

**PART 550—PAY ADMINISTRATION (GENERAL)**

**Subpart C—Allotments and Assignments from Federal Employees**

1. The authority citation for subpart C of part 550 continues to read as follows:

**Authority:** 5 U.S.C. 5527; E.O. 10982, 3 CFR 1959–1963 Comp., p. 502.

2. In § 550.311, paragraph (a)(5) is revised to read as follows:

**§ 550.311 Authority of agency.**

(a) \* \* \*

(5) At least two allotments for savings;

\* \* \* \* \*

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**OFFICE OF PERSONNEL MANAGEMENT**

**5 CFR Part 890**

RIN: 3206–AJ36

**Suspension of TRICARE-Eligible’s Enrollment in the Federal Employees Health Benefits (FEHB) Program**

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim Rule.

**SUMMARY:** The Office of Personnel Management is issuing an interim rule to allow TRICARE-eligible FEHB Program annuitants and former spouses to suspend their FEHB enrollments, and then return to the FEHB Program during the Open Season, or return to FEHB coverage immediately, if they involuntarily lose TRICARE coverage. The intent of this rule is to allow TRICARE-eligible beneficiaries to avoid the expense of continuing to pay FEHB Program premiums while they are using TRICARE coverage, without endangering their ability to return to the FEHB Program in the future.

**DATES:** Effective September 26, 2001. Comments received on or before November 26, 2001.

**FOR FURTHER INFORMATION CONTACT:** Michael W. Kaszynski, Policy Analyst, Insurance Policy and Information Division, OPM, Room 3425, 1900 E Street, NW., Washington, DC 20415–0001. He can also be reached at (202) 606–0004 or by electronic mail (e-mail) at: [mwkaszyn@opm.gov](mailto:mwkaszyn@opm.gov).

**SUPPLEMENTARY INFORMATION:** Effective October 1, 2001, the National Defense Authorization Act for 2001 will reinstate TRICARE coverage for Medicare-eligible uniformed services retirees, their survivors and eligible

dependents. TRICARE coverage will be advantageous to many Medicare-eligible military system beneficiaries who now are covered under the FEHB Program as Federal civilian retirees, family members, or former spouses.

Under current FEHB regulations, however, an annuitant or former spouse who cancels his or her FEHB coverage to use TRICARE coverage would not be allowed to return to FEHB coverage. Therefore, OPM is issuing these interim regulations, with a request for comments, to allow these FEHB participants to suspend, rather than cancel, their FEHB coverage when they begin TRICARE coverage. Under this rule, they would be allowed to return to FEHB coverage immediately if they involuntarily lose TRICARE coverage or, if not, during the next annual FEHB Open Season.

We are also amending our regulations to clarify a similar situation involving FEHB-covered annuitants and former spouses. The regulations allow an individual who drops FEHB coverage when he or she enrolls in a Medicare-sponsored plan, or in Medicaid or a similar State-sponsored program of medical assistance for the needy, to return to FEHB coverage during the annual Open Season or immediately upon being involuntarily disenrolled from the non-FEHB coverage.

**Waiver of Notice of Proposed Rule Making**

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, I find that good cause exists for waiving the general notice of proposed rule making. The notice is being waived so that FEHB enrollees who are eligible for the new TRICARE benefits can suspend their FEHB coverage and use their new benefits at their first opportunity.

**Regulatory Flexibility Act**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect health insurance carriers under the Federal Employees Health Benefits Program.

**Executive Order 12866, Regulatory Review**

This regulation 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 professionals, Hostages, Iraq,

Kuwait, Lebanon, Reporting and record keeping requirements, Retirement.

U.S. Office of Personnel Management.

**Kay Coles James,**  
*Director.*

For the reasons set forth in the preamble, OPM is amending 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; § 890.803 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; § 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

**PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM**

2. In § 890.304, paragraph (d)(2) is revised to read as follows:

**§ 890.304 Termination of enrollment.**

\* \* \* \* \*

(d) \* \* \*

(2) An annuitant may suspend enrollment in FEHB for the purpose of enrolling in a Medicare-sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to enroll in the Medicaid program or a similar State-sponsored program of medical assistance for the needy, or for the purpose of using TRICARE coverage (including coverage provided by the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB coverage. To suspend FEHB coverage, documentation must be submitted to the employing office or retirement system within the period beginning 31 days before and ending 31 days after the effective date of the enrollment in the Medicare-sponsored plan, or the Medicaid or similar program, or the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage. The suspension becomes effective on the day before the effective date of the enrollment in the Medicare-sponsored plan, or Medicaid or a similar program, or the day before the day designated by the annuitant as the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage.

\* \* \* \* \*

3. In § 890.306 paragraphs (f)(1)(ii) and (f)(1)(iii) are revised, paragraph (f)(1)(iv) is added and paragraphs (h) and (i) are revised to read as follows:

890.306 Opportunities for annuitants to change enrollment or to reenroll; effective dates.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) An annuitant who suspended enrollment under this part for the purpose of enrolling in a Medicare-sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, may reenroll.

(iii) An annuitant who suspended the enrollment under this part because he or she furnished proof of eligibility for coverage under the Medicaid program or similar State-sponsored program of medical assistance for the needy, may reenroll.

(iv) An annuitant who suspended enrollment under this part for the purpose of using TRICARE (including the Uniformed Services Family Health Plan) coverage instead of FEHB coverage, may reenroll.

\* \* \* \* \*

(h) *Reenrollment of annuitants who suspended enrollment to enroll in a Medicare-sponsored plan or to use TRICARE (including the Uniformed Services Family Health Plan) coverage under title 10 U.S.C. instead of FEHB coverage.*

(1) An annuitant who had been enrolled (or was otherwise eligible to enroll) for coverage under this part and suspended the enrollment for the purpose of enrolling in a Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to use the TRICARE program (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of the FEHB Program (as provided by § 890.304(d)), and who is subsequently involuntarily disenrolled from the Medicare sponsored plan or the TRICARE program (including the Uniformed Services Family Health Plan), may immediately reenroll in any available plan under this part at any time beginning 31 days before and ending 60 days after the disenrollment. A reenrollment under this paragraph (h) of this section takes effect on the date following the effective date of the disenrollment as shown on the documentation from the Medicare sponsored plan or the TRICARE program (including the Uniformed Services Family Health Plan).

(2) An annuitant who voluntarily suspended enrollment in the FEHB Program to enroll in a Medicare sponsored plan or to use TRICARE (including the Uniformed Services Family Health Plan), but now wants to reenroll in the FEHB Program for any

reason other than an involuntary loss of coverage, may do so during the next available Open Season (as provided by paragraph (f) of this section).

(i) *Reenrollment of annuitants who suspended enrollment because of eligibility under Medicaid or a similar State-sponsored program of medical assistance for the needy.*

(1) An annuitant who had been enrolled (or was otherwise eligible to enroll) for coverage under this part and suspended the enrollment because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy (as provided by § 890.304(d)), and who involuntarily loses that coverage, may reenroll in any available plan under this part at any time beginning 31 days before and ending 60 days after the loss of Medicaid or similar State-sponsored coverage. A reenrollment under this paragraph (i)(1) takes effect on the date following the date of loss of Medicaid or similar State-sponsored coverage.

(2) An annuitant who suspended his or her enrollment because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, and who wishes to reenroll in a plan under this part for any reason, may do so during the next available Open Season as provided by paragraph (f) of this section.

4. In § 890.806 paragraphs (f)(1)(ii) and (f)(1)(iii) are revised and (f)(1)(iv) is added and paragraphs (h) and (i) are revised to read as follows:

**§ 890.806 Opportunities for former spouses to enroll and change enrollment; effective dates of enrollment.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) A former spouse who suspended the enrollment under this part for the purpose of enrolling in a Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, may reenroll.

(iii) A former spouse who suspended the enrollment under this part because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, may reenroll.

(iv) A former spouse who suspended enrollment under this part for the purpose of using TRICARE coverage (including the Uniformed Services Family Health Plan) instead of FEHB coverage, may reenroll.

\* \* \* \* \*

(h) *Reenrollment of former spouses who suspended enrollment to enroll in a Medicare sponsored plan or to use TRICARE coverage (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB coverage.*

(1) A former spouse who had been enrolled for coverage under this part and suspended enrollment for the purpose of enrolling in a Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to use the TRICARE program (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB (as provided in § 890.807(e)), or who meets the eligibility requirements of § 890.803 and the application time limitation requirements of § 890.805, but postponed enrollment for this purpose, and who is subsequently involuntarily disenrolled from the Medicare sponsored plan or the TRICARE program (including the Uniformed Services Family Health Plan), may immediately reenroll in any available plan under this part at any time beginning 31 days before and ending 60 days after the disenrollment. A reenrollment under this paragraph (h) of this section takes effect on the date following the effective date of the disenrollment as shown on the documentation from the Medicare sponsored plan or TRICARE program (including the Uniformed Services Family Health Plan).

(2) A former spouse who suspended coverage in the FEHB Program to enroll in a Medicare sponsored plan, or to use TRICARE (including the Uniformed Services Family Health Plan), but now wants to reenroll in the FEHB Program for any reason other than an involuntary loss of coverage, may do so during the next available Open Season (as provided by paragraph (f) of this section).

(i) *Reenrollment of former spouses who suspended enrollment because of eligibility under Medicaid or a similar State-sponsored program of medical assistance for the needy.*

(1) A former spouse who had been enrolled for coverage under this part and suspended the enrollment because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy (as provided in § 890.807(e)), or who meets the eligibility requirements of § 890.803 and the application time limitation requirements of § 890.805, but postponed enrollment for this reason, and who involuntarily loses that coverage, may reenroll in any available plan under this part at any time

beginning 31 days before and ending 60 days after the loss of Medicaid or similar State-sponsored coverage. A reenrollment under this paragraph (i)(1) of this section takes effect on the date following the date of loss of Medicaid or similar State-sponsored coverage.

(2) A former spouse who suspended enrollment in the FEHB Program because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, and who wishes to reenroll in a plan under this part for reasons other than an involuntary loss of that coverage, may do so during the next available Open Season as provided by paragraph (f) of this section.

5. In § 890.807 paragraphs (e)(2) and (e)(4) are revised to read as follows:

**§ 890.807 Termination of enrollment.**

\* \* \* \* \*

(e) \* \* \*

(2) A former spouse may suspend enrollment in FEHB for the purpose of enrolling in Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to enroll in the Medicaid program or a similar State-sponsored program of medical assistance for the needy, or for the purpose of using TRICARE coverage (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB coverage. To suspend FEHB coverage, documentation must be submitted to the employing office or retirement system within the period beginning 31 days before and ending 31 days after the effective date of the enrollment in the Medicare sponsored plan, or the Medicaid or similar program, or the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage. The suspension becomes effective on the day before the effective date of the enrollment in the Medicare sponsored plan, or the Medicaid or similar program, or the day before the day designated by the former spouse as the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage.

\* \* \* \* \*

(4) A former spouse who cancels his or her enrollment for any reason may not later reenroll in the FEHB Program.

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 905**

[Docket No. FV01-905-1 IFR]

**Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule limits the volume of small red seedless grapefruit entering the fresh market under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. The marketing order is administered locally by the Citrus Administrative Committee (Committee). This rule limits the volume of sizes 48 and 56 red seedless grapefruit shipped during the first 11 weeks of the 2001-2002 season. This rule establishes the weekly base percentages for each of the 11 weeks beginning in September. This limitation supplies enough small red seedless grapefruit, without saturating all markets with these small sizes. This rule should help stabilize the market and improve grower returns.

**DATES:** Effective September 17, 2001; comments received by October 9, 2001 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-8938, or e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room

2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-8938, or e-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order provides for the establishment of grade and size requirements for Florida citrus, with the concurrence of the Secretary. These requirements are designed to provide fresh markets with citrus of acceptable quality and size, to increase returns to