

# Proposed Rules

Federal Register

Vol. 62, No. 229

Friday, November 28, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 890

RIN 3206-AH61

#### Federal Employees Health Benefits Program: Disenrollment

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing regulations that are consistent with existing administrative procedures requiring employing offices to provide information about enrollees in the Federal Employees Health Benefits (FEHB) Program to the carriers of the FEHB plans in which they are enrolled. Carriers are also required to use the information provided by employing offices to reconcile their enrollment records. The proposed regulations would also regularize the conditions that would allow carriers to disenroll individuals when their employing office of record does not show them as enrolled in the carrier's plan and the carrier is otherwise unable to verify the enrollment. The purpose of these proposed regulations is to facilitate reconciliation of carrier and employing office enrollment records, especially in cases where the carrier has not previously received a notice showing an enrollment no longer is valid.

**DATES:** Comments must be received on or before December 29, 1997.

**ADDRESSES:** Send written comments to Frank D. Titus, Assistant Director for Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 3425, 1900 E Street NW., Washington, DC; or FAX to (202) 606-0633.

**FOR FURTHER INFORMATION CONTACT:** Margaret Sears (202) 606-0004.

**SUPPLEMENTARY INFORMATION:** The proposed regulations are consistent with existing procedures that require

employing offices to report to each carrier on a quarterly basis the names and certain other data about employees and other individuals serviced through its payroll office(s) who are enrolled in the carrier's plan. OPM would specify the format and the information to be contained in the report, such as the individual's Social Security Number and the amount of withholdings and contributions for that individual. Carriers would use the information to reconcile their enrollment records.

Currently, when the carrier receives a quarterly report, it is required by contract to compare the enrollees listed with its own record of enrollees for that payroll office. If the carrier records show an enrollee that is not listed by the payroll office, the carrier contacts the payroll office for an explanation. The payroll office provides documentation to resolve the discrepancy or gives the reason the employee is no longer in the plan or no longer on the payroll (for example, the employee canceled the enrollment, separated from Federal service, retired, changed plans, or transferred to a different agency) and the effective date of the change.

The proposed regulations would adopt as regulatory requirements the current administrative quarterly reporting requirement and the requirement for carriers to use the information to reconcile their enrollment records. If the payroll office of record with the carrier is unable to provide information about the enrollment, the proposed regulations would give the carrier the authority to disenroll the individual, after giving him or her the opportunity to respond. Carriers do not currently have the authority to disenroll individuals.

The proposed regulations also provide an administrative procedure for notifying the enrollee of the disenrollment. Under these procedures the carrier would be required to notify the enrollee that the employing agency of record did not show him or her as enrolled. The enrollee would have 31 days after the date of the notice to provide documentation showing that he or she was enrolled in the plan. If the enrollee did not provide such documentation within the required time frame, the carrier would disenroll him or her without further notice.

Under the proposed regulations the employee or annuitant could ask his or

her employing office or retirement system to reconsider the carrier's decision to disenroll the enrollee. The employing office would be required to notify both the enrollee and the carrier of its determination, fully explaining its findings and conclusions.

We expect that few individuals would reach the end of this process without their actual enrollment status becoming clear. However, in the event that an individual was disenrolled under the proposed regulations and it is later discovered that another provision of the regulations should have been applied to the individual's circumstances, the disenrollment under this regulation would become void and the enrollment would be reinstated retroactively to the date of the disenrollment. For example, if it later became clear that the individual's enrollment should have continued because he or she retired under circumstances allowing continued enrollment, the disenrollment would become void.

The proposed regulations would allow a carrier to end a self only enrollment upon receipt of reliable information that the enrollee had died. A carrier may learn of the death of an enrollee when it processes the claim for hospital or physician costs incurred at the time of death. It may also learn of an enrollee's death when correspondence is returned by the Postal Service with the notation that the addressee is deceased. These would be considered reliable sources. Since proof of death is not required, the carrier would send notification of its action to the enrollee so that the enrollee, if still living, could so inform the carrier. The discovery that the report of death was in error would void the disenrollment.

The proposed regulations would allow a carrier to disenroll a child survivor annuitant when the child becomes age 22, unless the carrier has information indicating that the child is eligible for continued coverage because the child is incapable of self support due to a physical or mental disability. The proposed regulations include an administrative procedure under which the child can ask the retirement system to reconsider the carrier's decision to disenroll the child. The carrier is also required to provide the child with notice of his or her conversion right and possible eligibility for temporary continuation of coverage.

Finally, the proposed regulations allow the carrier to disenroll a former employee who notifies the carrier that he or she has separated from Federal employment under circumstances that do not entitle him or her to an immediate annuity. The carrier would be required to send the individual a written notice prescribed or approved by OPM.

### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect administrative procedures for Federal agencies and health benefit carriers that participate in the FEHB Program.

### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

### List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

**Janice R. Lachance,**

*Acting Director.*

Accordingly, OPM proposes to amend 5 CFR part 890 as follows:

### PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

**Authority:** 5 U.S.C. 8913; § 890.102(f) also issued under sec. 153 of Pub. L. 104-134; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended.

2. In subpart A, § 890.110 is added to read as follows:

#### § 890.110 Enrollment reconciliation.

(a) Each employing office must report to each carrier on a quarterly basis the names of the individuals who are enrolled in the carrier's plan in a format and containing such information as required by OPM.

(b) The carrier must compare the data provided with its own enrollment records. When the carrier finds in its aggregate enrollment records individuals whose names do not appear in the report from the employing office of record, the carrier must request the employing office to provide the

documentation necessary to resolve the discrepancy.

3. In subpart C, § 890.308 is added to read as follows:

#### § 890.308 Disenrollment.

(a)(1) Except as otherwise provided in this section, a carrier that cannot reconcile its record of an individual's enrollment with agency enrollment records must provide written notice to the individual that the employing office of record does not show him or her as enrolled in the carrier's plan and that he or she will be disenrolled 31 days after the date of the notice unless the enrollee provides appropriate documentation to resolve the discrepancy. Appropriate documentation includes, but is not limited to, a copy of the Standard Form 2809 (basic enrollment document), the Standard Form 2810 transferring the enrollment into the gaining employing office (or the equivalent electronic submission), copies of earnings and leave statements or annuity statements showing withholdings for the health benefits plan, or a document or other credible information from the enrollee's employing office stating that the employee is entitled to continued enrollment in the plan and that the premiums are being paid.

(2) If the carrier does not receive documentation required under paragraph (a)(1) of this section within the specified time frame, the carrier must disenroll the individual, without further notice.

(3) The enrollee may request his or her employing office to reconsider the carrier's decision to disenroll the individual. The request for reconsideration must be made in writing and must include the enrollee's name, address, Social Security Number or other personal identification number, name of carrier, reason(s) for the request, and, if applicable, retirement claim number.

(4) A request for reconsideration of the carrier's decision must be filed within 60 calendar days after the date of the carrier's disenrollment notice. The time limit on filing may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

(5) After reconsideration, the employing office must issue a written notice of its final decision to the individual and the carrier. The notice must fully set forth the findings and conclusions on which the decision was based.

(6) If, at any time after the disenrollment has occurred, the employing office or OPM determines that another provision of this part applies to the individual's enrollment or the carrier discovers or receives appropriate documentation showing that another section of this part applies to the individual's enrollment, the disenrollment under paragraph (a)(2) of this section is void and coverage is reinstated retroactively.

(b) When a carrier receives, from any reliable source, information of the death of an enrollee with a self only enrollment, the carrier may take action to disenroll the individual on the date set forth in § 890.304(a)(1)(iv) or § 890.304(b)(4) of this part, as appropriate. The carrier must attempt to notify the affected individual or a family member of the disenrollment. If, at any time after the disenrollment has occurred, the employing office or OPM determines that another provision of this part applies to the individual's enrollment or the carrier discovers or receives appropriate documentation showing that another section of this part applies to the individual's enrollment, the disenrollment under this paragraph (b) is void and coverage is reinstated retroactively.

(c)(1) When a child survivor annuitant covered under a self only enrollment reaches age 22, the carrier may take action to disenroll the individual effective with the date set forth in § 890.304(c)(1) unless records with the carrier indicate that the child is incapable of self support due to a physical or mental disability. The carrier must provide the enrollee with a written notice of disenrollment prescribed or approved by OPM.

(2) The child survivor enrollee may request the retirement system to reconsider the carrier's decision to disenroll the individual. The request for reconsideration must be made in writing and include the enrollee's name, address, Social Security Number or other identifier, name of carrier, reason(s) for the request, and the survivor annuity claim number.

(3) A request for reconsideration of the carrier's decision must be filed with the retirement system within 30 calendar days from the date of the carrier's disenrollment notice. The time limit on filing may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

(4) After reconsideration, the retirement system must issue a written

notice of its final decision to the individual and provide a copy to the carrier. The notice must fully set forth the findings and conclusions on which the decision was based.

(5) If, at any time after the disenrollment has occurred, the employing office or OPM determines that another provision of this part applies to the individual's enrollment or the carrier discovers or receives appropriate documentation showing that another section of this part applies to the individual's enrollment, the disenrollment under paragraph (c)(1) of this section is void and coverage is reinstated retroactively.

(d) When an enrollee notifies the carrier that he or she has separated from Federal employment and is no longer eligible for enrollment, the carrier must disenroll the individual, subject to the 31-day temporary extension of coverage and conversion right under § 890.401, on the last day of the pay period in which the separation occurred, if known, otherwise the carrier must disenroll the employee on the date the employee provides as the date of separation. The carrier must notify the enrollee of his or her right to convert to a nongroup contract with the carrier and possible eligibility to enroll under the temporary continuation of coverage provisions as set forth in subpart K of this part based on the termination of enrollment as provided under § 890.304(a)(1)(i).

[FR Doc. 97-31166 Filed 11-26-97; 8:45 am]  
BILLING CODE 6325-01-P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 381

[Docket No. 97-006P]

RIN 0583-AC33

#### Addition of Mexico to the List of Countries Eligible to Export Poultry Products Into the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to add Mexico to the list of countries eligible to export poultry products into the United States. Reviews of Mexico's laws, regulations, and other materials show that its poultry processing system meets requirements equivalent to all provisions in the Poultry Products

Inspection Act (PPIA) and its implementing regulations.

Only poultry products that have been slaughtered in federally inspected establishments in the United States or in establishments in other countries eligible to export poultry to the United States and have then been processed in certified Mexican establishments would be permitted to be imported into the United States. All poultry products exported from Mexico to the United States must be reinspected at the U.S. ports-of-entry by FSIS inspectors.

This action would enable certified poultry processing establishments in Mexico to export processed poultry products into the United States.

**DATES:** Comments must be received on or before January 27, 1998.

**ADDRESSES:** Send an original and two copies of comments to: FSIS Docket Clerk, Docket #97-006P, Room 102, Cotton Annex, 300 C Street, SW, Washington, DC 20250-3700. Reference materials cited in this document and any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Manis, Director, International Policy Development Division, Office of Policy, Program Development and Evaluation; (202) 720-6400.

#### SUPPLEMENTARY INFORMATION:

##### Background

FSIS is proposing to amend the poultry products inspection regulations to add Mexico to the list of countries eligible to export poultry products to the United States. Section 17 of the PPIA (21 U.S.C. 466) prohibits the importation into the United States of slaughtered poultry or poultry products unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food. Imported poultry products must be in compliance with the poultry products inspection regulations to ensure that they meet the standards provided in the PPIA. 9 CFR 381.196 establishes the procedures by which foreign countries wanting to export poultry or poultry products to the United States may become eligible to do so.

Section 381.196(a) requires authorities in a foreign country's poultry inspection system to certify that (1) the system provides standards equivalent to those of the United States and (2) the legal authority for the system and its

implementing regulations are equivalent to those of the United States.

Specifically, a country's regulations must impose requirements equivalent to those of the United States in the following areas: (1) Ante-mortem and post-mortem inspection; (2) official controls by the national government over plant construction, facilities, and equipment; (3) direct and continuous supervision of slaughter activities and product preparation by official inspection personnel; (4) separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; and (6) official controls over condemned product.

Section 381.196 also requires a poultry inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, to ensure that those establishments and their poultry products comply with requirements equivalent to the provisions of the PPIA and the poultry products inspection regulations. Foreign country authorities must be able to ensure that all certifications required under Subpart T of the poultry product inspection regulations (Imported Poultry Products) can be relied upon before approval to export poultry and poultry products to the United States may be granted. Here, the government of Mexico would be responsible for establishing a system of controls to ensure that only poultry from eligible countries and establishments is used in poultry products processed in Mexico and destined for the United States. Besides relying on its initial determination of a country's eligibility, coupled with ongoing reviews to ensure that products shipped to the United States are safe, wholesome and properly labeled and packaged, FSIS randomly samples imported meat and poultry products for reinspection as they enter the United States.

In addition to meeting the certification requirements, a foreign country's inspection system must be evaluated by FSIS before eligibility to export poultry and poultry products can be granted. This evaluation consists of two processes: a document review and an on-site review. The document review is an evaluation of the laws, regulations, and other written materials used by the country to operate its inspection program. To help the country in organizing its material, FSIS gives the country questionnaires asking for detailed information about the country's inspection practices and procedures in