



Tribal Benefits Administration Letter

Number: 13-602

Date: August 27, 2013

Subject: Federal Employees Health Benefits (FEHB) Program and the Individual Shared Responsibility Provision of the Affordable Care Act: The Requirement to Maintain "Minimum Essential Coverage" (MEC)

Background

Under the Patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (collectively, the Affordable Care Act), the Federal government, state governments, insurers, employers, and individuals are given shared responsibility to reform and improve the availability, quality, and affordability of health insurance coverage in the United States.

Beginning January 1, 2014, the **Affordable Care Act's individual shared responsibility provision requires each individual (including children)** to:

- maintain minimum essential health coverage (known as "minimum essential coverage" or "MEC") for each month; **or**
- qualify for an exemption; **or**
- make a payment when filing his or her Federal income tax return.

Purpose

The purpose of this letter is to provide you with information that will assist you with informing your employees about the requirements of the Affordable Care Act's individual shared responsibility provision and how that relates to the FEHB Program. All FEHB plans are eligible employer-sponsored plans and provide minimum essential coverage (MEC). Therefore, if an individual is covered by a plan under the FEHB Program for any given month, that individual satisfies the requirement to maintain MEC for that month.

The Office of Personnel Management (OPM) has prepared the following list of questions and answers to help better explain this individual MEC requirement as it relates to the FEHB Program.

In addition, we have included a Health Care Reform FEHB FastFacts entitled *How Does the Affordable Care Act's Individual Shared Responsibility Provision and the Requirement to Maintain Minimum Essential Coverage AFFECT ME?* (Attachment 1). Please provide the attached Health Care Reform FEHB FastFacts to your employees. Please consider publishing the Health Care Reform FEHB FastFacts on your intranet or internal agency website.

Questions and Answers on the FEHB Program, the Individual Shared Responsibility, and the Requirement to Maintain Minimum Essential Coverage (MEC)

1. What do employees and annuitants need to understand about the Affordable Care Act's individual shared responsibility provision and the requirement to maintain MEC?

Beginning January 1, 2014, the **Affordable Care Act's individual shared responsibility provision requires each individual (including children)** to:

- maintain minimum essential health coverage (known as "minimum essential coverage" or "MEC") for each month; **or**
- qualify for an exemption; **or**
- make a payment when filing his or her Federal income tax return.

Children and other Federal income tax dependents must have minimum essential coverage or qualify for an exemption for each month in the calendar year. Otherwise, the adult or married couple who can claim the child or other individuals as a dependent for Federal income tax purposes will owe a payment. For more information on how the individual shared responsibility provision affects individuals claiming dependents, please visit the Internal Revenue Service (IRS) website at www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision.

2. Does FEHB coverage qualify as minimum essential coverage (MEC)?

Yes, according to the Affordable Care Act, codified at 26 U.S.C. § 5000A(f), MEC includes an eligible employer-sponsored plan that is a Federal Governmental Plan as defined under the Public Health Service Act. All FEHB plans are eligible employer-sponsored plans and provide minimum essential coverage (MEC). Therefore, FEHB plans meet the definition of MEC.

3. Do all FEHB plans and enrollment options qualify as providing MEC?

Yes.

4. Does coverage through the FEHB Temporary Continuation of Coverage (TCC) or Spouse Equity provisions qualify as MEC?

Yes, the requirement to maintain MEC is satisfied for individuals covered under FEHB plans through TCC or Spouse equity provisions.

5. Does FEHB coverage for eligible tribal employees (including their eligible family members under a Self and Family enrollment) of tribal employers participating in the FEHB Program qualify as MEC?

Yes.

6. Is the individual requirement for MEC satisfied for FEHB-eligible employees, annuitants, and family members who are:

A. Enrolled in FEHB Coverage

Yes, the individual requirement to maintain MEC is satisfied for individuals covered as an enrollee under an FEHB plan.

B. Covered under a spouse's or parent's FEHB Self and Family enrollment

Yes, the individual requirement to maintain MEC is satisfied for those individuals covered as a family member under an FEHB plan.

C. Not enrolled or covered under an FEHB plan

It depends. Individuals who are eligible but not enrolled or covered under an FEHB Plan should review the IRS information on individual shared responsibility and the requirement to maintain MEC, available online at: www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision. Coverage under a health plan other than FEHB or under certain Government sponsored programs may satisfy the MEC requirement for these individuals. Further, the IRS website contains guidance on exemptions from the MEC requirement and other detailed information.

7. For employees who are not currently enrolled in FEHB but who are eligible for FEHB, when can they enroll in FEHB so that they have MEC for themselves under a Self Only enrollment or for themselves and their FEHB-eligible family members under a Self and Family enrollment for 2014?

Employees who are eligible for FEHB coverage, but who are not currently enrolled in FEHB may enroll in FEHB during the annual Federal Benefits Open Season. The 2013 Open Season runs from Monday, November 11 through Monday, December 9, 2013.

Generally for most Federal employees, 2013 Open Season FEHB enrollments are effective on the first day of the first full pay period that begins in January 2014. Even though employees and/or their FEHB-eligible family members may not be covered for all of January 2014, **the individual shared responsibility requirement to maintain MEC for those individuals will be satisfied** because having coverage for at least one day during the month is treated as having coverage for the month.

For tribal employees of tribal employers, 2013 Open Season FEHB enrollments are effective on January 1, 2014.

Additionally, employees who are eligible for FEHB coverage, but who are not currently enrolled may enroll in an FEHB plan if they experience a Qualifying Life Event (QLE). Generally, the effective date for an FEHB enrollment due to a QLE is the first day of the first pay period that begins after the date the employing office receives the Standard Form 2809 to enroll and that follows a pay period during any part of which the employee is in pay status. For information on QLEs, please visit the OPM website at www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/enrollment/.

Note: Annuitants who are not currently enrolled in FEHB (and/or who did not meet the statutory requirement for continuing FEHB into retirement), are not eligible to enroll in FEHB. They should visit the IRS website at www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision for details on other types of MEC as well as exemptions and payments.

8. When can employees and annuitants change their FEHB enrollment from Self Only to Self and Family so that they have MEC for their FEHB-eligible family members for 2014?

Employees and annuitants who are enrolled in Self Only FEHB coverage may change their FEHB enrollment to self and family during the annual Federal Benefits Open Season. The 2013 Open Season runs from Monday, November 11 through Monday, December 9, 2013.

Generally for most Federal employees, 2013 Open Season FEHB changes in FEHB enrollments are effective on the first day of the first full pay period that begins in January 2014. Even though employees and/or their FEHB-eligible family members may not be covered for all of January 2014, **the individual shared responsibility requirement to maintain MEC for those individuals will be satisfied** because having coverage for at least one day during the month is treated as having coverage for the month.

For tribal employees of tribal employers, 2013 Open Season FEHB enrollment changes are effective on January 1, 2014.

For annuitants, 2013 Open Season FEHB enrollment changes are effective on January 1, 2014.

Additionally, employees and annuitants may change their Self Only FEHB enrollment to Self and Family if they experience a Qualifying Life Event (QLE). Generally, the effective date for an FEHB enrollment change due to a QLE is the first day of the first pay period that begins after the date the employing office receives the Standard Form 2809 to change enrollment and that follows a pay period during any part of which the employee is in pay status. For information on QLEs, please visit the OPM website at www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/enrollment/.

9. What do employees and annuitants do if they are not eligible to enroll in the FEHB Program?

Employees and annuitants who are not eligible to enroll in the FEHB Program should review the IRS information on individual shared responsibility and the requirement to maintain MEC located at www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision. These individuals should determine if they and/or dependents they claim on their Federal income tax return have (or will have) MEC via another health insurance program, including coverage they may purchase through the Health Insurance Marketplace (also known as the Affordable Insurance Exchanges). Alternatively, information on the IRS website may help these individuals determine if they qualify for an exemption, or whether they will have to make a payment with their 2014 Federal income tax return.

FEHB Plan Brochures

Every FEHB plan brochure will indicate that the respective FEHB health plan is an eligible employer-sponsored plan, provides MEC, and meets the minimum value standard for the benefits that the plan provides. In addition, every FEHB plan's Summary of Benefits and Coverage (SBC) will also indicate that information.

Conclusion

Please distribute Attachment 1, the Health Care Reform FEHB FastFacts entitled *How Does the Affordable Care Act's Individual Shared Responsibility Provision and the Requirement to Maintain*

Minimum Essential Coverage AFFECT ME? to all your employees immediately to notify them that all FEHB plans are eligible employer-sponsored plans and provide minimum essential coverage (MEC). We encourage you to publish it on your agency's internal website as well. This Health Care Reform FEHB FastFacts contains critical information that your employees should know about the Affordable Care Act's individual shared responsibility requirement to maintain MEC.

If you have specific questions, please contact your Tribal Benefits Officer. If you are a Tribal Benefits Officer and you have questions, please contact Ellen Gay at Maryellen.Gay@opm.gov or the Tribal Desk at tribalprograms@opm.gov or 202-606-2530.

Sincerely,

John O'Brien
Director
Healthcare and Insurance

Attachment 1