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the Federal Employees Health Benefits Program under this part.

[39 FR 20055, June 6, 1974]

§ 890.602 Opportunity to change enrollment.

An annuitant eligible to enroll under § 890.601 may register on and after August 8, 1978.

[43 FR 35018, Aug. 8, 1978]

§ 890.603 Effective date.

The effective date of an enrollment under § 890.602 is the first day of the first pay period after the election is received by the retirement system, but not earlier than January 1, 1979.

[43 FR 35018, Aug. 8, 1978; 43 FR 38569, Aug. 29, 1978]

§ 890.604 [Reserved]

§ 890.605 Persons confined on effective date.

Benefits may not be limited for persons who, on the effective date of an enrollment under § 890.602, are confined in a hospital or institution.

[43 FR 35018, Aug. 8, 1978]

Subpart G—Benefits in Medically Underserved Areas

§ 890.701 Definitions.

For purposes of this subpart—

Health benefits plan means the Government-wide Service Benefit Plan, the Government-wide Indemnity Benefit Plan, or an employee organization plan, as described under 5 U.S.C. 8903(1), (2), and (3), respectively.

Medically underserved area includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e).

OPM makes its annual determination by comparing the latest Department of Health and Human Services state-by-state population counts on primary medical care manpower shortage areas with U.S. Census figures on state resident population. The determination will be made prior to the annual FEHB open season and will be for the next calendar year. OPM will announce the results of this determination before each open season in a public notice in the FEDERAL REGISTER.

[45 FR 48099, July 18, 1980, as amended at 45 FR 81728, Dec. 12, 1980; 47 FR 17465, Apr. 23, 1982; 48 FR 14563, Apr. 5, 1983; 51 FR 28800, Aug. 12, 1986; 52 FR 2666, Jan. 26, 1987; 53 FR 860, Jan. 14, 1988; 53 FR 28366, July 28, 1988; 53 FR 28997, Aug. 2, 1988; 59 FR 60297, Nov. 23, 1994]

§ 890.702 Payment to any licensed practitioner.

(a) Except as provided in paragraph (b) of this section, if a contract between the Office of Personnel Management and a group health insurance carrier offering a health benefits plan subject to this subpart provides for payment or reimbursement of the cost of health services for the care and treatment of a particular health condition only if such service is rendered by a certain category of practitioner, the plan must also provide benefits, up to the limits of it contract, for the same service when rendered and billed for by any other individual who is licensed under applicable State law to provide such service, if the service is provided to an enrollee of the plan in a medically underserved area as defined by this subpart.

(b) Paragraph (a) of this section applies only to health services provided under contracts which became effective after December 31, 1979.

[45 FR 48099, July 18, 1980, as amended at 52 FR 2666, Jan. 26, 1987]

Subpart H—Benefits for Former Spouses

SOURCE: 51 FR 15748, Apr. 28, 1986, unless otherwise noted.

§ 890.801 Introduction.

This subpart sets forth policies and procedures for obtaining health benefits coverage that are unique to former spouses of Federal employees and retirees.

§ 890.802 Definition.

In this subpart, a *Qualifying court order* means a court order acceptable

for processing as defined in § 838.103 of this chapter or qualifying court order as defined in § 838.1003 of this chapter.

[57 FR 33599, July 29, 1992]

§ 890.803 Who may enroll.

(a) Except as specified in paragraph (b) of this section, a former spouse is eligible to enroll in a health benefits plan under this part provided that—

(1) The former spouse whose marriage to an employee, employee annuitant, or a former Central Intelligence Agency (CIA) or Foreign Service employee is dissolved has not remarried before age 55; and

(2) The former spouse was enrolled in a health benefits plan under this part as a family member at any time during the 18 months preceding the date of the dissolution of marriage; and

(3)(i) The former spouse currently receives, or has future title to receive (A) a portion of annuity payable to the employee upon retirement based on a qualifying court order for purposes of 5 U.S.C. 8345(j) or 5 U.S.C. 8467; (B) survivor annuity benefits based on a qualifying court order for purposes of 5 U.S.C. 8341(h) or 5 U.S.C. 8445; or (C) a survivor annuity elected by the employee under 5 U.S.C. 8339(j)(3) or 5 U.S.C. 8417(b), including a former spouse who is designated as an insurable interest pursuant to 5 CFR 831.606(a) and (b) and 842.605(a) and (b) (or benefits similar to those under this paragraph under another retirement system for Government employees); *or*

(ii) The former spouse was married to an employee who retired before May 7, 1985, and (A) the employee annuitant elects to provide a survivor annuity to the former spouse under procedures prescribed in § 831.682 of this title; or (B) the former spouse satisfies all of the conditions for a survivor annuity in § 831.683 of this title; *or*

(iii) The former spouse was married to an employee who died before May 7, 1985, and the employee was eligible for an immediate annuity on or before the date of death, *and* the former spouse satisfies all of the conditions for a survivor annuity in § 831.683 of this title, or

(iv) The former spouse was married to an employee or former employee of the Central Intelligence Agency (CIA) for at least 10 years during the employee's CIA service, at least 5 years of which both the employee and the former spouse spent outside the United States, and the marriage was dissolved before May 7, 1985; *or*,

(v) The former spouse was married to an employee or former employee of the Foreign Service for at least 10 years during the employee's government service, and the marriage was dissolved before May 7, 1985.

(b) Except as contained in paragraphs (a)(3) (iv) and (v) of this section, a former spouse of an employee who separates from Federal service before becoming eligible for immediate annuity is eligible to enroll only if the former spouse's marriage to the employee was dissolved before the employee left Federal service.

(c) If a former spouse cannot apply for benefits on his or her own behalf because of a mental or physical disability, application may be filed by a court-appointed guardian.

[51 FR 15748, Apr. 28, 1986, as amended at 52 FR 39497, Oct. 22, 1987, and 53 FR 32368, Aug. 25, 1988; 53 FR 45070, Nov. 8, 1988; 57 FR 21192, May 19, 1992; 58 FR 52882, Oct. 13, 1993]

§ 890.804 Coverage.

(a) *Type of enrollment.* A former spouse who meets the requirements of § 890.803 may elect coverage for self alone or for self and family. A family enrollment covers only the former spouse and any unmarried dependent natural or adopted child of both the former spouse and the employee, former employee or employee annuitant, provided such child is not otherwise covered by a health plan under this part. An unmarried dependent child must be under age 22 or incapable of self-support because of a mental or physical disability existing before age 22. No person may be covered by two enrollments.

(b) *Proof of dependency.* (1) A child is considered to be dependent on the former spouse or the employee, former employee, or employee annuitant if he or she is—

(i) A legitimate child;

(ii) An adopted child;

(iii) A recognized natural child who lives with the former spouse or the employee, former employee, or employee

annuitant in a regular parent-child relationship.

(iv) A recognized natural child for whom a judicial determination of support has been obtained; or

(v) A recognized natural child to whose support the former spouse, or the employee, former employee, or employee annuitant makes regular and substantial contributions in accordance with § 890.302(b)(2).

(c) *Exclusions from coverage.* Coverage as a family member may be denied—

(1) If evidence shows that the former spouse, employee, former employee, or annuitant did not recognize the child as his or her own, despite a willingness to support the child; or

(2) If evidence calls the child's paternity or maternity into doubt, despite the former spouse's employee's, former employee's, or employee annuitant's recognition and support of the child.

(d) *Child incapable of self-support.* When a former spouse enrolls for a family enrollment which includes a child who has become 22 years of age and is incapable of self-support, the employing office shall determine such child's eligibility in accordance with § 890.302(d), (e), and (f).

(e) *Meaning of unmarried child.* A child, under age 22 or incapable of self-support, who has never married or whose marriage has been annulled, or a child who is divorced or widowed is considered to be unmarried.

§ 890.805 Application time limitations.

(a) Except for former spouses meeting the requirements in § 890.803(a)(3)(iv) and (v) of this part, former spouses must apply for health benefits coverage—

(1) Within 60 days after dissolution of the marriage to the Federal employee; or

(2) Within 60 days after the date of OPM's notice of eligibility to enroll based on entitlement to one of the following:

(i) A former spouse annuity elected under 5 U.S.C. 8339(j)(3), 5 U.S.C. 8417(b), or 5 CFR 831.682;

(ii) A former spouse annuity under § 831.683;

(iii) A former spouse insurable interest annuity under 5 U.S.C. 8339(k)(1) or 8420(a);

(iv) A former spouse annuity under 5 U.S.C. 8341(h) or 8445(f);

(v) An appointment under 5 U.S.C. 8345(j) or 8467; or

(3) Within 60 days after the date of the notice of eligibility to enroll based on entitlement to a former spouse annuity under another retirement system for Government employees.

(b) Former spouses who meet the requirements in § 890.803(a)(3)(iv) of this part must apply for health benefits coverage by April 1, 1987. Where circumstances warrant, the former spouse may request that the filing date be waived. The authority of the Director of Central Intelligence to direct OPM to waive the filing date has been delegated to CIA's Office of Personnel. Requests for waiver should be addressed to the Office of Personnel, Retirement Division, Central Intelligence Agency, Washington, DC 20505. OPM will waive the April 1, 1987, filing date upon notification to do so from the Director of Central Intelligence.

(c) Former spouses who meet the requirements in § 890.803(a)(3)(v) of this part must apply for health benefits coverage by October 7, 1988. Where circumstances warrant, the former spouse may request the Secretary of State to waive the filing date. The authority of the Secretary of State to waive the filing date has been delegated to the Department of State's Retirement Division. Requests for waiver should be addressed to the Department of State, Retirement Division, Washington, DC 20520. OPM will accept the waiver upon notification to do so from the Department of State.

[51 FR 15748, Apr. 28, 1986, as amended at 53 FR 45071, Nov. 8, 1988; 57 FR 21192, May 19, 1992; 58 FR 52882, Oct. 13, 1993]

§ 890.806 Effective dates of coverage

(a) *Generally.* The effective date of enrollment or change of enrollment is the first day of the first pay period after the date the employing office receives the properly completed Standard Form 2809 or an appropriate substitute (i.e., a signed statement with sufficient information to execute enrollment) and satisfactory proof of eligibility.

(b) *Reenrollment.* The effective date of a reenrollment under § 890.301(g)(6) is,

for an involuntary disenrollment from a prepaid health plan under sections 1833 or 1876 of the Social Security Act, the date shown on the documentation from the plan. For a voluntary disenrollment, the effective date of reenrollment is the first day of the first pay period which begins in January of the next following year.

(c) *Change required because of insufficient annuity.* When a former spouse changes to a lower cost enrollment as provided by § 890.301(q), the change is effective immediately upon loss of coverage under the prior enrollment.

[51 FR 15748, Apr. 28, 1986, as amended at 52 FR 39497, Oct. 22, 1987; 53 FR 32368, Aug. 25, 1988; 56 FR 25997, June 6, 1991; 57 FR 21192, May 19, 1992; 57 FR 48162, Oct. 22, 1992]

§ 890.807 Termination of enrollment.

(a)(1) Except for former spouses meeting the requirements in § 890.803(a)(3) (iv) and (v) of this part, a former spouse's enrollment terminates, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which the earliest of the following events occurs:

(i) Court order ceases to provide entitlement to survivor annuity or portion of retirement annuity under a retirement system for Government employees.

(ii) Former spouse remarries before age 55.

(iii) Former spouse dies.

(iv) Employee or annuitant on whose service the benefits are based dies and no survivor annuity is payable.

(v) Separated employee on whose service the benefits are based dies before the requirements for deferred annuity have been met.

(vi) Employee on whose service benefits are based leaves Federal service before establishing title to an immediate annuity or a deferred annuity.

(vii) Refund of retirement money is paid to the separated employee on whose service the health benefits are based.

(2) OPM may authorize a longer time frame for the temporary extension of coverage for conversion than the 31 days provided in § 890.401(a) if in OPM's judgment the former spouse could not have known that (1) the employee on whose service benefits are based left Federal service before establishing title to an immediate or deferred annuity; or (2) the separated employee on whose service the benefits are based died before the requirements for deferred annuity had been met. In such cases, the right of conversion may be exercised up to 31 days after the employing office's notice of termination. The former spouse must pay the full premium (employee's and Government's share) during the extended period, exclusive of the 31–day period following the notice.

(3) Termination of enrollment for failure to pay premiums within the time frame established in accordance with § 890.808(d)(1) is retroactive to the end of the last pay period for which payment has been timely received.

(4) A former spouse whose enrollment is terminated under this paragraph may not reenroll.

(b) The enrollment of a former spouse who meets the requirements in § 890.803(a)(3) (iv) or (v) of this part terminates, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which the earliest of the following events occurs:

(1) Former spouse remarries before age 55.

(2) Former spouse dies.

(c) *Failure to make an election under § 890.808(e).* (1) If the annuity of a former spouse is insufficient to pay the full health benefits premium due for the plan in which the former spouse is enrolled, the former spouse may elect one of the two opportunities offered under § 890.808(e) of this part (electing a plan with a full premium not in excess of the annuity; or, paying premiums directly to the retirement system in accordance with § 890.808(d) of this part). The retirement system will send two notices to the former spouse, including one by certified mail return receipt requested. Continuation of coverage rests upon electing direct payment or new coverage within 15 days (45 days for former spouses residing overseas) after receipt of the final notice. Except as provided in paragraph (c)(3) of this section, the enrollment of an individual who fails to make an election within

the specified time frame will be terminated. A former spouse whose enrollment is terminated because of failure to make an election may not reenroll or reinstate coverage, except as provided in paragraph (c)(2) of this section. Each former spouse whose enrollment is so terminated is entitled to a 31-day extension of coverage for conversion.

(2) If the individual was prevented by circumstances beyond his or her control from making an election within the time limit after receipt of the final notice, he or she may request reinstatement of coverage by writing to the retirement system. The retirement system will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination or prospectively. If the determination is negative, the individual may request reconsideration of the decision from OPM.

(3) If the former spouse does not make an election under paragraph (c)(1) of this section and is enrolled in the high option of a plan that has two options, the former spouse is deemed to have elected enrollment in the standard option of the same plan unless the annuity is insufficent to pay the full withholdings for the standard option.

(d) *Coverage of members of the family.* The coverage of a member of the family of a former spouse terminates, subject to the temporary extension of coverage for conversion, at midnight of the earlier of the following dates:

(1) The day on which the individual ceases to be an eligible family member.

(2) The day the former spouse ceases to be enrolled, unless the family member is entitled as a survivor annuitant to contined enrollment or is entitled to continued coverage under the enrollment of another.

(e) *Cancellation.* A former spouse may cancel enrollment at any time by filing with the employing office a properly completed health benefits form. If a former spouse cancels enrollment, the cancellation becames effective on the last day of the pay period after the pay period in which the health benefits form cancelling the enrollment is received by the employing office. If a former spouse submits documentation that the cancellation is for the purpose of enrolling in a prepaid health plan under sections 1833 or 1876 of the Social Security Act, the cancellation becomes effective on the day before the coverage under the prepaid health plan takes effect. Such documentation must be submitted to the employing office within the period beginning 31 days before and ending 31 days after the prepaid health plan enrollment takes effect. The former spouse and family members, if any, are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits. Except for former spouses who provide documentation that they are canceling for the purpose of enrolling in a prepaid health plan under sections 1833 or 1876 of the Social Security Act, a former spouse who cancels his or her enrollment may not later reenroll. The former spouse and family members, if any, are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits. A former spouse who cancels his or her enrollment may not later reenroll.

[51 FR 15748, Apr. 28, 1986, as amended at 52 FR 39497, Oct. 22, 1987, and 53 FR 32368, Aug. 25, 1988; 53 FR 45071, Nov. 8, 1988; 56 FR 25997, June 6, 1991; 57 FR 48162, Oct. 22, 1992]

§ 890.808 Employing office responsibilities.

(a) *Application for benefits.* The former spouse's application for health benefits may be in the form of a Standard Form 2809, letter, or written statement to the employing office. Former spouses applying for benefits under § 890.803(a)(3)(iv) of this part must also include with their application a request for waiver of the application time limitation in accordance with § 890.805(b) of this part. Former spouses applying for benefits under § 890.803(a)(3)(v) of this part must also include with their application a request for waiver of the application time limitation in accordance with § 890.805(c) of this part.

(b) *Administration of the enrollment process.* (1) The employing office will set up a method for accepting applications for enrollment informing the

former spouse what documents to submit and where to submit them for an eligibility determination, and collecting premium payments. The method will include procedures for verifying the eligibility requirements under § 890.803(a) (1) and (2) of this part. The employing office must obtain OPM, Foreign Service Retirement and Disability System (FSRDS), or CIA Retirement and Disability System (CIARDS) documentation that the former spouse meets the additional requirement under § 890.803(a)(3) (i), (ii), (iii), (iv), or (v) of this part. A request for the retirement system's determination whether a court order is a qualifying court order for health benefits enrollment under this subpart must be accompanied by the documentation specified in § 838.221, § 838.721, or § 838.1005 of this chapter.

(2) The employing office will send the former spouse notice, in writing, of its decision. When an employing office informs a former spouse of his or her eligibility to enroll, it will identify the documents on which it based its decision and will include a premium payment schedule and statement of the requirements for continued enrollment under § 890.803. If the former spouse does not qualify for health benefits coverage, the employing office must give the former spouse a reconsideration right under § 890.104. Reconsideration requests from former spouses applying for benefits under § 890.803(a)(3)(iv) of this part must be directed to the Office of Personnel, Retirement Division, Central Intelligence Agency, Washington, DC 20505. Reconsideration requests from former spouses applying for benefits under § 890.803(a)(3)(v) of this part must be directed to the Department of State, Retirement Division, Washington, DC 20520.

(3) The agency employing office will maintain a health benefits file for the former spouse as a file separate from the personnel records of the employee or former employee. The retirement system acting as employing office for the former spouse may file the former spouse health benefits records in with the annuitant's retirement records.

(4) The former spouse will be required to certify that he or she meets the requirements listed in § 890.803 and that he or she will notify the employing office within 31 days of an event that results in failure to meet one or more of the requirements.

(c) *Qualifying court order.* Subject to a 31-day extension period for conversion, the duration of health benefits coverage will coincide with any period specified in the qualifying court order providing for an annuity. A court order not meeting the requirements under part 838 of this chapter will not be used to establish or continue entitlement to a former spouse's health benefits coverage.

(d) *Premium payments.* (1) The former spouse must remit to the employing office the full subscription charge 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 and 890.807(a)(2). Payment must be made after the pay period in which the former spouse is covered in accordance with a schedule established by the employing office (see definition of *pay period* under § 890.101(a)). If the employing office does not receive payment by the due date the employing office must notify the former spouse in writing that continuation of coverage depends upon payment being made within 15 days (45 days for enrollees 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. Termination for nonpayment of premium is considered a voluntary cancellation under § 890.807(d). A former spouse whose enrollment is terminated because of nonpayment of premium may not reenroll or reinstate coverage except as provided in paragraph (d)(2) of this section.

(2) If the individual was prevented by circumstances beyond his or her control from making payment within 15 days after receipt of the notice, he or she may request reinstatement of coverage by writing to the employing office. Such a request must be filed within 30 calendar days from the date of termination and must be accompanied by verification that the individual was prevented by circumstances beyond his

or her control from paying within the time limit. The employing office will determine if the individual is eligible for reinstatement of coverage; and, when the determination is affirmative, the individual's coverage may be reinstated retroactively to the date of termination. If the determination is negative, the individual may request a review of the decision from the employing agency as provided under § 890.104.

(3) The employing office will submit all premium payments collected from former spouses along with its regular health benefits payments to OPM in accordance with procedures established by that Office.

(e) *Withholding from annuity.* The retirement system acting as employing office for a former spouse will establish a method for withholding the full subscription charge from the former spouse's annuity check. When the annuity is insufficient to cover the full amount of health benefits premium due, the retirement system will provide information to the former spouse regarding the available plans and notify him or her in writing of the opportunity to either: register to be enrolled in any plan with a full premium not in excess of the annuity; or make payment of the premium directly to the retirement system in accordance with § 890.808(d). If the former spouse is enrolled in the high option of a plan that has two options, and does not elect a plan at a cost to him or her not in excess of the annuity or does not elect to pay premiums directly, he or she is deemed to have elected enrollment in the standard option of the same plan unless the annuity is insufficient to pay the full withholdings for the standard option.

[51 FR 15748, Apr. 28, 1986, as amended at 52 FR 2506, Jan. 23, 1987; 52 FR 39497, Oct. 22, 1987, and 53 FR 32368, Aug. 25, 1988; 53 FR 45071, Nov. 8, 1988; 56 FR 25997, June 6, 1991; 57 FR 21192, May 19, 1992; 57 FR 33598–33599, July 29, 1992; 59 FR 60297, Nov. 23, 1994; 59 FR 67607, Dec. 30, 1994; 61 FR 37810, July 22, 1996]

Subpart I—Limit on Inpatient Hospital Charges, Physician Charges, and FEHB Benefit Payments

SOURCE: 57 FR 10610, Mar. 27, 1992, unless otherwise noted.

§ 890.901 Purpose.

This subpart identifies the individuals whose charges and FEHB benefit payments for inpatient hospital services and/or physician services may be limited and sets forth the circumstances of the limit.

[60 FR 26668, May 18, 1995]

§ 890.902 Definition.

For purposes of this subpart, *Retired enrolled individual* means an individual who:

(a)(1) Is covered by a Federal Employees Health Benefits plan (including individuals covered under 5 U.S.C. 8905a) described by 5 U.S.C. 8903(1), (2) and (3), or 5 U.S.C. 8903a and is:

(i) An annuitant as defined in 5 U.S.C. 8901(3); or

(ii) A former spouse as defined in 5 U.S.C. 8901(10) or enrolled for continued coverage under 5 U.S.C. 8905a(f); or

(2) Is a family member covered by the family enrollment of an annuitant or former spouse as defined in 5 U.S.C. 8901, or a former spouse enrolled for continued coverage under 5 U.S.C. 8905a(f); and

(b) Is not employed in a position which confers FEHB coverage; and

(c) Is age 65 or older or becomes age 65 while receiving inpatient hospital services or physician services; and

(d) Is not covered by Medicare part A and/or part B.

[57 FR 10610, Mar. 27, 1992, as amended at 60 FR 26668, May 18, 1995]

§ 890.903 Covered services.

(a) The limitation on the charges and FEHB benefit payments for inpatient hospital services apply to inpatient hospital services which are: