
FEHB Program Carrier Letter

All FEHB Carriers

U.S. Office of Personnel Management
Healthcare and Insurance

Letter No. 2020- 16

Date: November 5, 2020

Fee-for-service [13]

Experience-rated HMO [13]

Community-rated HMO [14]

SUBJECT: Federal Employees Health Benefits Program: Removal of Ineligible Family Members from Enrollments

On January 23, 2018, the Office of Personnel Management (OPM) published a regulation at [83 FR 3059](#) that provides a process for removing ineligible individuals from Federal Employees Health Benefits (FEHB) Program Self Plus One and Self and Family enrollments. The regulation outlines the steps for FEHB Carriers to request proof of family member eligibility. It also outlines the process for reconsideration of the FEHB Carrier's decision to remove an individual.

The regulation allows the employing office, OPM or an FEHB Carrier to request proof of family member eligibility from an enrollee at any time for existing enrollments. An FEHB Carrier should implement these procedures when there are questions or concerns about a family member's eligibility.

Neither the regulation nor this Carrier Letter requires FEHB Carriers to perform a full-scale audit of FEHB enrollments. Please be judicious in exercising this authority. If multiple FEHB Carriers undertake reviews simultaneously, the potential workload on employing offices could impact their ability to act on reconsideration requests in a timely manner. We strongly urge a staggered approach to any mass family member verification efforts.

Purpose

This Carrier Letter provides guidance to FEHB Carriers on (1) the process for requesting proof of family member eligibility for existing enrollments; (2) what documents may be used as proof; and (3) what actions FEHB Carriers can take based on an enrollee's or family member's response to a request for verification of eligibility.

Benefits Administration Letter 20-203 (Attachment #6), *Removal of Ineligible Family Members from Enrollments*, provides similar guidance to agencies on their responsibility to request verification of family member eligibility.

I. Requesting proof of family member eligibility for existing enrollments

A. Request for verification of FEHB eligibility

To verify eligibility, the FEHB Carrier must send a request for appropriate documentation of the family member's relationship (see Attachment 1: Sample Letter *Request for Verification of Family Member Eligibility*) with a copy to the employing office of record. The request must contain a written notice that the family member(s) will no longer be covered 60 calendar days after the date of the notice unless the enrollee provides appropriate documents as listed in Attachment 5: *FEHB Family Member Eligibility Documents*.

The FEHB Carrier must collect those documents in any secure fashion, including mail, fax or via a member portal.

B. Documents used as proof

Appropriate documents include, but are not limited to, copies of birth certificates, marriage certificates, and, if applicable, other proof of family member eligibility. See Attachment 5: *FEHB Family Member Eligibility Acceptable Documents* for a more extensive list of acceptable documents.

C. Documents for foster children and common law marriage

Confirmation of a foster child's eligibility: The employing office initially determines a foster child's eligibility through receipt of the *Statement of Foster Child Status* and supporting documents from the enrollee. It keeps a copy of the *Statement of Foster Child Status* in the enrollee's personnel file.

If notified by the enrollee that the family member is a foster child, the FEHB Carrier must contact the employing office to obtain a copy of the filed *Statement of Foster Child Status* to confirm the employing office's determination. Direct receipt from the employing office is the only current way to ensure approval since the *Statement of Foster Child Status* does not contain an indicator of the employing office's approval.

If the FEHB Carrier is unable to obtain the *Statement of Foster Child Status* from the employing office, the FEHB Carrier must follow the process described below for removing an ineligible family member. See the FEHB Handbook at <https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/family-members/> for more information on foster child eligibility.

Please note that concurrent with this guidance, OPM is updating to a *Certification of Foster Child Status* that requires an employing office official's signed approval on the certification.

Confirmation of common law marriage: Only the employing office can approve eligibility of an individual as an employee's common law spouse through examining a declaration of common law spouse and other documents. An employee can cover a common law spouse under the FEHB Program only if the marriage was initiated within a State that recognizes such a marriage. The

FEHB Carrier must contact the employing office to obtain a copy of the filed Statement of the Common Law Marriage declaration to confirm the employing office's determination. See Attachment 5: *FEHB Family Member Eligibility Documents, Appendix 1* for the requirements.

II. FEHB Carrier actions

A. Eligibility verification documents approved

If the FEHB Carrier receives documents and it determines that the documents verify eligibility of the family member(s), the FEHB Carrier must notify the enrollee, the family member, and the employing office (see Attachment 2: Sample Letter *Receipt of Eligibility Verification Documents*). The employing office must be notified to avoid a potential duplicative request to the same enrollee. The FEHB Carrier must retain copies of the request, documents received, and the determination letter in accordance with its corporate document retention and storage procedures.

B. Eligibility verification documents not received or are insufficient

If the FEHB Carrier does not receive the documents within 60 calendar days of requesting them or if it determines that the documents provided are insufficient to verify eligibility of the family member(s), the FEHB Carrier must notify the enrollee and the family member of this determination (see Attachment 3: Sample Letter *Verification Documents Not Received* or Attachment 4: Sample Letter *Information Provided Does Not Verify Family Member Eligibility*).

This written notice considered the "initial decision," must include an explanation of the FEHB Carrier's decision, the effective date of the removal of the ineligible family member, and the right to a reconsideration of this initial determination. The FEHB Carrier should send a separate copy to the affected family member when a separate address is known.

The FEHB Carrier must also provide a copy of this letter to the enrollee's employing office to include in the employee personnel file.

C. Enrollee or family request for an extension

An employee or family member may request an extension to provide requested evidence because they are prevented by circumstances beyond their control from responding in a timely way (e.g., delay in receipt of verifying documents from a licensing entity). Employing offices may grant a reasonable extension to the deadline, especially in recognition of circumstances such as national or local emergencies that may impact licensing entities' capabilities to provide documentation.

The FEHB Carrier shall retain copies of the request for an extension of time, documents received (if applicable), and the initial determination letter.

D. Enrollee request to change enrollment type

If the removal of the ineligible family member results in an enrollment decreasing from three or more individuals to two individuals or from two individuals to one individual, the enrollee is eligible to decrease their enrollment type to Self Plus One or Self Only, respectively. Please remind the enrollee that they have the opportunity to change their enrollment type, and to contact the employing office to submit a Standard Form (SF) 2809 (Event Code 1C¹) per the agency's FEHB enrollment process to request the change in enrollment type within 60 calendar days.

E. Effective date of removal of an ineligible family member

The removal is effective on the date listed in the initial determination letter, and it is prospective. If the FEHB Carrier determines that the enrollee or the family member has made an intentional misrepresentation of material fact, the effective date of the removal may be made retroactive to the date of loss of eligibility. The FEHB Carrier must follow the fraud, waste and abuse reporting requirements in [Carrier Letter 2017-13](#).

The removed family member may be eligible for a 31-day temporary extension of coverage, conversion and/or temporary continuation of coverage (TCC) only in certain limited circumstances. This eligibility cannot extend beyond the date that opportunity would have ended if the individual had been removed on the date of loss of eligibility.

For example, an enrollee and her spouse divorce on May 4, 2019. The enrollee does not remove the former spouse from the enrollee's self and family enrollment, so the former spouse is receiving coverage but is not eligible. In this example, the former spouse is not eligible to receive a former spouse annuity and, thus, not eligible for spouse equity coverage. If the FEHB Carrier later discovers the divorce, and removes the spouse from the enrollment on July 20, 2020, the former spouse is not eligible for a 31-day extension of coverage, conversion and/or temporary continuation of coverage because the regulatory window for election of 60 days outlined in 5 CFR § 890.805(1) has passed. The sixty-day window began on the final date of the divorce, May 4, 2019 and ended on July 3, 2019.

If an employee expresses interest in TCC for the removed family member, please refer them to their employing office for more information.

F. Additional information and action items

In order to avoid duplicate requests for verification of family member eligibility, employing offices will send FEHB Carriers a copy of (1) employing office letters to request verification of family member eligibility; (2) letters removing a family member from FEHB coverage; (3) reconsideration requests; and (4) reconsideration decisions. These letters are to be added to the enrollee file and/or processed as appropriate.

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

III. Reconsideration process after removal of an ineligible family member

The employing office is responsible for performing all reconsiderations for the removal of ineligible family members. The employing office must issue a written notice of its final decision to the enrollee and notify the FEHB Carrier of the decision within 30 calendar days of receipt of the request for reconsideration. If the reconsideration decision overturns the removal of the family member(s), the FEHB Carrier must reinstate coverage retroactively so there is no gap in coverage.

Please see the Attachment 6: BAL 20-203 *Removal of Ineligible Family Members from Enrollments* for more information on the reconsideration process.

IV. Employing office contact information

OPM will provide a crosswalk file for FEHB Carriers to use to assist in identifying employing office contacts based on Payroll Office Number (PON), Personnel Office Identifier (POI), and/or Employer Identification Number (EIN).

V. Fraud, waste and abuse

FEHB Carriers are responsible for preventing, detecting, investigating, and reporting FEHB-related fraud, waste, and abuse (FWA). The coverage of ineligible family members can be considered potential fraud per FEHB Program [Carrier Letter 2017-13: OPM FEHB Fraud, Waste and Abuse](#). Both FEHB Carriers and employing offices have a shared responsibility to verify and confirm family member eligibility, recognizing that ineligible family members can result in the FEHB Program paying erroneous or even fraudulent claims.

Any intentional false statement or willful misrepresentation, such as including an ineligible family member on an FEHB health insurance plan, is a violation of the law (18 U.S.C. 1001.) punishable by a fine of not more than \$10,000, imprisonment of not more than 5 years, or both and may be subject to investigation.

VI. Reference information

For more information on family member eligibility, please refer to the OPM website at <https://www.opm.gov/healthcare-insurance/healthcare/eligibility/> and the FEHB Handbook at: <https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/fehb-handbook/>.

For questions, please contact your OPM Health Insurance Specialist.

Sincerely,

Michael J. Rigas
Acting Director
U.S. Office of Personnel Management

Attachments

1. Sample FEHB Carrier Letter – Request for Verification of Family Member Eligibility
2. Sample Agency/Tribal Employer/FEHB Carrier Letter – Receipt of Eligibility Verification Documents
3. Sample Agency/Tribal Employer/FEHB Carrier Letter – Verification Documents Not Received
4. Sample FEHB Carrier Letter - Information Provided Does Not Verify Family Member Eligibility
5. FEHB Family Member Eligibility Documents
6. Benefits Administration Letter 20-203 – Removal of Ineligible Family Members from Enrollments