



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

June 1, 2007

The Honorable Richard B. Cheney
President of the Senate
United States Senate
Washington, DC 20510

Dear Mr. President:

The Office of Personnel Management (OPM) is submitting the enclosed legislative proposal entitled, the "Federal Employees Health Benefits Improvements Act of 2007." We request that it be referred to the appropriate committee for prompt and favorable consideration.

The draft bill would: (1) allow the Government-wide Service Benefit Plan and the Indemnity Benefit Plan in the Federal Employees Health Benefits (FEHB) Program to offer an additional option, which would permit a more contemporary benefit design; (2) allow OPM to contract with additional types of health plans; (3) allow retirement systems to enforce court-ordered coverage for dependents of annuitants; (4) broaden eligibility for temporary continuation of coverage (TCC); and (5) make a necessary and technical conforming change.

First, the FEHB Program allows all participating health plans to offer a third option of coverage, a High Deductible Health Plan, with two exceptions – the Government-wide Service Benefit Plan and the Indemnity Benefit Plan. Current law restricts these two plans to offering just two levels of benefits. There are no similar restrictions on other types of plans currently participating in the FEHB Program. The proposal would allow the Government-wide Service Benefit Plan and the Indemnity Benefit Plan to offer more than two levels of benefits. While the FEHB Program does not currently contract with an underwriter for the Indemnity Benefit Plan, it is reasonable to assume that there will be a contractor sometime in the future. Therefore, we believe that it is sensible to address the Indemnity Benefit Plan at this time.

Second, the measure would allow OPM to contract independently with additional types of health benefit plans, such as Regional Preferred Provider Organizations, Exclusive Preferred Provider Organizations, and High Deductible Health Plans. The health plan designations currently in law place artificial limitations on OPM's ability to contract for health benefits for Federal employees. The health insurance marketplace has changed significantly in the past 40 years, and the four traditional health plan categories described in current law reflect largely outdated distinctions. This measure would enable OPM to

take advantage of the contemporary health plan types currently available to private-sector employees.

Third, current law allows the Federal Government to enroll or change the enrollment only of employees in the FEHB Program who are required by a court or administrative order to provide health insurance coverage for a qualified child, but who fail to do so. The law does not address annuitants subject to such orders. Currently, if the “court-ordered employee” retires, coverage must continue so long as the child remains eligible for coverage and the court order remains in effect. The current law does not address annuitants subjected to a court order after retirement. The draft bill would extend the authority to retirement systems to change the enrollment of annuitants to self and family under the circumstances described.

Additionally, agencies are currently authorized to enroll or change the enrollment to the option that provides the lower level of coverage under the Service Benefit Plan. However, due to changes in benefit design, it may not always be clear which option is the lower level of coverage. The measure would authorize OPM to select and update the plan with the lower level of coverage, as needed, through regulation.

Fourth, the draft bill would broaden TCC eligibility to include anyone who ceases to have FEHB Program eligibility for any reason, except an employee who is involuntarily terminated due to gross misconduct. Current law limits TCC to employees, dependent children, and former spouses who lose eligibility as a result of the employee’s separation from Federal service or a change in family member status. Individuals who elect TCC agree to pay the full enrollment cost, plus an administrative fee amounting to two percent of such cost.

The proposal would include, for example, employees who lose FEHB Program coverage after one year in leave-without-pay status; retirees or survivor annuitants whose annuity rights terminate; family members of individuals who change to self-only FEHB Program coverage; and former spouses who lose coverage because the employee died and no survivor annuity is payable to the former spouse. Employees would be eligible for up to 18 months of TCC after FEHB Program eligibility ends. Family members, annuitants, and former spouses would be eligible for up to 36 months of TCC benefits.

Finally, the measure would make a modest technical and conforming change required as a result of amendments made earlier in the proposal.

In summary, we believe that enactment of this proposal will make needed improvements in the Federal Employees Health Benefits Program.

The Office of Management and Budget advises that the submission of this proposal is in accord with the program of the President.

The Honorable Richard B. Cheney

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A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,



Linda M. Springer
Director

Enclosures



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

June 1, 2007

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Madame Speaker:

The Office of Personnel Management (OPM) is submitting the enclosed legislative proposal entitled, the "Federal Employees Health Benefits Improvements Act of 2007." We request that it be referred to the appropriate committee for prompt and favorable consideration.

The draft bill would: (1) allow the Government-wide Service Benefit Plan and the Indemnity Benefit Plan in the Federal Employees Health Benefits (FEHB) Program to offer an additional option, which would permit a more contemporary benefit design; (2) allow OPM to contract with additional types of health plans; (3) allow retirement systems to enforce court-ordered coverage for dependents of annuitants; (4) broaden eligibility for temporary continuation of coverage (TCC); (5) reduce the Government contribution for employees who retire with less than ten years of Federal service; and (65) make a necessary and technical conforming change.

First, the FEHB Program allows all participating health plans to offer a third option of coverage, a High Deductible Health Plan, with two exceptions – the Government-wide Service Benefit Plan and the Indemnity Benefit Plan. Current law restricts these two plans to offering just two levels of benefits. There are no similar restrictions on other types of plans currently participating in the FEHB Program. The proposal would allow the Government-wide Service Benefit Plan and the Indemnity Benefit Plan to offer more than two levels of benefits. While the FEHB Program does not currently contract with an underwriter for the Indemnity Benefit Plan, it is reasonable to assume that there will be a contractor sometime in the future. Therefore, we believe that it is sensible to address the Indemnity Benefit Plan at this time.

Second, the measure would allow OPM to contract independently with additional types of health benefit plans, such as Regional Preferred Provider Organizations, Exclusive Preferred Provider Organizations, and High Deductible Health Plans. The health plan designations currently in law place artificial limitations on OPM's ability to contract for health benefits for Federal employees. The health insurance marketplace has changed significantly in the past 40 years, and the four traditional health plan categories described in current law reflect largely outdated distinctions. This measure would enable OPM to

take advantage of the contemporary health plan types currently available to private-sector employees.

Third, current law allows the Federal Government to enroll or change the enrollment only of employees in the FEHB Program who are required by a court or administrative order to provide health insurance coverage for a qualified child, but who fail to do so. The law does not address annuitants subject to such orders. Currently, if the “court-ordered employee” retires, coverage must continue so long as the child remains eligible for coverage and the court order remains in effect. The current law does not address annuitants subjected to a court order after retirement. The draft bill would extend the authority to retirement systems to change the enrollment of annuitants to self and family under the circumstances described.

Additionally, agencies are currently authorized to enroll or change the enrollment to the option that provides the lower level of coverage under the Service Benefit Plan. However, due to changes in benefit design, it may not always be clear which option is the lower level of coverage. The measure would authorize OPM to select and update the plan with the lower level of coverage, as needed, through regulation.

Fourth, the draft bill would broaden TCC eligibility to include anyone who ceases to have FEHB Program eligibility for any reason, except an employee who is involuntarily terminated due to gross misconduct. Current law limits TCC to employees, dependent children, and former spouses who lose eligibility as a result of the employee’s separation from Federal service or a change in family member status. Individuals who elect TCC agree to pay the full enrollment cost, plus an administrative fee amounting to two percent of such cost.

The proposal would include, for example, employees who lose FEHB Program coverage after one year in leave-without-pay status; retirees or survivor annuitants whose annuity rights terminate; family members of individuals who change to self-only FEHB Program coverage; and former spouses who lose coverage because the employee died and no survivor annuity is payable to the former spouse. Employees would be eligible for up to 18 months of TCC after FEHB Program eligibility ends. Family members, annuitants, and former spouses would be eligible for up to 36 months of TCC benefits.

Finally, the measure would make a modest technical and conforming change required as a result of amendments made earlier in the proposal.

In summary, we believe that enactment of this proposal will make needed improvements in the Federal Employees Health Benefits Program.

The Office of Management and Budget advises that the submission of this proposal is in accord with the program of the President.

The Honorable Nancy Pelosi

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A similar letter is being sent to the President of the Senate.

Sincerely,



Linda M. Springer
Director

Enclosures

A BILL

To make improvements in the Federal Employees Health Benefits Program,
and for other purposes.

*Be it enacted by the Senate and the House of Representatives of the United States
of America in Congress assembled,*

SECTION 1. SHORT TITLE

This Act may be cited as the “Federal Employees Health Benefits Improvements
Act of 2007.”

SEC. 2. CONTRACTING IMPROVEMENTS

Section 8903 of title 5, United States Code, is amended—

- (1) in paragraph (1), by inserting “at least” after “offering”;
- (2) in paragraph (2), by inserting “at least” after “offering”; and
- (3) by adding at the end the following new paragraphs:

“(5) REGIONAL PREFERRED PROVIDER ORGANIZATION PLANS.—

Plans that offer health benefits of the types named under section 8904(a)(1)
or (2), or both, through a network of selected physicians, hospitals, and
other health care providers in a specific geographic region.

“(6) EXCLUSIVE PREFERRED PROVIDER ORGANIZATION PLANS.—

Plans that offer health benefits of the types named under section 8904(a)(1)
or (2), or both, through a network of selected physicians, hospitals, and
other health care providers.

“(7) HIGH DEDUCTIBLE HEALTH PLANS.—Plans defined as high
deductible health plans in section 223(c)(2) of title 26, United States Code.

“(8) OTHER HEALTH PLAN TYPES.—Plans that offer health benefits of the types named under section 8904(a)(1) or (2), or both, through physicians, hospitals, and other health care providers.”.

SEC. 3. CHILD EQUITY FOR DEPENDENTS OF RETIREES

Section 8905(h) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking “option which provides the lower level of coverage under the Service Benefit Plan” and inserting “plan that the Director, by regulation, determines to be appropriate”;

(2) in paragraph (2)—

(A) by inserting “or annuitant” after “employee” each place it appears;

(B) by inserting “or retirement system” after “agency” each place it appears; and

by striking “option which provides the lower level of coverage under the Service Benefits Plan” and inserting “plan that the Director, by regulation, determines to be appropriate”; and

(3) in paragraph (3), by inserting “or annuitant” after “employee” each place it appears.

SEC. 4. TEMPORARY CONTINUATION OF COVERAGE

Section 8905a of title 5, United States Code, is amended—

(1) in subsection (a), by striking “under this chapter”;

(2) by amending subsections (b) and (c) to read as follows:

“(b) This section applies with respect to any individual who—

“(1) ceases (other than by his or her own cancellation) to have health benefits coverage under another section of this chapter as an employee, annuitant, family member, or former spouse for any reason, except that this section shall not apply to employees whose coverage ceases upon involuntary separation for gross misconduct, as defined under regulations prescribed by the Director; and

“(2) would not otherwise be eligible for any benefits, determined without regard to any temporary extension of coverage consistent with section 8902(g) and without regard to any benefits available under a non-group contract.

“(c)(1) The Director shall prescribe regulations and provide for the inclusion of appropriate terms in contracts with carriers to provide that—

“(A) with respect to an individual who becomes or will become eligible for continued coverage under this section as a result of a change related to the conditions of that individual’s Federal service or termination of annuitant status, the employing agency or agency responsible for paying annuitant benefits shall, before the end of the 30-day period beginning on the date on which coverage, including any temporary extensions of coverage, would otherwise end, notify the individual of such individual’s rights under this section; and

“(B) with respect to an individual who becomes eligible for continued coverage under this section as a result of loss of coverage as the family member or former spouse of an employee or annuitant—

“(i) the employee, annuitant, family member, or former spouse may provide written notice of such loss of coverage, complete with the family

member or former spouse's name, address, and such other information as the Director may by regulation require—

“(I) to the employee's current or last employing agency; or

“(II) in the case of an annuitant, to the agency responsible for paying annuitant benefits; and

“(ii) if the notice referred to in clause (i) is received within 60 days after the date as of which coverage as a family member or former spouse would otherwise cease, the employing agency or the agency responsible for paying annuitant benefits, as the case may be, shall, within 14 days after receiving such notice, notify the family member or former spouse of such individual's rights under this section.

“(2) In order to obtain continued coverage under this section, an appropriate written election, submitted in such manner as the Director may by regulation prescribe, must be made—

“(A) in the case of an individual seeking coverage based on a change related to the conditions of that individual's Federal service or termination of annuitant status, before the end of the 60-day period beginning on the later of—

“(i) the effective date of the employment change or termination of annuitant status; or

“(ii) the date the individual receives the notice required under paragraph (1)(A); or

“(B) in the case of an individual seeking coverage based on a change in circumstances making such individual ineligible for coverage as the family

member or former spouse or an employee or annuitant, before the end of the 60-day period beginning on the later of—

“(i) the date as of which such individual first ceases to be an eligible family member or former spouse for purposes of this chapter or family coverage is cancelled; or

“(ii) the date such individual receives notice under paragraph (1)(B)(ii);

except that, if a parent or former spouse fails to provide the notice required under paragraph (1)(B)(i) in a timely fashion, the 60-day period under this subparagraph shall be based on the date under clause (i), irrespective of whether any notice under paragraph (1)(B)(ii) is provided.”;

(3) in subsection (d)—

(A) by amending paragraph (1) to read as follows:

“(1)(A) Except as provided in paragraphs (4) and (5), an individual receiving continued coverage shall be required to pay currently into the Employee Health Benefits Fund, under arrangements satisfactory to the Director, an amount equal to the sum of—

“(i) the employee and agency contributions that would be required in the case of an employee enrolled in the same health benefits plan and level of benefits; and

“(ii) an amount, determined under regulations prescribed by the Director, necessary for administrative expenses, but not to exceed 2 percent of the total amount under clause (i).

“(B) Payments under this section to the Fund shall—

“(i) in the case of an individual whose continued coverage is based on such individual’s separation, be made through the agency that last employed such individual;

“(ii) in the case of an individual whose continued coverage is based on a change related to conditions of that individual’s Federal service, be made through the agency that last employed such individual;

“(iii) in the case of an individual whose continued coverage is based on a change in circumstances referred to in subsection (c)(2)(B), be made through—

“(I) the Office, if, at the time coverage would, but for this section, otherwise have been discontinued, the individual was covered as a family member or former spouse of an annuitant; or

“(II) if, at the time referred to in subclause (I), the individual was covered as a family member of an employee or former spouse, the employee’s employing agency as of such time; or

“(iv) in the case of an individual whose continued coverage is based on termination of annuitant status, be made through the agency responsible for paying annuitant benefits.”; and

(B) in paragraph (4)—

(i) in subparagraph (A)(ii), by striking “which” and inserting “that”;

(ii) in subparagraph (B)—

(I) in clause (i), by striking “2006” and inserting “2010”;

and

(II) in clause (ii)—

(aa) by striking “2007” and inserting “2011”; and

(bb) by striking “2006” and inserting “2010”; and

(4) by amending subsections (e) and (f) to read as follows:

“(e)(1) Continued coverage under this section may not extend beyond—

“(A) in the case of an individual whose continued coverage is based on a change in conditions related to that individual’s Federal service, the date that is 18 months after the effective date of such qualifying change; or

“(B) in the case of an individual who is eligible for continued coverage other than as described in subparagraph (A), the date that is 36 months after the date of any event that (but for this section) would otherwise cause coverage to cease.

“(2) In the case of an individual who—

“(A) ceases to be covered as a family member; and

“(B) as of the day before the event referred to in subparagraph (A), was covered as the family member of a person who is receiving continued coverage based on a change in conditions related to Federal service or a change in annuitant status, extended coverage under this section for such family member may not extend beyond the date that is 36 months after the effective date of the event that is the basis for such employee’s or annuitant’s continued coverage.

“(f)(1) The Director shall prescribe regulations under which, in addition to any individual otherwise eligible for continued coverage under this section, and to the extent practicable, continued coverage may also, upon appropriate written application, be afforded to any individual who—

“(A) if subparagraphs (A) and (C) of paragraph (10) of section 8901 were disregarded, would be eligible to be considered a former spouse within the meaning of such paragraph; but

“(B) would not, but for this subsection, be eligible to be so considered.

“(2) The terms and conditions for coverage under the regulations shall include—

“(A) consistent with subsection (c), any necessary notification provisions, and provisions under which an election period of at least 60 days duration is afforded;

“(B) terms and conditions identical to those under subsection (d), except that contributions to the Employees Health Benefits Fund shall be made through such agency as the Director by regulation prescribes; and

“(C) provisions relating to the termination of continued coverage, except that continued coverage under this section may not (subject to paragraph (3)) extend beyond the date that is 36 months after the date on which the qualifying event under this subsection (the date of divorce or annulment, as the case may be) occurs.

“(3) In the case of an individual who becomes eligible for continued coverage under this subsection based on a divorce from, or annulment of marriage to, an employee or annuitant who was receiving continued coverage under this section, the individual’s

coverage under this subsection may not extend beyond the date that is 36 months after the effective date of the event that is the basis for such employee's or annuitant's continued coverage.”.

SEC. 5. GOVERNMENT CONTRIBUTION

Section 8906(b)(1) of title 5, United States Code, is amended to read as follows:

“(b)(1) Except as provided in paragraphs (2) and (3), the biweekly Government contribution for an individual enrolled in a health benefits plan under this chapter is adjusted—

“(A) to an amount equal to 72 percent of the weighted average under subsection (a)(1)(A) or (B), as applicable, for—

“(i) regardless of length of service—

“(I) an employee;

“(II) an annuitant under section 8901(3)(A)(iii) or an individual receiving survivor benefits on the basis of the service of such an annuitant; or

“(III) an annuitant under subparagraph (C) or (D) of that section; or

“(ii) an annuitant under section 8901(3)(A)(i), (ii), or (iv) or (B), except an annuitant designated in subparagraph (A)(i)(II) of this section, who has completed 10 or more years of service or whose survivor benefit is based on 10 or more years of service by an employee; or

“(B) to equal the amount established under subparagraph (A), decreased by ten percent for each year of service under 10 for an annuitant under section 8901(3), except an annuitant designated under subparagraph (A)(i)(II) and (III) of this section, who has completed less than 10 years of service or whose survivor benefit is based on less than 10 years of service by an employee.

“(C) The adjustment for an employee begins on the first day of the first applicable pay period of the year. The adjustment for an annuitant begins on the first day of the first pay period of each year for which an annuity payment is made.”.

SEC. 65. TECHNICAL AND CONFORMING AMENDMENTS

Title 5, United States Code, is amended—

(1) in section 8901—

(A) in paragraph (10), by striking “and” at the end;

(B) in paragraph (11), by striking the period and inserting “; and”;

and

(C) by adding at the end the following new paragraph:

“(12) “Director” means the Director of the Office of Personnel Management.”; and

(2) in section 8902(n), by striking “8903(1), (2), or (3)” and inserting

“8903(1), (2), (3), or, if determined appropriate by the Director, (5), (6), (7), (8)”.

SEC. 76. EFFECTIVE DATE

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

“To make improvements in the Federal Employees Health Benefits Program, and for other purposes.”

SECTION 1. SHORT TITLE

The first section would provide that the bill may be cited as the “Federal Employees Health Benefits Improvements Act of 2007”.

SECTION 2. CONTRACTING IMPROVEMENTS

Section 2 would amend section 8903(1) of title 5, United States Code, to allow the Service Benefit Plan in the Federal Employees Health Benefits (FEHB) Program to offer more than two levels of benefits. Current law restricts that Governmentwide Plan to offering two levels of benefits, while there are no similar restrictions on other types of plans currently participating in the Program.

Also, under section 2, section 8903(2) would be amended to allow the Indemnity Benefit Plan to offer more than two levels of benefits. Like the Service Benefit Plan, current law restricts the Indemnity Benefit Plan to offering two levels of benefits. There is no FEHB Program health plan fulfilling the contractual responsibilities of the Indemnity Benefit Plan at this time. Allowing for more than two levels of benefits in the law will accommodate any future possibility that an insurer(s) will contract for the Indemnity Benefit Plan and will be able to offer more than two benefit levels, the same as other FEHB Program plans.

Finally, section 2 also would amend section 8903 to allow the Director of the Office of Personnel Management (OPM) to contract with additional types of plans, specifically, Regional Preferred Provider Organizations, Exclusive Preferred Provider Organizations, High Deductible Health Plans, and other types of health plans as determined by OPM. The health plan designations currently in law place artificial limitations on OPM’s contracting for health benefits for Federal employees. The health insurance marketplace has changed significantly over the years, and the four traditional health plan categories described in the original law reflect largely outdated distinctions. Amending section 8903 would enable OPM to take advantage of the contemporary health plan types currently available to private-sector employers.

SECTION 3. CHILD EQUITY FOR DEPENDENTS OF RETIREES

Currently, section 8905(h) of title 5, United States Code, allows the Federal Government to enroll or change the enrollment only of employees in the FEHB Program who are required by a court or administrative order to provide health insurance coverage for a

qualified child, but who fail to do so. The law does not address annuitants subjected to such orders.

Under section 8905(h)(3), if the “court-ordered employee” retires, coverage must continue so long as the child remains eligible for coverage and the court order remains in effect. The current law does not address annuitants subjected to a court order after retirement. The proposed amendment would include annuitants.

Amended subsection (h)(2) would extend the authority to retirement systems to change the enrollment of annuitants to self and family under the circumstances described. Consistent with section 8905(b), it does not extend the authority to retirement systems to enroll annuitants who are not already enrolled in the FEHB Program.

Currently under section 8905(h), agencies are authorized to enroll or change the enrollment to the option that provides the lower level of coverage under the Service Benefit Plan. However, due to changes in benefit design, it may not always be clear which option is the lower level of coverage. The proposed statutory language would authorize OPM to select and update the plan with the lower level of coverage as needed, through regulation.

SECTION 4. TEMPORARY CONTINUATION OF COVERAGE

Section 4 would amend section 8905a of title 5, United States Code, to authorize temporary continuation of coverage (TCC) under the FEHB Program for Federal employees and their dependent children who would otherwise lose FEHB Program eligibility as a result of the employee’s separation from Federal service or a change in family status. Individuals who elect TCC agree to pay the full enrollment cost plus an administrative fee not to exceed two percent of such cost.

Amending section 8905a would broaden TCC eligibility to include any individual who ceases to have FEHB Program eligibility for any reason, except an employee who is involuntarily terminated due to gross misconduct. It would include, for example, an employee who loses FEHB Program coverage after one year in leave-without-pay status; a retiree or survivor annuitant whose right to an annuity terminates; a family member of an individual who changes to self-only FEHB Program coverage; and a former spouse who loses coverage because the employee died and no survivor annuity is payable to the former spouse. Employees would be eligible for up to 18 months of TCC after FEHB Program eligibility ends; family members, annuitants, and former spouses would be eligible for up to 36 months of TCC benefits. The employee, family member, or former spouse with the right to enroll in TCC may notify the agency of the loss of coverage.

Section 4 also would amend clauses (i) and (ii) of subsection (d)(4)(B) to read "October 1, 2010", "February 1, 2011", and "October 1, 2010", respectively, to conform to current law. In addition, this section would eliminate current language in subsection (f)(1)(B) that affords TCC eligibility to family members whose FEHB Program coverage ends due to a

legal separation. Legal separation is not a cause for terminating family members status under the law. Therefore, the current language has no practical effect.

SECTION 5. TECHNICAL AND CONFORMING AMENDMENTS

Section 5 would make a modest technical and conforming change required a result of amendments made earlier in the proposal.

SECTION 6. EFFECTIVE DATE

Section 6 would make the amendments made by the Act effective 180 days after the date of enactment of the Act.