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days after the date the enrollment terminates.

(2) The individual whose enrollment terminates must request conversion information from the losing carrier within 31 days of the date of the agency notice of the termination of the enrollment and of the right to convert.

(3) When an agency fails to provide the notification required in paragraph (c)(1) of this section within 60 days of the date the enrollment terminates, or the individual fails for other reasons beyond his or her control to request conversion as required in paragraph (c)(2) of this section, he or she may request conversion to an individual policy by writing directly to the carrier. Such a request must be filed within 6 months after the individual became eligible to convert his or her group coverage and must be accompanied by verification of termination of the enrollment; e.g., an SF 50, showing the individual's separation from the service. In addition, the individual must show that he or she was not notified of the termination of the enrollment and of the right to convert, and was not otherwise aware of it, or that he or she was unable, for cause beyond his or her control, to convert. The carrier will determine if the individual is eligible to convert; and when the determination is affirmative, the individual may convert within 31 days of the determination. If the determination by the carrier is negative, the individual may request a review of the carrier's determination from OPM.

(4) When an individual converts his or her coverage anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the temporary extension of group coverage ended. The individual must pay the premiums due for the retroactive period.

(5) An individual who fails to exercise his or her rights to convert to an individual policy within 31 days after receiving notice of the right to convert from the carrier is deemed to have declined the right to convert unless the carrier, or, upon review, OPM determines the failure was for cause beyond his or her control.

[33 FR 12510, Sept. 4, 1968, as amended at 52 FR 10217, Mar. 31, 1987; 54 FR 52339, Dec. 21, 1989; 55 FR 22891, June 5, 1990; 57 FR 10609, Mar. 27, 1992; 57 FR 21191, May 19, 1992]

Subpart E—Contributions and Withholdings

§ 890.501 Government contributions.

(a) The Government contribution for all plans, except those for which another contribution is set by paragraph (b) of this section, for each enrolled employee who is paid biweekly, is the amount provided in section 8906 of title 5, United States Code, plus 4 percent of that amount.

(b) The biweekly Government contribution for each employee or annuitant enrolled in a plan whose total enrollment charge is less than twice the appropriate contribution listed in paragraph (a) of this section is 50 percent of the enrollment charge.

(c) The Government contribution for annuitants and for employees who are not paid biweekly is a percentage of that fixed by paragraphs (a) and (b) of this section proportionate to the length of the pay period, rounding fractions of a cent to the nearest cent.

(d) The Government contribution for employees whose annual pay is paid during a period shorter than 52 workweeks is determined on an annual basis and prorated over the number of installments of pay regularly paid during the year.

(e) Except as provided in paragraphs (f) and (g) of this section, the employing office must make a contribution for an employee for each pay period during which the enrollment continues.

(f) Temporary employees enrolled under 5 U.S.C. 8906a must pay the full subscription charge including the Government contribution. Employees with provisional appointments under § 316.403 are not considered to be enrolled under 5 U.S.C. 8906a for the purpose of this paragraph.

(g) The Government contribution for an employee who enters the uniformed

services and whose enrollment continues under §890.303(i) ceases after 365 days in nonpay status.

[33 FR 12510, Sept. 4, 1968, as amended at 47 FR 30963, July 16, 1982; 54 FR 7756, Feb. 23, 1989; 56 FR 10143, Mar. 11, 1991; 60 FR 45658, Sept. 1, 1995]

§ 890.502 Employee withholdings and contributions.

(a) *Employee and annuitant withholdings and contributions.* (1) Except as provided in paragraphs (a)(2) and (g) of this section, an employee or annuitant is responsible for payment of the employee or annuitant share of the cost of enrollment for every pay period during which the enrollment continues. An employee or annuitant incurs an indebtedness due the United States in the amount of the proper employee or annuitant withholding required for each pay period that health benefits withholdings or direct premium payments are not made but during which the enrollment continues.

(2) An individual is not required to pay withholdings for the period between the end of the pay period in which he or she separates from service and the commencing date of an immediate annuity, if later.

(3) Temporary employees who are eligible to enroll under 5 U.S.C. 8906a must pay the full subscription charges including both the employee share and the Government contribution. Employees with provisional appointments under §316.403 are not considered eligible for coverage under 5 U.S.C. 8906a for the purpose of this paragraph (a)(3).

(4) The employing office must determine the withholding for employees whose annual pay is paid during a period shorter than 52 workweeks on an annual basis and prorate the withholding over the number of installments of pay regularly paid during the year.

(5) The employing office must make the withholding required from enrolled survivor annuitants in the following order. First, withhold from the annuity of a surviving spouse, if any. If that annuity is less than the withholding required, the employing office must make the withholding to the extent necessary from the annuity of the children, if any, in the following order. First, withhold from the annuity of the youngest child, and if necessary, then from the annuity of the next older child, in succession, until the withholding is satisfied.

(6) Surviving spouses in receipt of a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and annuitants whose health benefits premiums exceed the amount of their annuities may pay their portion of the health benefits premium directly to the retirement system acting as their employing office in accordance with procedures set out in paragraph (d) of this section.

(b) *Procedures when employee enters LWOP status or pay is insufficient to cover premium.* As soon as the employing office is aware of an employee whose premium payments cannot be made because the employee will be entering or has entered leave without pay status, (or any other type of nonpay status, except periods of nonpay resulting from a lapse of appropriations), or the employee's pay is insufficient to cover the premiums, the employing office must inform the employee of the available health benefits options.

(1) The employing office must provide the employee written notice of the options and consequences as described in paragraphs (b)(2) (i) and (ii) of this section. If the employing office cannot give the notice required by this paragraph (b)(1) to the employee directly, it must send the notice by first class mail. A notice that is mailed is deemed to be received 5 days after the date of the notice.

(2) The employee must elect in writing either to continue health benefits coverage or terminate it. The employee may continue his or her health benefits coverage by choosing one of the options listed in this paragraph (b)(2) and returning the signed form to the employing office within 31 days from the day he or she receives the notice (45 days for an employee residing overseas). When an employee mails the signed form, the date of the postmark is deemed to be the date the notice is returned to the employing office. If an employee elects to continue coverage, he or she must elect in writing either to—

(i) Agree to pay the premium directly to the agency on a current basis. The employee must agree that if he or she

does not pay the premiums, upon returning to employment or upon pay becoming sufficient to cover the premiums, the employing office will deduct, in addition to the current pay period's premiums, an amount equal to the premiums for a pay period during which the employee was in LWOP status. The employing office will continue using this method to deduct the accrued unpaid premiums from salary until the debt is recovered in full. The employee must also agree that if he or she does not return to work or the employing office cannot recover the debt in full from salary, the employing office may recover the debt from whatever other sources it normally has available for recovery of a debt to the United States, or

(ii) Agree upon returning to employment or upon pay becoming sufficient to cover the premiums, the employing office will deduct, in addition to the current pay period's premiums, an amount equal to the premiums for a pay period during which the employee was in LWOP status. The employing office will continue using this method to deduct the accrued unpaid premiums from salary until the debt is recovered in full. The employee must also agree that if he or she does not return to work or the employing office cannot recover the debt in full from salary, the employing office may recover the debt from whatever other sources it normally has available for recovery of a debt to the United States.

(3) Except as provided under paragraph (b)(4) of this section, if the employee does not return the signed form within 31 days after the day he or she receives the notice (45 days for employees residing overseas) the employing office terminates the enrollment according to paragraph (b)(5) of this section. The employing office must give the employee written notification of the termination.

(4) If the employee is prevented by circumstances beyond his or her control from returning a signed form to the employing office within the time frame under paragraph (b)(2) of this section, he or she may request reinstatement of coverage by writing to the employing office. The employee must describe the circumstances that prevented timely notice and file the request within 30 calendar days from the date the employing office gives the employee notification of the termination. The employing office determines if the employee is eligible for reinstatement of coverage. If the determination is affirmative, the employing office reinstates the coverage of the employee retroactive to the date of termination. If the determination is negative, the employee may request a review of the decision from the employing agency as provided under § 890.104.

(5) Terminations of enrollment under paragraphs (b)(2) and (3) of this section are retroactive to the end of the last pay period in which the premium was withheld from pay. The employee and covered family members, if any, are entitled to the temporary extension of coverage for conversion and may convert to an individual contract for health benefits. An employee whose coverage is terminated may enroll upon his or her return to duty in a pay status in a position in which the employee is eligible for coverage under this part.

(c) *Procedures when an agency underwithholds.* (1) An agency that withholds less than the proper health benefits contributions from an individual's pay, annuity, or compensation must submit an amount equal to the sum of the uncollected contributions and any applicable agency contributions required under section 8906 of title 5, United States Code, to OPM for deposit in the Employees Health Benefits Fund.

(2) The agency must make the deposit to OPM described in paragraph (c)(1) of this section as soon as possible, but no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the agency recovers the underdeduction. A subsequent agency determination whether to waive collection of the overpayment of pay caused by failure to properly withhold employee health benefits contributions shall be made in accordance with 5 U.S.C. 5584 as implemented by 4 CFR chapter I, subchapter G, unless the agency involved is excluded from application of 5 U.S.C. 5584, in which

case any applicable authority to waive the collection may be used.

(d) *Direct premium payments for annuitants.* (1) If an annuity, excluding an annuity under Subchapter III of Chapter 84 (Thrift Savings Plan), is too low to cover the health benefits premium due or if a surviving spouse receives a basic employee death benefit, the retirement system must provide information to the annuitant or surviving spouse regarding the available plans and notify him or her in writing of the opportunity to either: enroll in any plan in which the enrollee's share of the premium is not in excess of the annuity; or make payment of the premium directly to the retirement system.

(2) The retirement system must establish a method for accepting direct payment for health benefits premiums from surviving spouses who have received or are currently receiving basic employee death benefits as well as from annuitants whose annuities are too low to cover their health premiums. The annuitant or surviving spouse must continue to make direct payment of the health benefits premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant or surviving spouse must pay to the retirement system his or her share of the premium for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in § 890.401. The annuitant or surviving spouse must pay after each pay period in which he or she is covered in accordance with a schedule established by the retirement system. If the retirement system does not receive payment by the date due, the retirement system must notify the annuitant or surviving spouse in writing that continuation of coverage depends upon payment being made within 15 days (45 days for annuitants or surviving spouses residing overseas) after receipt of the notice. If no subsequent payments are made, the retirement system terminates the enrollment 60 days (90 days for annuitants or surviving spouses residing overseas) after the date of the notice. An annuitant or surviving spouse whose enrollment terminates because of nonpayment of premium may not reenroll or reinstate coverage, except as provided in paragraph (d)(4) of this section.

(4) If the annuitant or surviving spouse is prevented by circumstances beyond his or her control from paying within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the retirement system. The annuitant or surviving spouse must describe the circumstances that prevented timely notice and file the request within 30 calendar days from the date of termination. The retirement system determines whether the surviving spouse or annuitant is eligible for reinstatement of coverage. If the determination is affirmative, the retirement system reinstates the coverage of the surviving spouse or annuitant retroactive to the date of termination. If the determination is negative, the surviving spouse or annuitant may request a review of the decision from the retirement system as provided under § 890.104.

(5) Termination of enrollment for failure to pay premiums within the time frame established in accordance with paragraph (d)(3) of this section is retroactive to the end of the last pay period for which payment has been timely received.

(6) The retirement system will submit all direct premium payments along with its regular health benefits premiums to OPM in accordance with procedures established by that office.

(e) *Direct payment of premiums during periods of LWOP status in excess of 365 days.*

(1) An employee who is granted leave without pay under subpart L of part 630 of this chapter which exceeds the 365 of continued coverage under section 890.303(e) must pay the employee contributions directly to the employing office on a current basis.

(2) Payment must be made after the pay period in which the employee is covered in accordance with a schedule established by the employing office. If the employing office does not receive the payment by the date due, the employing office must notify the employee in writing that continuation of coverage depends upon payment being

made within 15 days (45 days for employees residing overseas) after receipt of the notice. If no subsequent payments are made, the employing office terminates the enrollment 60 days (90 days for enrollees residing overseas) after the date of the notice.

(3) If the enrollee was prevented by circumstances beyond his or her control from making payment within the timeframe specified in paragraph (e)(2) of this section he or she may request reinstatement of the coverage by writing to the employing office. The employee must file the request within 30 calendar days from the date of termination and must include supporting documentation.

(4) The employing office determines whether the employee is eligible for reinstatement of coverage. If the determination is affirmative, the employing office reinstates the coverage of the employee retroactive to the date of termination. If the determination is negative, the employee may request a review of the decision from the employing agency as provided under § 890.104.

(5) An employee whose coverage is terminated under paragraph (e)(2) of this section may register to enroll upon his or her return to duty in a pay status in a position in which the employee is eligible for coverage under this part.

(f) *Uniformed services.* (1) except as provided in paragraph (g)(2) of this section, an employee whose coverage continues under section 890.303(i) is responsible for payment of the employee share of the cost of enrollment for every pay period for which the enrollment continues for the first 365 days of continued coverage as set forth under paragraph (b) of this section. For coverage that continues after 365 days in nonpay status, the employee must pay, on a current basis, the full subscription charge, including both the employee and Government shares, plus an additional 2 percent of the full subscription charge.

(2) Payment of the employee's share of the cost of enrollment is waived for the first 365 days of continued coverage in the case of an employee whose coverage continues under § 890.303(e) following furlough or placement on leave of absence under the provisions of part 353 of this chapter or under § 890.303(i) if the employee was ordered to active duty before September 1, 1995 under section 672, 673b, 674, 675, or 688 of title 10, United States Code, in support of Operation Desert Storm.

[33 FR 12510, Sept. 4, 1968, as amended at 47 FR 30963, July 16, 1982; 49 FR 1047, Jan. 9, 1984; 52 FR 3399, Feb. 4, 1987; 52 FR 39497, Oct. 22, 1987, and 53 FR 32368, Aug. 25, 1988; 54 FR 7756, Feb. 23, 1989; 55 FR 39131, Sept. 25, 1990; 56 FR 10143, Mar. 11, 1991; 56 FR 25997, June 6, 1991; 57 FR 10611, Mar. 27, 1992; 58 FR 39607, July 23, 1993; 60 FR 45658, Sept. 1, 1995; 61 FR 37808, July 22, 1996; 61 FR 64454, Dec. 5, 1996]

EFFECTIVE DATE NOTE: At 61 FR 54454, Dec. 5, 1996, § 890.502 was amended by revising paragraph (e), effective Jan. 6, 1997. For the convenience of the user, the superseded text is set forth as follows:

§ 890.502 Employee witholdings and contributions.

* * * * *

(e) *Direct payment of premiums during periods of LWOP status in excess of 365 days.* (1) An employee who is granted leave without pay under subpart L of part 630 of this chapter which exceeds the 365 days of continued coverage under § 890.303(e) must pay the employee contributions directly to the employing office on a current basis.

(2) Payment must be made after the pay period in which the employee is covered in accordance with a schedule established by the employing office. If the employing office does not receive the payment by the date due, the employing office must notify the employee in writing that continuation of coverage depends upon payment being made within 15 days (45 days for employees residing overseas) after receipt of the notice. If no subsequent payments are made, the employing office terminates the enrollment 60 days (90 days for enrollees residing overseas) after the date of the notice.

(3) If the employee was prevented by circumstances beyond his or her control from making payment within the time frame specified in paragraph (e)(2) of this section, he or she may request reinstatement of the coverage by writing to the employing office. The employee must describe the circumstances that prevented timely notice and file the request within 30 calendar days from the date of termination.

(4) The employing office determines whether the employee is eligible for reinstatement of coverage. If the determination is affirmative, the employing office reinstates the coverage of the employee retroactive to the date

of termination. If the determination is negative, the employee may request a review of the decision from the employing agency as provided under § 890.104.

(5) An employee whose coverage is terminated under paragraph (e)(2) of this section may enroll upon his or her return to duty in a pay status in a position in which the employee is eligible for coverage under this part.

* * * * *

§ 890.503 Reserves.

(a) The enrollment charge consists of the rate approved by OPM for payment to the plan for each enrollee, plus 4 percent, of which one part is for an administrative reserve and 3 parts are for a contingency reserve for the plan.

(b) The administrative reserve is credited with the one one-hundred-and-fourth of the enrollment charge set aside for the administrative reserve. The administrative reserve is available for payment of administrative expenses of OPM incurred under this part, and for such other purposes as may be authorized by law.

(c)(1) *Contingency reserve.* The contingency reserve for each plan is credited with—

(i) The three one-hundred-and-fourths of the enrollment charge set aside for the contingency reserve from the enrollment charges for employees and annuitants enrolled for that plan;

(ii) Amounts transferred in accordance with law from other contingency reserves and the administrative reserve;

(iii) Income from investment of the reserve;

(iv) Its proportionate share of the income from investment of the administrative reserve; and

(v) Any return of reserves of the plan.

(2) *Contingency reserve minimum balance.* The preferred minimum balance for the contingency reserve for community-rated plans is 1 month's subscription charges at the average recurring monthly rate paid from the Employees Health Benefits Fund for the plan during the most recent contract period. The preferred minimum balance for the contingency reserve for experience-rated plans is 1½ times an amount equal to the sum of an average month's paid claims plus an average month's administrative expenses and retentions, as determined under paragraph (c)(3) of this section. Amounts in excess of the preferred minimum balance for a contingency reserve account may be used with respect to the plan from which the reserve derives: To defray increases in future rates; to increase plan benefits, or to reduce contributions of eligible subscribers and the Government under the program through devices such as temporary suspension of, or reduction in, required contributions or a refund of contributions to eligible subscribers and the Government.

(3) *OPM/carrier reserve transfers.* The target level for total reserves of an experience-rated plan is 3½ times an amount equal to the sum of an average month's paid claims plus an average month's administrative expenses and retentions. Reserves include funds set aside for incurred-but-unpaid benefit claims and the ''special'' reserve representing the cumulative difference between income to the plan (subscription income plus interest on investments) and plan expenses (benefit costs plus administrative expenses and retentions). Included as carrier reserves is the balance in the letter of credit (LOC) account maintained by OPM for the plan. For the purposes of this section, an average month's paid claims is one-sixth of the total claims paid during the last 6 months of the most recent contract period, and an average month's administrative expenses and retentions is one-twelfth of the administrative expenses and retentions for the most recent contract period.

(i) When, as of the end of a contract period, the total of all the reserves for an experience-rated plan is less than the target level described in the first four sentences of paragraph (c)(3) of this section, the carrier is entitled to payment from the contingency reserve. Such contingency reserve payment shall equal the lesser of: An amount equal to the difference between the target level for the plan's reserves and the total of the reserves for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. OMP must authorize this payment promptly after accepting the accounting statement for the contract period. The contingency

reserve payment so authorized will be made available to the carrier's LOC account.

(ii) When, as of the end of a contract period, the total of all reserves of an experience-rated plan amounts to more than the plan's target level, the excess over the plan's target level must be credited to the contingency reserve maintained by OPM for the plan. OPM will withdraw the excess amount from the plan's LOC account, based on reporting in the annual accounting statement for the year, no sooner than May 1, of the following year. If the accounting statement is not filed by the time limit specified in the plan's contract with OPM, OPM will estimate the amount of the excess reserves and may withdraw that amount from the plan's LOC account, or begin the process of offsetting that amount from subscription payments, no sooner than May 1. The amount withdrawn from the plan's LOC account, or offset from subscription payments, will be credited to that plan's contingency reserve.

(4) OPM may, by agreement with the carrier, approve community rating for a comprehensive plan. If the contingency reserve of the carrier of a community-rated plan exceeds the preferred minimum balance, as described in paragraph (c)(2) of this section, the carrier may request OPM to pay to the plan a portion of the reserve not greater than the excess of the contingency reserve over the preferred minimum balance. The carrier shall state the reason for the request. OPM will decide whether to allow the request in whole or in part and will advise the plan of its decision.

(5) *Special contingency reserve transfers.* In addition to those amounts, if any, paid under paragraphs (c)(2) through (c)(4) of this section, OPM may authorize such other payments from the contingency reserve as in the judgment of OPM may be in the best interest of employees and annuitants enrolled in the program. A carrier for a plan may apply to OPM at any time for a payment from the contingency reserve when the carrier has good cause, such as unexpected claims experience and variations from expected community rates. In the administration of this part, OPM will accord a high priority to deciding whether to allow requests under this paragraph in whole or in part and will promptly advise the carrier of its decision. Amounts paid from the contingency reserve under paragraphs (c)(2) through (5) of this section shall be reported as subscription income in the year in which paid. By agreement with the carrier and where good cause exists, OPM may accept payment from carrier reserves for credit to the contingency reserve in an amount and under conditions other than those specified in paragraph (c) of this section. For carriers funded by LOC, the returned amount will be withdrawn from the plan's LOC account.

[33 FR 12510, Sept. 4, 1968, as amended at 37 FR 20668, Oct. 3, 1972; 43 FR 52460, Nov. 13, 1978; 51 FR 7430, Mar. 4, 1985; 52 FR 3212, Feb. 3, 1987; 54 FR 52339, Dec. 21, 1989; 55 FR 22891, June 5, 1990; 57 FR 14324, Apr. 20, 1992]

§ 890.504 Disposition of contingency reserves upon reorganization or merger of plans.

Upon reorganization or merger of a plan, OPM must credit to the surviving plan the reserves of the reorganized or merged plan. If more than one plan survives, the reserves must be divided among the surviving plans in proportion to the number of enrollees continuing to subscribe to the surviving plans.

[54 FR 52339, Dec. 21, 1989, and 55 FR 22891, June 5, 1990.]

§ 890.505 Recurring premium payments to carriers.

The procedures for payment of premiums, contingency reserve, and interest distribution to FEHB Program carriers shall be those contained in 48 CFR subpart 1632.170.

[57 FR 14324, Apr. 20, 1992]

Subpart F—Transfers From Retired Federal Employees Health Benefits Program

§ 890.601 Coverage.

An annuitant (a retired employee or survivor under part 891 of this chapter) who is enrolled, or is eligible to enroll, under the Retired Federal Employees Health Benefits Program (part 891 of this chapter) is eligible to enroll under