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may defer withdrawing approval of a plan not meeting the requirement in § 890.201(a)(11) of this part when, in the judgment of OPM, the carrier shows good cause. The Director or representative may authorize a plan with fewer than 300 employees or annuitants to remain in the FEHB Program when he or she determines, in his or her discretion, that it is in the best interest of the Program (e.g., when the plan is the only plan available to enrollees in a rural area).

(b) During a current contract term, the Director, in his or her discretion, may reinstate approval of a plan or carrier under this section on a finding that the reasons for withdrawing approval no longer exist.

[55 FR 9109, Mar. 12, 1990, as amended at 57 FR 14324, Apr. 20, 1992]

§ 890.205 Nonrenewal of contracts of health benefits plans.

(a) Either OPM or the carrier may terminate a contract by giving a written notice of nonrenewal which includes an indication of the reason for the intended action.

(b) Where termination by notice of intent not to renew is made by OPM, the carrier contesting that notice may request that OPM review the proposed decision. Such review shall be conducted by the Director or a representative designated by the Director, who shall not otherwise have been a party to the initial decision to issue a notice of intent not to renew. A request for such review, which may include a request that a representative of the carrier appear personally before OPM, shall be in writing. That request must be received within 10 calendar days of the carrier's receipt of the notice of intent not to renew. Such request shall include a detailed statement as to why the carrier disagrees with OPM's notice of nonrenewal and shall be accompanied by appropriate supporting documentation. Where a carrier has requested review under this section, the final decision by OPM not to renew a health benefits contract shall be communicated to the carrier in writing not more than 30 days after OPM's receipt of the carrier's request for review, unless a later date is mutually agreed upon.

(c) In the absence of a timely request for review as set forth in paragraph (b) of this section, OPM's notice of intent not to renew will become final without further notification.

[57 FR 19374, May 6, 1992]

Subpart C—Registration and Enrollment

§ 890.301 Opportunities to register to enroll and change enrollment.

(a) *Initial registration.* Except as otherwise provided in this part, each employee who becomes eligible shall register within 31 days after becoming eligible.

(b) *Belated registration.* When an employing office determines that (1) an employee was unable, for cause beyond his or her control, to register to be enrolled or (2) an enrollee was unable, for cause beyond his or her control, to change enrollment within the time limits prescribed by this section, that office must accept his or her registration within 31 days after it advises him or her of that determination.

(c) *Reregistration.* An employee whose enrollment was terminated under § 890.304(a)(1)(v), or because he/she had a break in service of more than 3 days, shall register within 31 days after his/her return to pay status.

(d) *Open season.* (1) An open season will be held from the Monday of the second full workweek in November through the Monday of the second full workweek in December in any year—

(i) That precedes a year during which the rates or benefits of any health benefits plan in the Program will change; or

(ii) That precedes a year during which a newly-approved plan will begin participation in the Program; or

(iii) At the end of which an existing health benefits plan will cease to participate in the Program.

(2) The Director of the Office of Personnel Management may modify the dates specified in this paragraph or announce additional open seasons. Announcements of open seasons will be made by OPM in Federal Personnel Manual (FPM) Bulletins.

(3) During open season—

(i) An eligible unenrolled employee may register to be enrolled.

(ii) An enrollee may change to another plan, another option, or from self alone to self and family, or may make any combination of these changes.

(iii) An annuitant or a former spouse, as defined in 5 U.S.C. 8901(10), who canceled enrollment under this part for the purpose of enrolling in a prepaid health plan under sections 1833 or 1876 of the Social Security Act may register to reenroll.

(e) *Change in family status.* (1) Other than a former spouse who is continuing coverage under subpart H or subpart K of this part or a remarried survivor annuitant, an enrollee may register to change enrollment from self alone to self and family, or from one plan or option to another, or both; and an employee, if not registered to be enrolled, may register to be enrolled at any time during the period beginning 31 days before a change in marital status and ending 60 days after the change in marital status. Other than a former spouse who is continuing coverage under subpart H or subpart K of this part or a remarried survivor annuitant, an enrollee may change enrollment from self alone to self and family within 60 days after any other change in family status.

(2) A former spouse who is continuing coverage under subpart H or subpart K of this part may register to change enrollment from self alone to self and family, or from one plan or option to another, or both, within 60 days after the birth or acquisition of a child who meets the requirements to be a covered family member under §890.804(a) or §890.1106(a)(2) of this part.

(f) *Change to self alone.* (1) An enrollee may register at any time to change enrollment from self and family to self alone.

(2) Other than a former spouse, an employee or annuitant who is covered by the enrollment of another under this part may elect self alone coverage within 31 days after a change in the covering enrollment has been filed under authority of this paragraph.

(3) In order for an employee annuitant to be eligible to elect self only coverage under authority of this paragraph, he or she must meet the statutory requirements of having retired on an immediate annuity and having been covered by a plan under this part (including enrollment in his or her own right) since his or her first opportunity to enroll or for the 5 years immediately preceding his or her retirement, whichever is shorter.

(g) *Loss of coverage under Federal programs.* (1) An employee who is not enrolled, but is covered by another federally-sponsored health benefits program, and whose coverage or enrollment terminates under the other federally-sponsored program, may register to be enrolled:

(i) Within 31 days after termination of coverage for a reason other than death; or

(ii) Within 60 days after termination of coverage because of death of the enrollee.

(2) An employee, or former spouse who has established eligibility for health benefits under §890.803 of this part and who is not enrolled but is covered by the enrollment of another under this part, may register to be enrolled: (i) within 31 days after termination of coverage for a reason other than death of the enrollee or cancellation, and (ii) within 60 days after termination of coverage because of the enrollee's death.

(3) An employee annuitant who was covered by the enrollment of another under this part and had been covered (including enrollment in his own right) under this part since his first opportunity or for the 5 years immediately preceding his retirement, whichever is shorter, may register to enroll within 31 days after the termination of the covering enrollment, other than by cancellation.

(4) An employee, annuitant, or former spouse who has established eligibility for health benefits under §890.803 of this part, who is not enrolled but is covered by the enrollment of another enrollee under this part, may register to be enrolled in the same plan and option within 31 days after cancellation of the other's enrollment. If the individual is not eligible to enroll in the plan from which coverage is lost, he or she may enroll in the same option of any available plan. In order for an employee annuitant to be eligible to

enroll under authority of this paragraph, he or she must meet the statutory requirements of having retired on an immediate annuity and having been covered by a plan under this part (including enrollment in his or her own right) since his or her first opportunity to enroll or for the 5 years immediately preceding his or her retirement, whichever is shorter.

(5) A former employee, former spouse, or a child whose continued coverage under subpart K of this part terminates because of the provisions of § 890.1110(a)(3) of this part (termination due to other coverage under this part) may reenroll in the same plan and option within 31 days after the other coverage under this part ends, but not later than the expiration of the period described in § 890.1107. If the individual is not eligible to enroll in the plan from which coverage was lost under § 890.1110(a)(3), he or she may enroll in the same option of any available plan. Coverage does not extend beyond the expiration of the period described in § 890.1107 of this part.

(6) An employee annuitant who had been covered under this part since his or her first opportunity to enroll or for the 5 years immediately preceding the commencing date of his or her annuity or monthly compensation, whichever is shorter, a survivor annuitant who had been enrolled or was otherwise eligible to enroll for coverage under this part, or a former spouse who had been enrolled for coverage under this part who cancels enrollment for the purpose of enrolling in a prepaid health plan under sections 1833 or 1876 of the Social Security Act and is subsequently disenrolled from the prepaid health plan, may register to reenroll in any available plan or option. Voluntary disenrollment from a prepaid health plan must be made in conjunction with reenrollment during the next available open season to assure continuing, uninterrupted health plan coverage. Involuntary disenrollment provides an opportunity to immediately reenroll under this part at any time beginning 31 days before and ending 31 days after the disenrollment.

(h) *Move from area served by comprehensive medical plan.* An enrollee in a comprehensive plan who moves outside the service area, or, if already living outside the service area, moves further from the service area, may register to change enrollment upon presenting written notification to the employing office of the change of address in connection with pay or annuity functions (including tax withholding forms W–4 and W–4P and the Thrift Saving Plan). Similarly, if an enrollee's family member(s) move(s) out of the service area, or moves further from the service area, the enrollee may register to change enrollment upon presenting satisfactory evidence of the move to the employing office.

(i) *Termination by employee organization plan.* An enrollee in a health benefits plan sponsored or underwritten by an employee organization whose membership in the employee organization is terminated may register to enroll in another plan under the following conditions:

(1) Health benefits enrollment is terminated by the plan; and,

(2) Registration to enroll in another plan is submitted within 31 days after termination of enrollment in the employee organization plan. The enrollee may not change enrollment from self alone to self and family under this paragraph.

(j) *Transfer to or from overseas post of duty.* An employee who is transferred from a post of duty within the several States or the District of Columbia to a post of duty outside the several States and the District of Columbia, or the reverse, may register to be enrolled or to change his enrollment with respect to whether his family is covered, or the health benefits plan or option in which he is enrolled, or both, within the period beginning 31 days before the date he leaves the old post of duty and ending 31 days after he arrives at the new post of duty. An annuitant who is eligible to continue health benefits may register to change enrollment with respect to whether his family is covered, or the health benefits plan or option in which enrolled, or both, within 60 days after retirement or the death of the employee on whose service title to annuity is based, if the employee is stationed at a post of duty outside the

several States and the District of Columbia at the time of his retirement or death, as the case may be.

(k) *Termination of plan in which enrolled.* (1) If a plan is discontinued in whole or in part, each enrollee whose enrollment is thereby terminated may enroll in another plan. If the discontinuance is at the end of a contract period that is immediately preceded by an open season, the time for enrollment is the open season, unless OPM establishes a different time for enrollment. If the discontinuance is at a time other than the end of the contract year, OPM must establish a time and an effective date for enrollment. Except as provided in paragraphs (k)(2) and (k)(3) of this section, enrollees who fail to change enrollment within the time set are considered to have cancelled the plan in which enrolled.

(2) If one option of a plan is discontinued, enrollees who do not change plans are considered to be enrolled in the remaining option of the plan.

(3) Annuitants enrolled in a discontinued plan with a single option who do not change plans are deemed to have elected to be enrolled in the Standard Option of the Service Benefit plan. Annuitants enrolled in a discontinued plan with two options are deemed to have elected the corresponding option of the Service Benefit Plan, unless they are enrolled in a high option and their annuity is insufficient to pay the withholding for the high option of the Service Benefit Plan. If their annuity is insufficient to pay the withholding for the high option, they are deemed to have elected enrollment in the Standard Option of the Service Benefit Plan. The exemptions from debt collection procedures that are provided under 5 CFR 831.1305(d)(2) and 5 CFR 845.205(d)(2) apply to elections under this paragraph.

(l) *Loss of coverage under parent's non-Federal plan.* An employee who is not registered to be enrolled may register to be enrolled within 31 days after he/she loses coverage under his/her parent's non-Federal health plan for a reason other than death and within 60 days after loss of coverage because of the parent's death.

(m) *On return from a uniformed service.* An employee who enters on duty in a uniformed service for a period of time not limited to 30 days or less may register to be enrolled or to change his enrollment within 31 days after he is restored to a civilian position pursuant to part 353 of this chapter or other similar authority; and an annuitant who enters on duty in a uniformed service for a period of time not limited to 30 days or less may register to change his enrollment within 31 days after he is separated from the uniformed service.

(n) *On becoming eligible for coverage under title XVIII of the Social Security Act.* An enrollee may register, at any time beginning on the 30th day before he or she is eligible for coverage under title XVIII of the Social Security Act (Medicare), to change enrollment to any option of any available plan under this part. A change of enrollment under this paragraph may be made only once.

(o) *Change in employment status.* If an employee or annuitant is entitled to provide coverage for another by a self-and-family enrollment, but both are enrolled for self alone, he may change his enrollment to self and family within 31 days after the other enrollment is terminated by a change in employment status which results in loss of eligibility.

(p) *Sole survivor.* When an employee or annuitant enrolled for self and family dies, leaving a survivor annuitant who is entitled to continue the enrollment in a health benefits plan, and it is apparent from available records that the survivor annuitant is the sole survivor entitled to continue enrollment in the health benefits plan, the office of the retirement system which is acting as employing office shall change the enrollment from self and family to self alone, effective on the commencing date of annuity for the survivor annuitant. On request of the survivor annuitant made within 31 days after the first installment of annuity is paid, the office of the retirement system which is acting as employing office shall rescind the action retroactive to the effective date of the action, with corresponding adjustment in withholdings and contributions.

(q) *Annuity insufficient to pay withholdings.* (1) If the annuity of an

annuitant is insufficient to pay the withholdings for the plan in which the annuitant is enrolled, the retirement system will provide information to the annuitant regarding the available plans and notify him or her in writing of the opportunity to either: register to be enrolled 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 in accordance with § 890.502(f). If the annuitant 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 selected enrollment in the standard option of the same plan unless the annuity is insufficient to pay the withholdings for the standard option.

(2) An annuitant whose enrollment was terminated on account of such annuitant's annuity being insufficient to cover the enrollee's share of the premium may apply to be reinstated in any available plan or option.

(3) An annuitant who can show evidence that he or she previously changed to a lower cost option, plan, or to a self-only enrollment prior to May 29, 1990, because the annuity was insufficient to cover the withholdings for the plan in which he or she was enrolled, may apply to change his or her enrollment to any available plan or option in which the enrollee's share of the total premium exceeds his or her monthly annuity.

(r) *Registration by proxy.* In the discretion of the employing office, a representative of an enrollee or individual eligible to enroll under this part, having written authorization to do so, may register for the individual.

(s) *Survivor annuity restored.* A surviving spouse who was covered by a health benefits enrollment under this part immediately before his or her survivor annuity was terminated because of remarriage, and whose survivor annuity is later restored, may register to enroll in a health benefits plan under this part within 60 days after the mailing by OPM of a notice of eligibility and registration forms.

(t) *Loss of medicaid coverage.* An employee who is not enrolled, but is covered by medicaid (State program of medical assistance for the needy), may register to be enrolled within 31 days after termination of medicaid; and an employee who is enrolled for self only may change to a self and family enrollment within 31 days after an eligible family member loses coverage under medicaid.

(u) *Child's coverage ends.* An enrollee may register to change enrollment from self alone to self and family within 31 days after an eligible child loses coverage under another enrollment under this part.

(v) *Change to part-time career employment.* An enrolled employee who moves, without a break in service or after a separation of 3 days or less, to ''part-time career employment'' as defined in section 3401(2) of title 5, United States Code, and 5 CFR part 340, subpart B, may change to any other plan or option. This change in enrollment may be made within 31 days after the change to ''part-time career employment.''

(w) *Election between survivor annuities.* A surviving spouse, irrespective of whether his or her survivor annuity continued or was terminated upon remarriage, who was covered by a health benefits enrollment under this part immediately before his or her remarriage, may elect to continue a health benefits enrollment under this part acquired by virtue of the remarriage or to enroll in his or her own right in the plan under which he or she was previously covered under this part within 60 days after the termination of the remarriage and entitlement to a survivor annuity.

(x) *Change to position out of commuting area.* (1) An employee who moves out of the commuting area to accept another position and who loses coverage under a spouse's non-Federal enrollment because the non-Federally employed spouse terminates his or her enrollment to accompany the Federal employee, may register to enroll within the period beginning 31 days before the date the Federal employee leaves employment in the old commuting area and ending 180 days after entry on duty at the place of employment in the new commuting area.

(2) An employee who moves out of the commuting area to accept another position and whose spouse loses non-Federal coverage when he or she terminates non-Federal employment to accompany the Federal employee, may change enrollment from self only to self and family within the period beginning 31 days before the date the Federal employee leaves employment in the old commuting area and ending 180 days after entry on duty at the place of employment in the new commuting area.

(y) *Loss of coverage under spouse's non-Federal plan*—(1) An employee whose spouse involuntarily loses his or her non-Federal health insurance coverage, or coverage for his or her dependents, may register to enroll within the period beginning 31 days before and ending 31 days after the spouse's or dependent's loss of coverage. An employee whose children lose coverage under the other parent's non-Federal health plan because the other parent involuntarily loses coverage for his or her dependents, may register to enroll within the period beginning 31 days before and ending 31 days after the children's loss of coverage.

(2) An employee or annuitant whose spouse involuntarily loses his or her non-Federal health insurance coverage, or coverage for his or her dependents, may change enrollment from self only to self and family within the period beginning 31 days before and ending 31 days after the spouse's or dependent's loss of coverage. An employee or annuitant whose children lose coverage under the other parent's non-Federal health plan because the other parent involuntarily loses coverage for his or her dependents, may change enrollment from self only to self and family within the period beginning 31 days before and ending 31 days after the children's loss of coverage.

(z) *Disability annuity restored.* A disability annuitant who was enrolled in a health benefits plan under this part immediately before his or her disability annuity was terminated because of restoration to earning capacity or recovery from disability, and whose disability annuity is restored under section 8337(e) of title 5, United States Code, after December 31, 1983, may register to enroll in a health benefits plan under this part within 60 days after OPM mails a notice of insurance eligibility and registration form.

(aa) *Termination of remarriage of ''lump sum'' survivors in receipt of basic employee death benefits.* A surviving spouse who received a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and who was covered by a health benefits enrollment under this part immediately before remarriage prior to age 55 may register to enroll in a health benefits plan under this part upon termination of the remarriage. The survivor must provide OPM with a certified copy of the notice of death or the court order terminating the marriage. Registration must be made within 60 days after OPM mails the registration form to the surviving spouse.

(bb) *Change from a temporary appointment under 5 U.S.C. 8906a to another type of covered appointment.* A temporary employee who is eligible to enroll according to provisions of 5 U.S.C. 8906a, which require payment of the full premium with no Government contribution, and who subsequently changes to an appointment that entitles the employee to receive the Government contribution toward the premium, may enroll or change to any other plan or option within 31 days after changing to the appointment that allows the Government contribution.

(cc) *Reenrollment upon application for postponed MRA-plus-10 annuity.* A former employee who meets the requirements for an immediate annuity under 5 U.S.C. 8412(g) and for continuation of coverage under 5 U.S.C. 8905(b) at the time of the separation and whose enrollment is terminated under § 890.304(a)(2) may register to enroll in a health benefits plan under this part within 60 days after OPM mails the former employee a notice of eligibility and the appropriate registration form. If such former employee dies before the end of the 60-day election period in the preceding sentence, a survivor who is entitled to a survivor annuity may register to enroll in a health benefits plan under this part within 60 days after OPM mails the survivor a notice of eligibility and the appropriate registration form.

(dd) *Separating employees.* An employee may change enrollment from self only to self and family during the pay period in which the employee's coverage terminates due to separation if the employee or the employee's spouse is pregnant. The employee must supply medical documentation of the pregnancy.

(ee) *Salary of temporary employee insufficient to pay withholdings.* If the salary of a temporary employee eligible under 5 U.S.C. 8906a is not sufficient to pay the withholdings for the plan in which the employee is enrolled, the employing office shall notify the employee of the plans available at a cost not in excess of the employee's salary. The employee may register to be enrolled in another plan whose cost is no greater than his or her salary within 31 days after receiving such notification from the employing office.

[33 FR 12510, Sept. 4, 1968]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 890.301, see the List of Sections Affected in the Finding Aids section of this volume.

§ 890.302 Coverage of family members.

(a)(1) An enrollment for self and family includes all family members who are eligible to be covered by the enrollment. Except as provided in paragraphs (a) (2), (3), and (4) of this section, no employee, former employee, annuitant, child, or former spouse may enroll or be covered as a family member if he or she is covered under another person's self and family enrollment in the FEHB Program.

(2) *Dual enrollment—spouse.* (i) To protect the interests of the children, an employee or annuitant may enroll in his or her own right in a self and family enrollment even though his or her spouse also has a self and family enrollment. Generally, such dual enrollments are permitted only where two employees or annuitants are married, each with children from prior marriages who do not live with them, or are legally separated, with each spouse retaining custody of his or her own children by a prior marriage. To ensure that no person receives benefits under more than one enrollment, each enrollee must tell the insurance carrier which family members are covered under his or her enrollment. These individuals are not covered under the other enrollment.

(ii) To protect the interests of legally separated Federal employees, annuitants and their children, a legally separated employee or annuitant may enroll in his or her own right in a self only or self and family enrollment even though his or her spouse also has a self and family enrollment. To ensure that no person receives benefits under more than one enrollment, each enrollee must tell the insurance carrier which family members are covered under his or her enrollment. These individuals are not covered under the other enrollment.

(3) *Dual enrollment—child.* (i) When natural parents are divorced or legally separated and children are included as family members under the enrollment of both natural parents or of a natural parent and a step-parent, the children are entitled to receive benefits under only one enrollment. Each enrollee must notify his or her insurance carrier of the name(s) of the child(ren) to be covered under his or her enrollment that are not named under the other enrollment.

(ii) When an employee who is under age 22 and covered under a parent's self and family enrollment becomes the parent of a child, the employee may elect to enroll for self and family coverage. Because the employee is entitled to receive benefits under only one enrollment, each enrollee must notify his or her insurance carrier of the names of the persons to be covered under his or her enrollment that are not named under the other enrollment.

(4) *Dual enrollment—spouse and child.* Where a situation such as that in paragraph (a)(2) of this section occurs (that is, two employees or annuitants are married, but each has children from prior marriages who do not live with them) and there are also children who are the issue of the marriage, an employee or annuitant may enroll in his or her own right in a self and family enrollment even though his or her spouse also has a self and family enrollment. Because no person is entitled to receive benefits under more than one enrollment, each enrollee must notify his or her insurance carrier of the