

Office of Personnel Management
Retirement and Insurance Service



1920



1954



1959



1986

Benefits Administration Letter

Number: 97-201

Date: March 4, 1997

SUBJECT: Federal Employees Health Benefits Program: Recent Legislation Requires Agencies to Advance the Employee Share of FEHB Premiums During Periods of Nonpay Status or Insufficient Pay

I. NEW LEGISLATION

A. Legislative provision

Section 422 of the Treasury, Postal Service and General Government Appropriations, 1997, as incorporated in Section 101(f) of the Omnibus Consolidated Appropriation Act of 1997, Public Law 104-208, enacted on September 30, 1996, amended 5 U.S.C. § 8906(e)(1). 5 U.S.C. § 8906(e)(1) governs the continuation of Federal Employees Health Benefits (FEHB) coverage for employees in nonpay status.

B. Major impact of new legislation

The new legislation requires employing offices to forward the full FEHB premium (both Government and employee contributions) to OPM for employees in nonpay status or with insufficient pay on a current basis for each pay period FEHB coverage continues.

The employing office must remit these premium payments with the other deductions and contributions via the Retirement and Insurance Transfer System (RITS), for each pay period during which the coverage continued. Previously, employing offices were required to forward only the government contribution portion of the FEHB premium on a current basis for employees in nonpay status or with insufficient pay.

Employees no longer incur a debt for past-due FEHB premiums that employing offices must collect and forward to OPM. Since employing offices must now make an advance payment of salary

to cover the employee share of FEHB premiums, employees incur a debt to the employing office for the advance payments.

C. Effective Date

The requirement that employing offices forward the full FEHB premium for employees in nonpay status or with insufficient pay became effective for pay periods beginning on or after September 30, 1996. As a consequence, employing offices are required to implement these requirements retroactively to that date.

II. EFFECT OF LEGISLATION ON EMPLOYING OFFICES' PROCEDURES

A. Most recent publication of procedures

The most recent publication of the procedures that employing offices must follow in administering the FEHB coverage of employees in nonpay status or with insufficient pay was transmitted to employing offices in Benefits Administration Letter 96-207, dated October 16, 1996. The new legislation does affect some of these procedures. Below is an explanation of how the procedures are affected by the new legislation.

B. Procedures that remain the same

The following procedures in Benefits Administration Letter 96-207 remain largely unchanged:

- The procedures in section III, "Employing Offices Must Notify Employees," remain the same. However, the written notice that employing offices must give to employees as soon as possible after the employing office becomes aware FEHB premium payments cannot be withheld because the employee is in nonpay status or has insufficient pay must be revised to accommodate the new legislation.

The legislation states that advance payments of the employee share of the FEHB premium are recoverable in the same manner as under 5 U.S.C. § 5524a(c). 5 U.S.C. § 5524a(c) governs the recovery of advance payments of basic pay to newly appointed employees. Previously, the written notice, by regulation, limited withholdings from salary to recover past-due FEHB premiums to the amount of one FEHB premium per pay period. The written notice is being revised so employing offices may decide what limit on withholdings from salary to apply. Any limit on withholdings chosen by an employing office must be reasonable. Attachment 1 is a revised sample notice that replaces Attachment 2 in Benefits Administration Letter 96-207.

- The procedures in section IV, "What Happens if the Enrollment Terminates?," section V, "What is the Effect of a Termination?," section VI, "Retroactive Reinstatement of Terminated FEHB Coverage," and section VII, "When Can Employees Reenroll for FEHB Coverage?," remain the same.

- The procedures in section X, "Special Circumstances," remain largely the same. The only exception is that the paragraph on "Discharges in bankruptcy" is no longer applicable and should be disregarded.

- The procedures in section XII, "Coordination with Retirement or Workers' Compensation Cases," remain the same. The only clarification is that instead of coordinating the collection of past-due FEHB premiums, employing offices must now coordinate the collection of advance payments of the employee share of FEHB premiums with deductions from Federal retirement and workers' compensation benefit payments.

C. Procedures that change

The following procedures in Benefits Administration Letter 96-207 are changed by the new legislation:

- There are two changes to the procedures in section VIII, "What Happens if the Enrollment Continues?." Under the new legislation, the employing office that advances the employee share of the FEHB premium is permanently responsible for collecting the debt. Therefore, section VIII.B is changed by requiring that employees' written notices electing to continue FEHB coverage be retained by the employing office to which the employee is indebted.

In addition, under the new legislation, employees no longer incur a debt for past-due FEHB premiums. Therefore, section VIII.C is changed by eliminating the requirement that employing offices forward the debt they collect for pay periods beginning on or after September 30, 1996, to OPM.

- The procedures in section IX, "Collecting Past-Due FEHB Premiums for Pay Periods Beginning Before September 30, 1996," do not apply to the collection of advance payments of the employee share of FEHB premiums for pay periods beginning on or after September 30, 1996. The following section provides guidance to employing offices on how to collect this debt.

The procedures in section IX continue to apply to collecting past-due FEHB premiums for pay periods which began before September 30, 1996, with one exception. The reference in section

IX.E to filing notices of indebtedness in the official personnel folder (OPF) should refer to the left hand side, not the right hand side. The notice of indebtedness should be removed from the OPF when the debt is paid. Until the debt is paid, the notice of indebtedness should be transferred with the OPF.

- The information in section XI, "Payment of the Government Contribution," is no longer accurate. Employing offices must **now** in any and all circumstances, on a current basis, forward the **full cost of an enrollment under the FEHB Program (both Government and employee contributions)** for every pay period during which an employee's enrollment continues whether the employee is in a pay or nonpay status.

III. COLLECTING ADVANCE PAYMENTS FOR THE EMPLOYEE SHARE OF FEHB PREMIUMS FOR PAY PERIODS BEGINNING ON OR AFTER SEPTEMBER 30, 1996

- A. Recovery of advance payments under section 5524a(c)** The legislation specifies that the advance payments are recoverable in the same manner as under 5 U.S.C. § 5524a(c).
-
- B. Employing offices are not required to provide a hearing before recovering advances in pay** In order to continue FEHB coverage, employees sign a written notice agreeing that if they continue FEHB coverage they will pay the resulting debt in full, and agreeing the debt may be withheld from any salary payments to them from the Federal Government. Therefore, employing offices are not required to provide employees a hearing before recovering advance payments of the employee share of FEHB premiums.
-
- C. Notifying employees before recovering advances in pay** Though employing offices are not required to provide employees a hearing, they must give employees a notice informing employees of the employing office's intention to recover the advance in pay.
-



Abby L. Block, Chief
Insurance Policy and
Information Division

Attachment

FEDERAL EMPLOYEE HEALTH BENEFITS (FEHB) OPTIONS WHILE IN NONPAY STATUS

Name of Employee: _____ Date: _____

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

Each pay period you are enrolled in the FEHB Program, you are responsible for payment of the employee share of the premium. When you enter nonpay 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.

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 a nongroup contract. The termination is not considered a break in the continuous coverage necessary for continuing FEHB coverage into retirement. However, the period during which the termination is in effect does not count toward satisfying the required 5 years of continuous coverage. When you return to pay and duty status, or at the end of the first pay period your pay becomes sufficient to cover your premium, you must reenroll within 31 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. If you elect to pay directly, mail a check or money order payable to _____ . Include on the check your name, social security number, a note that the payment is for "FEHB premium", and the pay period for which the payment is being made. Mail to: (address)_____.

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 by withholdings from any salary payments to you from the Federal Government, up to _____. If the amount due cannot be withheld in full from salary, it will be recovered from a lump sum payment of accrued leave, income tax refunds, amounts payable under the Civil Service Retirement System or Federal Employees Retirement System, or any other source normally available for the recovery of a debt due the United States.

Please check the appropriate space(s) below, sign, and return this notice to your employing office at: (address)_____.

After reading and understanding the above, I elect to:

- ◆ Continue the enrollment (Check one): ___ Submit direct payments ___ Incur a debt

(Signature) _____ (Date) _____

- ◆ Terminate the enrollment. (Signature) _____ (Date) _____

Refer questions to: (Name) _____ (Telephone) _____