



*United States Office of Personnel Management
The Federal Government's Human Resources Agency*

Benefits Administration Letter

Number: 23-202

Date: July 28, 2023

Subject: Extension of FEDVIP Eligibility to Certain Employees on Temporary Appointments and Certain Employees on Seasonal and Intermittent Schedules; Enrollment Clarifications and Exceptions to Change Enrollment

Background

The Office of Personnel Management (OPM) has issued a final rule to expand eligibility for enrollment in the Federal Employees Dental and Vision Insurance Program (FEDVIP) to additional categories of Federal employees, and certain Postal employees. This final rule also updates the provisions on enrollment for active duty service members who become eligible for FEDVIP as uniformed service retirees pursuant to the National Defense Authorization Act of 2017 (FY17 NDAA). In addition, this rule adds exceptions to decrease an enrollment type and to cancel an enrollment for certain enrollees who may become eligible for dental or vision services from the Department of Veterans Affairs (VA). Lastly, the rule also includes technical corrections and clarifications to the part.

The final regulation is available here: [Federal Register: FEDVIP: Extension of Eligibility to Certain Employees on Temporary Appointments and Certain Employees on Seasonal and Intermittent Schedules; Enrollment Clarifications and Exceptions for Changes in Enrollment](#)

Extension of FEDVIP and Determination of Eligibility

Temporary, Seasonal, or Intermittent Employees

Under this final regulation, Federal and Postal employees on temporary appointments, seasonal schedules who will be working a schedule of less than six months per year, and intermittent Federal and Postal employees who are expected to work 130 hours per month or more for at least 90 days will be eligible to voluntarily enroll in a FEDVIP plan.

Employing agencies will be responsible for identifying newly eligible employees, as they are now. Employing agencies will work with their HR and payroll providers to correctly identify newly eligible temporary, seasonal, and intermittent employees.

Employing agencies must make a prospective determination at the time of hire, or at the time the rule becomes effective, about whether a temporary, seasonal, or intermittent employee is likely to meet the criteria to be included in the eligibility modification. Upon determining eligibility, employing agencies must promptly inform employees about their opportunity to enroll in FEDVIP.

If the employing agency determines that the individual is eligible, but after the eligibility decision is made the employee actually works fewer hours, coverage cannot be rescinded based on actual hours worked.

A full-time employee on a temporary appointment, seasonal schedule, and intermittent employee who is expected to work for fewer than 90 days should not be determined to be eligible. However, if the expectation changes, the employee should be notified by the employing office and given an opportunity to enroll promptly, but no later than the 91st day of employment, and FEDVIP coverage would be prospective.

Firefighters and Emergency Response Personnel

Additionally, certain firefighters hired under a temporary appointment and certain intermittent emergency response personnel are also eligible for FEDVIP. These personnel do not have to meet the same expectation to work

130 hours per month or more for at least 90 days to be eligible. The regulation at 5 CFR 894.301 cross-references FEHB regulations to assist agencies in determining eligibility for firefighters and emergency response personnel.

An employee who is in a position identified by OPM that provides emergency response services for wildland fire protection pursuant to 5 CFR 890.102(h) is eligible to be enrolled in FEDVIP. Under 5 CFR 890.102(h), these employees include those in any position (including supervisory positions) where the duties include high risk or life-threatening work to control and extinguish wildland fires, to rescue persons endangered by fire, or to reduce or eliminate potential fire hazards, or involving the provision of direct on-site assistance to others engaged in such work.

In addition, an employee whose employing agency has requested that OPM grant eligibility to employees for performing similar types of emergency response services pursuant to 5 CFR 890.102(i), and for whom OPM has granted eligibility, is eligible for FEDVIP, and OPM may limit the coverage of intermittent employees in a FEDVIP plan to the periods of time during which they are in a pay status. In determining whether to extend FEDVIP for such employees, agencies should focus on the duties performed, regardless of the position's title, occupational series, grade level or geographic location.¹

Enrollment for Newly Eligible Individuals

Enrollments for newly eligible individuals will be accepted during a 60-day period after the employing office notifies employees of their eligibility to enroll in a FEDVIP plan. Eligible individuals must use BENEFEDS, the enrollment system to enroll in FEDVIP.

¹ See [BAL 12-203](#)

Enrollment Clarifications for Active Duty Service Members Who Experience a Status Change to Uniformed Service Retirees

The rule updates the provisions on enrollment for active duty service members who become eligible for FEDVIP as uniformed service retirees pursuant to the FY17 NDAA. Active duty service members who experience a status change to a uniformed services retiree may enroll in FEDVIP beginning 31 days before the service member loses other dental or vision coverage to 60 days after becoming eligible to enroll. Under 5 CFR 894.504(d), the effective date for these individuals enrolling outside of open season would be no earlier than the date the active duty service member lost other coverage.

Change to Current Qualifying Life Event (QLE)

The final rule substitutes the word “enrollee” in 894.511(b) instead of “employee, annuitant or compensationner” to clarify that other enrollees, including TRICARE-eligible individuals (TEIs), including sponsors,² and Postal employees are allowed to decrease an enrollment type if a family member who is enrolled becomes deployed to active military duty. Currently, this QLE only applies to Federal employees, annuitants or compensationers.

Exceptions to Decrease Enrollment Type and Cancel an Enrollment

Since the extension of FEDVIP eligibility to TEIs³ in the 2019 plan year, OPM has become aware of the need for additional exceptions to cancel an enrollment for TEIs and other enrollees who become eligible for dental or vision benefits through the Department of Veterans Affairs (VA), and to

² Under 5 CFR 894.101, a sponsor generally means the individual who is eligible for medical or dental benefits under 10 U.S.C. chapter 55 based on their direct affiliation with the uniformed services (including military members of the National Guard and Reserves).

³ TEI means a TRICARE-eligible individual for FEDVIP dental benefits (TEI-D) or a TRICARE-eligible individual for FEDVIP vision benefits (TEI-V) pursuant to FY17 NDAA. See [83 FR 58175](#) for details about eligibility categories.

decrease enrollment for enrollees who may have an eligible family member who becomes eligible for VA dental or vision benefits. This final rule amends certain provisions in 5 CFR part 894 to add exceptions for certain enrollees to decrease an enrollment type or cancel coverage.

The rule adds an exception at new paragraph (a)(3) of 5 CFR 894.510 for an enrollee, as specified in § 894.403(b), whose FEDVIP premiums are not paid on a pre-tax basis, to decrease an enrollment type if a covered family member becomes eligible for dental or vision benefits from the VA.

The enrollee must submit the request for the decrease in enrollment within 60 days after notification of eligibility for VA dental or vision benefits. This request can only be made by enrollees who do not pay premiums on a pre-tax basis.

In revised 5 CFR 894.602, an enrollee under 5 CFR 894.403(b), may cancel their FEDVIP enrollment if the enrollee is determined to be eligible for dental or vision benefits through the VA. For enrollees requesting to cancel coverage under 894.602(c), the enrollee must submit the request within 60 days after notification of eligibility for VA dental or vision benefits.

If the enrollee is a sponsor who meets one of the conditions in 5 CFR 894.309(a)(3)(iii) and cancels a Self Plus One or Self and Family enrollment in a FEDVIP dental plan, the sponsor must notify eligible family members about the change in enrollment. Then pursuant to § 894.811, a TEI family member can accept the responsibility to self-certify and enroll in a FEDVIP dental plan as a TEI certifying family member and cover other TEI family members.

New paragraph (i) of 5 CFR 894.601 addresses when FEDVIP coverage stops if an enrollee, including a sponsor, is eligible to cancel an enrollment outside of open season and elects to do so. If an enrollee, including a sponsor, cancels an enrollment pursuant to 894.602(c), the cancellation will become effective at the end of the pay period that the enrollee submitted the request.

If you have any questions regarding this letter, please contact Julia Elam, Supervisory Analyst, at Julia.Elam@opm.gov.

Sincerely,

Laurie Bodenheimer
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Healthcare and Insurance