later Make FEHB enrollment Changes?](#)
- [How Long Must the Tribal Employee Keep the Self and Family FEHB Enrollment?](#)
- [What If a Tribal Employer Gets More Than One Court/Administrative Order for a Tribal Employee?](#)

Public Law 106-394 requires mandatory Self and Family coverage if a tribal employee is eligible for FEHB coverage and the tribal employee does not comply with a court or

administrative order to provide health benefits for his/her children. If the tribal employee is subject to such an order, the tribal employee must enroll in Self and Family coverage in a plan that provides full benefits to his/her children in the area where they live or provide documentation that he/she has other health coverage for the children.

If the tribal employee does not enroll in an appropriate health plan or provide documentation of other coverage for the children, the tribal employer must enroll the tribal employee for Self and Family coverage in the lower option of the Blue Cross and Blue Shield Service Benefit Plan (FEHB enrollment code 112).

### **Court/Administrative Orders**

The court or administrative order can be submitted by anyone, including the custodial parent, an attorney for the custodial parent, and the State administrative agency that issues the order.

If the court order deals only with health benefits, it does *not* have to be certified. If the court order also deals with life insurance benefits, then it *does* have to be certified. Administrative orders come from State child support agencies, and will not be certified.

### **Tribal Employer Review**

The tribal employer must review the tribal employee's records to determine whether the tribal employee is eligible for FEHB and, if so, whether the tribal employee is enrolled in a Self and Family plan that provides full benefits in the location where his/her children live. If the tribal employee has such coverage, the tribal employer will notify whoever sent in the court/administrative order. It will send a copy of the tribal employee's SF 2809 to the health benefits carrier, along with a copy of the court/administrative order to notify the carrier of the additional family members being covered under the Self and Family enrollment.

The tribal employer will file the order in the Tribal Employer Personnel File for the tribal employee, and flag the folder or other file in some manner that it will know the file contains a court/administrative order relating to health benefits.

### **If the Tribal Employee Doesn't Have Self and Family Coverage or Coverage that Provides Full Benefits in the Area Where the Children Live**

If the tribal employee is eligible for FEHB but doesn't have the appropriate coverage, the tribal employer needs to notify the tribal employee that it has received a court order requiring the tribal employee to provide health benefits for his/her children. The tribal employer will give the tribal employee until *the end of the pay period following the one in which the tribal employer gets the notice* to enroll in an appropriate health plan or the tribal employee provides documentation that he/she has other health benefits for the children.

The tribal employer must use the following sample notification.

### **Sample Notice**

Dear [*Tribal employee's name*]:

We have received a [*court/administrative*] order stating that you must provide health benefits for your child[*ren*]. You are not currently enrolled in Self and Family coverage under the Federal Employees Health Benefits (FEHB) Program in a health plan that provides full benefits in the area where your child[*ren*] live[*s*].

Pub. L. 106-394 requires tribal employers to ensure that tribal employees comply with the terms of such court and administrative orders. You must enroll in Self and Family coverage in a plan that provides full benefits where your child[*ren*] live[*s*] or provide documentation that you have other health benefits for your child[*ren*] by [*insert date that is the last day of the pay period following the one in which this notice is issued*].

If you do not enroll or provide documentation of other coverage for your child[*ren*] by [*repeat date from paragraph above*], we will enroll you for Self and Family coverage under the lower option of the Blue Cross and Blue Shield Service Benefit Plan.

As long as the [*court/administrative*] order remains in effect and your child[*ren*] [*is/are*] eligible under the FEHB Program, you must continue Self and Family coverage in a plan that provides full benefits where your child[*ren*] live[*s*], unless you provide documentation that you have obtained other coverage.

Sincerely,

[*Signature, name, and title of appropriate official*]

[*In addition to sending a copy to the tribal employee, keep a copy in the Tribal Employer Personnel File for the tribal employee or other record.*]

### **What Happens If a Tribal Employee does not Enroll or Provide Documentation of Other Coverage by the Due Date?**

If the tribal employee does not enroll in an appropriate plan or provide documentation of other coverage for the children, the tribal employer will enroll the tribal employee as follows:

#### **If the Tribal Employee Is Not Enrolled at All**

If the tribal employee is not enrolled for any FEHB coverage, the tribal employer will enroll the tribal employee for Self and Family coverage in the lower option of the Blue Cross and Blue Shield Service Benefit Plan (enrollment code 112).

### **If the Tribal Employee Has Self Only Coverage**

If the tribal employee has a Self Only enrollment in a fee-for-service plan, the tribal employer will change the tribal employee's FEHB enrollment to Self and Family in the same option of the same plan.

If the tribal employee has a Self Only enrollment in an HMO, and the HMO serves the area where the tribal employee's children live, the tribal employer will change the tribal employee's FEHB enrollment to Self and Family in the same option of the same plan.

If the tribal employee has a Self Only enrollment in an HMO, and the HMO does *not* serve the area where the children live, the tribal employer will change the tribal employee's FEHB enrollment to Self and Family in the lower option of Blue Cross and Blue Shield Service Benefit Plan.

### **If the Tribal Employee has Self and Family Coverage in an HMO That Doesn't Serve the Area Where His/Her Children Live**

If the tribal employee already has a Self and Family enrollment, but it's in an HMO that doesn't serve the area where his/her children live, the tribal employer will change the tribal employee's FEHB enrollment to Self and Family in the lower option of Blue Cross and Blue Shield Service Benefit Plan.

### **How the Tribal Employer Enrolls a Tribal Employee Involuntarily**

If the tribal employer needs to enroll a tribal employee involuntarily, it will complete a Health Benefits Election form (SF 2809) with the tribal employee's identifying information. Use event code 1C (Change in family status). In the signature block in Part G, write "See Remarks." In the remarks block in Part I, write "Being enrolled for Self and Family coverage involuntarily under Pub. L. 106-394."

The tribal employer must send a copy of the SF 2809 to NFC with a copy of the court/administrative order. Send the tribal employee's copy of the SF 2809 to the custodial parent, along with a plan brochure, and make a copy for the tribal employee.

### **What is the Effective Date If a Tribal Employee is Enrolled Involuntarily?**

In most cases, the effective date will be the first day of the pay period following the one in which the tribal employer completes the SF 2809.

#### *Example*

*Chester's tribal employer receives an administrative order on July 14, 2012, saying that he must provide health benefits for his two children. Chester does not have any FEHB coverage. His tribal employer notifies him that he has until August 31, 2012 (the end of the following pay period) to enroll or provide documentation that he has other coverage*

*for them. He does not respond. September 1, 2012 Chester's tribal employer completes an SF 2809 enrolling him for Self and Family coverage in the lower option of Blue Cross and Blue Shield Service Benefit Plan. The effective date would be October 1, 2012 (the first day of the next pay period).*

Exception: There is one instance in which the FEHB enrollment would be retroactive, and that's if the court/administrative order specifies an effective date. In this case, the tribal employer must make the FEHB enrollment retroactive to the beginning of the pay period that includes that effective date, but no further back than 2 years or the date the tribal employee first became eligible to enroll in the FEHB, whichever is later. This is providing that the tribal employer was a participant in the FEHB.

### **How Does the Tribal Employer Identify Eligible Family Members?**

Usually the court/administrative order will have the names and birthdates of the children. If the order does not have this information, the tribal employer will leave item 12 on the SF 2809 blank. The health plan will obtain the information from the custodial parent.

### **What Happens If the Tribal Employee Goes into a Nonpay Status or His/Her Pay is Insufficient to Make the Withholdings?**

The provisions of 5 CFR 890.502(b) apply (see "[Leave Without Pay Status and Insufficient Pay](#)"). However, in this case, tribal employees do not have the option of terminating coverage. A tribal employee must continue the coverage and either make direct premium payments or incur a debt to the tribal employer.

### **If the Tribal Employer Enrolls the Tribal Employee, Can the Tribal Employee Later Make FEHB enrollment Changes?**

If the tribal employee is involuntarily enrolled and the tribal employer finds that circumstances beyond the tribal employee's control prevented the tribal employee from making his/her own FEHB enrollment election, the tribal employee may change the FEHB enrollment prospectively within 60 days after the tribal employer advises the tribal employee in writing of its finding. Otherwise, it depends on the FEHB enrollment change the tribal employee wants to make. During Open Season or when the tribal employee has an [event that allows an FEHB enrollment change](#), the tribal employee can change to a different fee-for-service plan or to an HMO that provides full benefits where his/her children covered under the court/ administrative order live.

However, the tribal employer *cannot* (even during Open Season) allow a tribal employee to:

- cancel his/her FEHB enrollment,
- change to Self Only, or
- change to an HMO that doesn't provide coverage in the area where the tribal employee's children covered under the court/administrative order live,

as long as the court/administrative order is still in effect and the children are [eligible](#) under the FEHB Program (unless the tribal employee provides documentation that he/she has other coverage for the children). This applies whether the tribal employee is enrolled voluntarily or involuntarily. If the tribal employee submits an SF 2809 making such an FEHB enrollment change, the tribal employer will not process it. If it gets processed by mistake, the tribal employer will void it. The tribal employer will notify the tribal employee that he/she cannot make the change and that the tribal employee's existing Self and Family enrollment will remain in effect.

### **How Long Must the Tribal Employee Keep the Self and Family Enrollment?**

If the court/administrative order does not specify a time limit on the coverage, the tribal employee must keep the Self and Family enrollment until the last child reaches age 26.

If the court/administrative order states that coverage must continue until a specific age--and that age is age 26 or over--the coverage must continue until the last child reaches age 26. Unless they meet the requirements for being incapable of self-support, children cannot continue FEHB coverage beyond age 26, regardless of what the court/administrative order says.

If the court/administrative order states that the coverage must continue until a specific age--and that age is below age 26--the tribal employee may cancel the coverage or change to Self Only as follows:

#### **If the Tribal Employee Participates in Premium Conversion**

If the tribal employer participates in premium conversion, the tribal employee may cancel or change to Self Only the Open Season following when the child reaches the age stated in the court/administrative order.

#### **If the Tribal Employee Waived Premium Conversion**

If the tribal employer participates in premium conversion, the tribal employee may cancel or change to Self Only at any time after the last child reaches the age stated in the court/administrative order.

### **What If a Tribal Employer Gets More Than One Court/Administrative Order for a Tribal Employee?**

A Self and Family enrollment automatically covers all eligible family members. If a tribal employee is subject to a court/administrative order, and another court/administrative order is filed relating to a different child (or children), that child is automatically covered under the tribal employee's existing Self and Family enrollment.

The tribal employer will send the tribal employee's health plan a copy of the subsequent court/ administrative order, along with a copy of the SF 2809 marked "Duplicate" in the Remarks field or TIPS confirmation page.

If a tribal employee is enrolled in an HMO, and the children mentioned in the subsequent court/administrative order live in an area that the HMO doesn't serve, the tribal employer must notify the tribal employee and give the tribal employee a chance to choose a different health plan. If the tribal employee doesn't change plans, the tribal employer will change the tribal employee's FEHB enrollment to the lower option of Blue Cross and Blue Shield Service Benefit Plan (enrollment code 112). The tribal employer will attach copies of all court/administrative orders to the SF 2809 and send a copy of all to the health plan.

## Changes that Do Not Affect FEHB Enrollment

- [Family Members](#)
- [Name Changes](#)

### Family Members

Tribal employees do not need to report to the tribal employer any change in the number of family members that doesn't affect the tribal employee's health benefits enrollment. However, the carrier of the tribal employee's plan may request this information, including evidence of family relationship.

A tribal employee's FEHB enrollment is not affected when:

- a child is born when the tribal employee already has a Self and Family enrollment;
- the tribal employee's spouse dies or the tribal employee divorces and has children still covered under his/her Self and Family enrollment;
- the tribal employee's child reaches age 26, and the tribal employee has other children or a spouse still covered under his/her Self and Family enrollment. (If a tribal employee wants [temporary continuation of coverage](#) (TCC) or a [conversion contract](#) for a child, the tribal employee must inform the tribal employer of his/her child's loss of FEHB eligibility within 60 days.)

### Name Changes

If a tribal employee changes his/her name for any reason, the tribal employer must report the change to the carrier of the tribal employee's plan. If no other changes are involved (e.g., the tribal employee legally changes his/her name, or changes his/her name upon marriage but keeps his/her Self Only enrollment), the tribal employer reports the name change on the Notice of Change in Health Benefits Enrollment (SF 2810).

A tribal employee is also eligible to [change his/her FEHB enrollment upon marriage](#). (Note: If the tribal employee's spouse is a Federal employee or an entitled tribal employer's employee with a Self and Family enrollment, the spouse is automatically covered as a family member under that FEHB enrollment, and one employee generally must [cancel his/her FEHB enrollment](#) to avoid dual enrollment.) If a tribal employee changes his/her FEHB enrollment, the tribal employee must submit a new Health Benefits Election Form (SF 2809) and reflect his/her new name when applicable, showing the tribal employee's former name in the Remarks section of the form.

### **Loss of Family Member Status**

When a family member loses coverage because he/she is no longer an [eligible family member](#), he/she will be entitled either to [temporary continuation of coverage](#) (TCC) or to convert to an individual policy with the carrier of the tribal employee's plan. If the tribal employee is divorcing, his/her former spouse is eligible for coverage under the [TCC](#) provisions.

### **When a Family Member is no Longer Eligible**

A family member immediately loses eligibility for coverage under a tribal employee's Self and Family enrollment when:

- A divorce decree is final (according to State law);
- A child reaches age 26, unless he/she is [incapable of self-support](#); or
- A [foster child](#) stops living with a tribal employee in a regular [Parent-Child Relationship](#).

### **Child Incapable of Self-Support**

- [Coverage](#)
- [Requirements](#)
- [Determination of Incapacity for Self-Support](#)
- [When Tribal Employer Must Make Determination](#)
- [When Carrier May Approve Coverage](#)
- [Medical Certificate](#)
- [When to Submit Certificate](#)
- [Use of Physicians](#)
- [Duration and Approval of Incapacity for Self-Support](#)
- [Renewal of Medical Certificate](#)
- [Late Certificates](#)

## Coverage

A tribal employee's Self and Family enrollment covers a child age 26 or over who is incapable of self-support because of a physical or mental disability that existed before the child reached age 26.

## Requirements

A child age 26 or over may be considered incapable of self-support only if his/her physical or mental disability is expected to continue for at least one year and, because of the disability, he/she isn't capable of working at a self-supporting job.

A disability such as blindness or deafness isn't qualifying in itself because it doesn't necessarily make someone incapable of self-support. The onset of a disease before age 26 that doesn't result in incapability for self-support until age 26 or after doesn't qualify a child for continued coverage as a family member.

## Determination of Incapacity for Self-Support

### When a Tribal Employer Must Make a Determination

The tribal employer is responsible for determining whether a tribal employee's dependent child age 26 or over is incapable of self-support because of a mental or physical disability that began before age 26 and for notifying the carrier of the tribal employee's plan of its determination. If the child's [medical condition is listed below](#), the carrier may also approve coverage.

A dependent child is incapable of self-support when:

- he/she is certified by a state or federal rehabilitation agency as unemployable;
- he/she is receiving: (a) benefits from Social Security as a disabled child; (b) survivor benefits from CSRS or FERS as a disabled child; or (c) benefits from Workers' Compensation as a disabled child;
- a medical certificate documents that: (a) the child is confined to an institution because of impairment due to a medical condition; (b) the child requires total supervisory, physical assistance, or custodial care; or (c) treatment, rehabilitation, educational training or occupational accommodation has not and will not result in a self-supporting individual;
- a [medical certificate](#) describes a disability that appears on the [list of medical conditions](#); or
- the tribal employee submits acceptable documentation that the medical condition is not compatible with employment, that there is a medical reason to restrict his/her child from working, or that he/she may suffer injury or harm by working.

If the child earns some income (generally no more than the equivalent of the GS 5, step 1), it doesn't necessarily mean that he/she is capable of self-support. The tribal employer

must take both the child's earnings and condition or prognosis into consideration when determining whether he/she is incapable of self-support.

### **When Carrier May Approve Coverage**

If the tribal employee's child has a [medical condition listed](#), and he/she had the condition before reaching age 26, the tribal employee doesn't need to ask the tribal employer for approval of continued coverage after the child reaches age 26. The carrier of the tribal employee's health benefits plan may approve continued coverage to the child without referring the tribal employee to the tribal employer.

When the carrier determines a child's incapacity for self-support, it sends the approval notice to the tribal employee and advises the tribal employee to give a copy of the notice to the tribal employer. The tribal employer must file it with a tribal employee's other health benefits enrollment documentation in the Tribal Employer Personnel File for the tribal employee.

### **List of Medical Conditions that would Cause a Child to be Incapable of Self-Support During Adulthood**

If a child has one of the following disabilities noted in the [medical certificate](#), and the disability began before age 26, the tribal employer or health benefits carrier can automatically extend continued coverage.

- AIDS - CDC classes A3, B3, C1, C2, and C3 (not seropositivity alone)
- Advanced Muscular Dystrophy
- Any malignancy with metastases or which is untreatable
- Chronic Hepatic Failure
- Chronic neurological disease, whatever the reason, with severe mental retardation or neurologic impairment, for example:
  - Cerebral Palsy
  - Ectodermal Dysplasia
  - Encephalopathies
  - Uncontrollable Seizure Disorder
- Chronic Renal Failure
- Inborn errors of Metabolism with complications such as the following:
  - Adrenoleukodystrophy
  - Gaucher disease
  - Glycogen storage diseases
  - Homocysteinuria
  - Lesch-Nyhan disease
  - Mucopolysaccharide disease
  - Nieman-Pick disease
  - Phenylketonuria
  - Primary hyperoxaluria
  - Tay-Sachs disease

- Mental Retardation with IQ of 70 or less
- Osteogenesis Imperfecta
- Severe acquired or congenital Heart Disease with decompensation which is not correctable
- Severe Autism
- Severe Juvenile Rheumatoid Arthritis
- Severe Mental Illness requiring prolonged or repeated hospitalization
- Severe Organic Mental Disorder
- Xeroderma Pigmentosa

*This list does not include all the disabilities that would cause a child to be incapable of self-support.*

### **Medical Certificate**

The child's doctor must complete a medical certificate for the tribal employer to make its determination of incapacity of self-support. The certificate must state that the child is incapable of self-support because of a physical or mental disability that existed before he/she became age 26 and that can be expected to continue for more than one year. In addition, the certificate must include the following information:

- the child's name and birth date;
- the type of disability;
- the period of time the disability has existed and the date the impairment began;
- diagnosis and history of the specific medical condition(s), references to findings from previous examinations, treatment and responses to treatment;
- clinical findings from the most recent physical examination, including objective findings of physical examination, results of laboratory tests, x-rays, EKG's and other special evaluations or diagnostic procedures, and, in the case of psychiatric disease, the findings of mental status examinations and the results of psychological tests;
- assessment of the current clinical status and plans for future treatment;
- assessment of degree to which the medical condition has become static or stabilized and an explanation of the medical basis for the conclusion;
- the probable future course and duration of the disability, including an estimate of the expected date of full or partial recovery;
- the special supervisory, physical assistance, or custodial care requirements of the child;
- any treatments, rehabilitation programs, educational training or occupational accommodation that would result in the child becoming self-supporting; and
- the doctor's name, signature, office address and telephone number.

### **When to Submit Certificate**

A tribal employee may submit the [medical certificate](#) to the tribal employer when the tribal employee first enrolls or at any time in which the child is covered under his/her Self and Family FEHB enrollment, but no later than 60 days before the child reaches age 26.

If the tribal employer determines that the child is incapable of self-support, the tribal employer must notify the carrier of the tribal employee's plan by letter, before the child reaches age 26. The letter must identify the tribal employee by name and social security number, and state the name and date of birth of the disabled child as well as the duration of the approval. The tribal employer will send the letter to the carrier. The tribal employer will not send the medical evidence used in the determination to the carrier, but the tribal employer will attach it to the tribal employee's most recent Health Benefit Election form (SF 2809) or other FEHB enrollment request in the Tribal Employer Personnel File for the tribal employee.

If the tribal employee has a new FEHB enrollment, the tribal employer will note its determination of incapacity of self-support in the Remarks section of the tribal employee's SF 2809.

### **Use of Physicians**

In making its medical determinations, the tribal employer must use a physician's services if available, unless the child's condition is one for which the tribal employer can [automatically extend continued coverage](#). In doubtful cases, or if no physician is available, the tribal employer may request assistance from: Office of Personnel Management, Healthcare and Insurance, P.O. Box 436, Washington, D.C. 20044.

### **Duration and Approval of Incapacity for Self-Support**

Depending on the child's [medical certificate](#), the tribal employer may approve coverage due to disability for a limited period of time (1 year, for example), or without time limitation (permanent).

### **Renewal of Medical Certificate**

If the tribal employer approves the child's [medical certificate](#) for a limited period of time, the tribal employer must remind the tribal employee, at least 60 days before the date the certificate expires, to submit either a new certificate or a statement that the certificate will not be renewed. If it is renewed, the tribal employer must notify the carrier of the tribal employee's plan of the new expiration date [by letter](#).

### **Failure to Renew Certificate**

If a tribal employee does not renew a [medical certificate](#) for a disabled child age 26 or over, the child's status as a family member automatically ends and he/she is no longer

covered. The tribal employer must notify the tribal employee and the carrier of the tribal employee's plan that the child is no longer covered.

### **Late Certificates**

If a tribal employee submits a [medical certificate](#) for a child after a previous certificate has expired, or after the child reaches age 26, the tribal employer must determine whether the disability existed before age 26. If the tribal employer determines that it did, and the tribal employee continuously had a Self and Family enrollment, the child is considered to have been a covered family member continuously since age 26.

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## **CHAPTER 11 – FINANCE**

Tribal employers are responsible for paying the entire premium for their tribal employees enrolled in the Federal Employees Health Benefit (FEHB) Program. Tribal employers are solely responsible for collecting their tribal employees' share of the premium amount. Tribal employers are required to pay, at a minimum for each tribal employee, the same percentage as Federal agencies are required to pay for active non-postal employees, which is approximately 72 to 75 percent of average premiums. For more information about shared cost and tribal employer contribution, see Chapter 2, Cost of Insurance.

Premiums are paid in arrears. For example, on the first business day of May a tribal employer must have adequate funds in its bank account to pay the premium amount for coverage extended during April.

The tribal employer will collect premiums from enrolled tribal employees and deposit the funds in a bank account, together with the tribal employer's contribution, from which the paymaster will withdraw payment, on a monthly basis, to pay for the prior month's insurance coverage. The bank account must be able to handle automated clearinghouse (ACH) transactions such as an electronic funds transfer (EFT). Payment for a tribal employee's coverage can be prorated based on the number of calendar days the coverage is in effect. OPM has entered into an agreement with the U.S. Department of Agriculture's National Finance Center (NFC) to serve as paymaster.

Tribal employers electing to purchase FEHB for their employees will be responsible for the administrative and other necessary costs associated with processing enrollments and paying premiums. The 2012 administrative fee will be \$15.15 per tribal employee per month. This fee will pay for the tribal employee enrollment, premium collection and transmission, and billing functions provided by the paymaster.

**OPM strongly recommends that each tribal employer maintain a minimum of one month's premiums and administrative fee in its bank account in order to avoid termination of FEHB coverage for non-payment of premiums.**

### **Billing Unit**

Tribal employers may have either one or multiple billing units. Each billing unit will be assigned a four-digit billing code and will be responsible for premiums for all enrolled tribal employees listed within that unit. The entire premium for the billing unit must be available when the paymaster makes the withdrawal. Partial payments will not be accepted.

Each billing unit must have a separate bank account. If OPM terminates for non-payment of premiums, it will terminate based on each billing unit. Multiple billing units per bank account cannot be used because OPM will not be able to determine which billing unit to terminate.

### **PADS (Pre-Authorized Debit System)**

PADS is the electronic system used by the paymaster to withdraw the premium from each billing unit account on a monthly basis.

### **TIPS (Tribal Insurance Processing System)**

TIPS is the electronic system used by the tribal employer to record all information for all enrolled tribal employees in each billing unit. A Standard Form (SF) 2809 will be completed by each tribal employee either electing to enroll in FEHB or electing not to enroll in FEHB. A Standard Form (SF) 2810 will be completed by the tribal employer to document the termination of a tribal employee's enrollment or to transfer a tribal employee from one billing unit to another. Each Tribal HR office must enter data from each SF 2809 and SF 2810 into TIPS. TIPS will also be used to view monthly bills in advance, and make any necessary changes before the paymaster makes an electronic withdrawal of the premium.

### **Premium Payment Procedures**

The tribal employer can view the current month's billing statement in TIPS at any time during the month of coverage.

Each tribal employer is responsible for reviewing its units' billing statements and making any necessary changes. Necessary changes include processing an SF 2810 for a tribal employee that left tribal employment or transferred from one billing unit to another during the month. Necessary changes made by the tribal employer will be reflected by adjustments to the bill. The tribal employer **must pay the final billed amount** regardless of who was covered during that month. Any valid discrepancies as to premium will be adjusted in the next month's billing cycle.

### **Non-payment of premiums**

Tribal employers are responsible for paying the entire premium for their tribal employees enrolled in the FEHB Program. Non-payment of premiums will result in the termination of FEHB coverage.

Tribal employers are solely responsible for collecting their tribal employees' share of the premium amount. If a tribal employer fails to pay the full premium amount to the paymaster for any month, the tribal employer is liable for premiums until it notifies its tribal employees of termination of FEHB coverage for non-payment of premiums or until OPM terminates the tribal employer from the FEHB Program for non-payment of premiums (whichever occurs sooner).

Under these circumstances, a tribal employer will not be allowed to reenter the FEHB Program until the Open Season of the following calendar year. Open Season starts the Monday of the second full work week of November and runs through Monday of the second full work week in December. All Open Season enrollments are effective January

1st of the calendar year following Open Season. For example, if a tribal employer is terminated for non-payment of premiums in June 2012, the tribal employer would not be eligible for reinstatement until Open Season of 2013 with an effective coverage date of January 1, 2014.

Prior to reinstatement, the tribal employer must pay any premium amount that may remain as an outstanding liability from the tribal employer's previously terminated FEHB participation and must pay a reentry fee equal to the costs associated with adding the tribal employer to the FEHB Program. In addition, the tribal employer must demonstrate the ability to pay the premium by maintaining a minimum balance in its bank account equal to one month's current premium.

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