# FEHB Program Carrier Letter
## Community-Rated Carriers

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

**Letter No. 1999-058** **Date:** November 23, 1999

Fee-for-service [ -- ] Experience-rated HMO [ -- ] Community-rated [ 48 ]

**SUBJECT: Amendments to the Standard Contract for Community-Rated Carriers**

Enclosed is the standard contract for the year 2000. You should arrange for the contract to be signed and returned to us by December 27, 1999. The contract language is final and we will not be taking additional comments on it. This letter explains our resolution of the proposed amendments sent to you in August.

We appreciate your comments and suggestions on the amendments. We considered all of them carefully and made modifications based on many of them. Changes to the 2000 contracts fall into two major categories: 1) Amendments relating to transitional care; and, 2) amendments relating to the DoD Demonstration Project.

**Year 2000 Compliance**

We are dropping this section entirely for the Year 2000. We expect you to be completely functional and Year 2000 compliant on January 1, 2000. Carriers who are not should refer to the remedies for noncompliance in the Notice of Significant Events clause of the contract.

**Notice to Enrollees on Termination of FEHBP or Provider Contract and Transitional Care**

We received numerous comments on the transitional care requirement and the requirement to notify enrollees eligible for transitional care when you terminate a provider contract or terminate participation in the FEHB Program. Because you asked numerous questions on implementation of the transitional care and notice provisions, we prepared Enclosure A to address your specific concerns.

**Continuing Requirements after Termination**

This section requires no change in current FEHB Program requirements. It is intended to reinforce existing contract requirements and the carrier's obligation to comply with all laws and regulations relating to the FEHB Program. The order of precedence for the laws, regulations, and contract applicable to the Program is set out in Section 1.3 of the contract. For clarification, the final contract amendment references Section 1.3 in the Continuing Requirements clause.

Carriers have a requirement under law and regulation to provide a 31-day period during which enrollees receive benefits and have the option of converting to a private policy. The requirement of this section reminding you of your obligation in the event the enrollee leaves the FEHB

Program refers only to the 31-day period before a conversion contract or temporary continuation of coverage (TCC) begins and applies to the few enrollees who leave the Program because they no longer meet the statutory requirements for coverage at the same time you drop out. It does not mean that you must provide a 31-day extension of coverage and conversion contract for all enrollees at the time you leave the FEHB Program. The majority of FEHB Program carriers understand and comply with this provision; however, for the few that do not, we are emphasizing the requirement specifically in the contract.

The requirement may differ from your contracts with your other lines of business. It is required by the FEHB law at 5 U.S.C. 8902(g) and FEHB regulations at 5 CFR 890.201(a)(4). In addition, the Carrier Handbook that we provide you with each year states your requirements under the FEHB Program, including 5 U.S.C. 8902(g). The requirement should be familiar to you.

Carrier concerns over the rates for this requirement are unfounded. Since the beginning of the Program, OPM's actuaries have added a loading factor to or adjusted the FEHB premiums for this 31-day continuation of coverage. There is no conflict with the regulatory provision concerning enrollees who are confined in a hospital or other covered facility or who are receiving medical care in an alternative care setting on the last day of their enrollment under the prior plan or option. The two provisions are separate and distinct.

**Payments**

While we have not amended this section, we will amend it in the final DoD Demonstration regulations to state that costs in excess of the premiums will be reimbursed first from the carrier's demonstration project Contingency Reserve and then from OPM's Administrative Reserve. OPM will credit any surplus to all FEHB carriers' contingency reserves after the final accounting of revenues and costs at the end of the DoD Demonstration Project.

**Accounting and Price Adjustment and Rate Reduction for Defective Pricing or Defective Cost or Pricing Data**

These two clauses are amended to conform to the DoD Demonstration Project interim regulations published on July 6, 1999. The amendments provide guidance for carriers participating in the DoD Demonstration Project authorized under Public Law 105-261.

**Survey Charges**

We have clarified Section 3.7, Survey Charges, to reflect the current procedure that carriers pay a pro rata share of the total cost of consolidating and reporting the annual consumer assessment survey results to OPM. The cost for contracting with a vendor to conduct the survey itself is your responsibility.

**Alterations in Contract**

Section 4.1 of your contract includes a clause entitled "Participation in the DoD Demonstration Project." It applies only to carriers participating in the 3-year DoD Demonstration Project authorized by P. L. 105-261.

**Revised FAR Clauses**

Your final contract will contain updated Federal Acquisition Regulation (FAR) clauses in Part V that

have been revised during the past year so that the most recent version appears in the contract. All new and revised clauses in Parts I through IV will show the date "JAN 2000." Revised FAR clauses in Part V will show the date of the FAR revision. Enclosure B to this letter lists the FAR clauses that have been revised.

**Appendix D-a FEHB Supplemental Literature Guidelines**

We kept the reference to website material as a form of supplemental literature, but reverted to the 1999 contract language that the brochure text is based on text approved by OPM and is a complete statement of benefits, limitations, and exclusions. The statement is sometimes relied on in litigating claims disputes because it makes clear that OPM has the final decision with regard to the brochure text.

**Appendix D-b Advertisements of Accident and Sickness Insurance Model Regulation**

The National Association of Insurance Commissioners updated its Model Regulation on Advertisements of Accident and Sickness Insurance earlier this year. We will include a copy of the revised version with your contract.

**Anti-Lobbying Act**

We remind you of your continuing obligations under the Anti-Lobbying Act, P.L. 101-121, as amended, which prohibits Federal contractors from spending appropriated funds to pay any person for influencing or attempting to influence an officer or employee of the Government. All carriers must keep their Anti-Lobbying certification (OMB Standard Form LLL) compliant. If there is a change to your current form, or if you are involved in a sale or merger, you are required to submit an updated OMB Standard Form LLL certifying that you will not spend any appropriated government funds on lobbying activities.

Questions regarding final contract changes should be directed to your Contract Specialist.

Sincerely,

(signed)

David A. Lewis
Contracting Officer
Chief, Insurance
Contract Division III

Enclosures

**OPM Guidance on Notice Requirements**
**and**
**Transitional Care**

The text of the Patients' Bill of Rights (PBR) previously provided to you is the basis for the information below, and we have not attempted to modify it. We expect you to rely on the PBR as the basis for your actions. You may access the PBR through OPM's website at opm.gov/insure.

FEHB carriers must provide transitional care for up to 90 days to enrollees who are undergoing treatment for a chronic or disabling condition, or through the postpartum period for those who are in the second or third trimester of pregnancy, *at the time they involuntarily change health plans or at the time a carrier terminates a provider for other than cause* (emphasis added). A carrier's termination of its participation in the FEHB Program effectively terminates the providers under the carrier's FEHB health benefits plan and creates a situation where the enrollee must involuntarily change health plans in order to remain in the FEHB Program. Under the Patients' Bill of Rights, the enrollee is therefore entitled to transitional care, if he or she is eligible.

**Notice Requirement**

- You must provide notice to enrollees only when you terminate your participation in the FEHB Program or terminate a provider other than for cause. You do not have to give notice to enrollees if the provider terminates or does not renew participation with you or your network.

- Your OPM contract requires you to give "at least" 60 days notice if you decide to withdraw from the FEHB Program. That does not preclude you from giving us or your enrollees a longer notice period.

- Most carriers renew their provider contracts, just as we renew your FEHB contract, on an annual basis. A number of carriers have provider contract nonrenewal provisions that stipulate the provider be given 60 days notice. If you send a general notice to your enrollees at approximately the same time, notifying them of the providers who will not be participating in your plan for the following contract year, the maximum period of time you will have to provide transitional care benefits for enrollees with chronic or disabling conditions beyond the 60-day notice period is 30 days. Ideally, however, you will send your notice to enrollees 90 days prior to the end of the contract year so that your members' transitional care needs will be met before the provider contract ends.

- OPM will not be providing a list of chronic or disabling conditions to carriers. Carriers should use the protocols currently in place to administer this provision.

- A provider providing goods or services under a treatment plan for a chronic or disabling condition (or for enrollees who are in the second or third trimester of a pregnancy) should be considered a specialty provider. For example, chemotherapy treatment provided by a physician to a cancer patient is care by a specialty provider. It is possible that enrollees eligible for transitional care will have more than one specialty provider.
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ENCLOSURE A

- You must provide transitional care to those who are eligible regardless of whether you or your

Network PPO or POS terminates the provider, except for cause.

- If the terminated provider is not terminated for cause, you must provide transitional care. Where quality enters into the decision, you will have to decide if it is "for cause."

**Transitional Care**

- You are responsible for notifying enrollees of their transitional care rights when you withdraw from the FEHB Program, reduce your service area, or terminate a provider for other than cause. After you fulfill your notification requirements, the enrollees must assert their transitional care rights. You are not required to identify enrollees who are transitional care candidates. Where you cannot process transitional care claims on an up-front basis, you may do so on a case by case basis.

- Providing care under the terms and conditions of the prior carrier's contract is not necessarily included in your rates. Further, when a transitional care enrollee of a carrier that does not renew its FEHB Program contract transfers to your plan, there is no additional payment of premiums to you to cover the transitional care during the balance of the transitional care period. The 1998 and 1999 Call Letters advised you to consider how any necessary changes could be implemented to ensure that you meet the time frame for program-wide compliance. The Call Letters also advised you to propose your strategy to bring your plan into full compliance by the start of contract year 2000 in your May 31st benefit and rate proposals. Therefore, you should already have integrated this into your rate proposal for contract year 2000.

- Enrollees entitled to transitional care pay no additional cost for the care through the transitional period. However, the plan's own deductibles would apply to medically necessary treatment that was for other than the chronic or disabling condition or pregnancy. All enrollees must pay the mandated benefit amounts that are effective as of contract year 2000.

- The PBR requires that the specialty provider or network promptly transfer all medical records authorized by the patient to a designated new provider during the transition period. OPM recognizes that carriers are limited in the assistance they can provide to enrollees in this regard. You may fulfill your requirement by transmitting a letter to the provider on behalf of the enrollee asking for its cooperation and assistance.

- The requirement for carriers to assist enrollees in amending and appending provider records they believe are inaccurate, irrelevant, or incomplete has broader application to the FEHB contracts than transitional care. Consequently, we have deleted it from the transitional care clause. It is covered under the general PBR clause in Section I of your FEHBP contract, and you may refer to it in Chapter 6 of the Patients' Bill of Rights.

ENCLOSURE A (cont)

# FAR CLAUSE CHANGES FOR THE YEAR 2000 CONTRACTS

| Contract Section | FAR Cite | Clause Title | Action |
|---|---|---|---|
| 5.7 | 52.215-2 | Audit and Records--Negotiation (JUN 1999) | Revised |
| 5.14 | 52-219-8 | Utilization of Small Business Concerns (OCT 1999) | Revised |
| 5.19 | 52.222-26 | Equal Opportunity (FEB 1999) | Revised |
| 5.21 | 52.222-29 | Notification of Visa Denial (FEB 1999) | Revised |
| 5.32 | 52.230-6 | Administration of Cost Accounting Standards (NOV 1999) | Revised |
| 5.36 | 52.233-1 | Disputes (DEC 1998) | Revised |
| 5.55 | 52.222-37 | Employment Reports On Disabled Veterans and Veterans of the Vietnam Era (JAN 1999) | Revised |
| 5.58 | 52.232-33 | Payment by Electronic Funds Transfer—Central Contractor Registration (MAY 1999) | Revised |
| 5.59 | 52.222-21 | Prohibition on Segregated Facilities (FEB 1999) | Revised |

ENCLOSURE B