

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 890

RIN 3206-AN03

#### Federal Employees Health Benefits Program Miscellaneous Changes: Medically Underserved Areas

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing a direct final rule to discontinue the annual determination of the Medically Underserved Areas (MUAs) for the Federal Employees Health Benefits (FEHB) Program.

**DATES:** Effective January 1, 2015.  
Comments due February 17, 2015.

**ADDRESSES:** Send written comments to Lynelle T. Frye, Policy Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, Room 4312, 1900 E Street NW., Washington, DC; or FAX to (202) 606-4640 Attn: Lynelle T. Frye. You may also submit comments using the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Lynelle T. Frye, Policy Analyst, at (202) 606-0004 or email: [lynelle.frye@opm.gov](mailto:lynelle.frye@opm.gov).

**SUPPLEMENTARY INFORMATION:** Due to the enactment of Section 2706(a) of the Public Health Service Act (PHSA), OPM has concluded that the annual determination of Medically Underserved Areas (MUAs) for the FEHB Program is no longer required. Section 2706(a) of the PHSA requires that a health insurance issuer or group health plan offering coverage shall not discriminate with respect to coverage against any health care provider who

performs covered services when acting within the scope of their license or certification under applicable state law in any area of a state.

#### Background

The Federal Employees Health Benefits (FEHB) law (5 U.S.C. 8902(m)(2)) requires that a State be designated as a Medically Underserved Area if 25% or more of the population lives in an area identified by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area.

It is intended to provide special consideration for enrollees who obtain health services in states with critical shortages of primary care physicians. As such, FEHB fee-for-service plans are required to provide benefits for covered services (subject to their contract terms) provided by any licensed provider practicing within the scope of his/her license, such as physician assistants or nurse midwives, which otherwise may not be considered as covered providers by the fee-for-service plan.

After the enactment of Section 2706(a) of the Public Health Service Act (PHSA) the Department of Labor offered guidance to health plans and health insurance issuers that, to the extent an item or service is a covered benefit under the plan or coverage, and consistent with reasonable medical management techniques specified under the plan with respect to the frequency, method, treatment or setting for an item or service, a plan or issuer shall not discriminate based on a provider's license or certification, to the extent the provider is acting within the scope of the provider's license or certification under applicable state law. This provision does not require plans or issuers to accept all types of providers into a network. This provision also does not govern provider reimbursement rates, which may be subject to quality, performance, or market standards and considerations.

The effect of Section 2706(a) of the PHSA is to expand the geographic area of coverage for all licensed providers offering covered services within the scope of their license to all areas of all States rather than the only those areas designated as Medically Underserved under 5 U.S.C. 8902(m)(2).

OPM has concluded that Section 2706(a) of the PHSA renders the annual determination of the MUAs for FEHB no

longer required. It serves a similar purpose, since this Section is to expand the geographic area of coverage for all licensed providers offering covered services within the scope of their license to all areas of all States rather than the only those areas designated as Medically Underserved under 5 U.S.C. 8902(m)(2).

With this change, we are not seeking a comment period since we feel it serves the same purpose as MUA.

#### Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule is not considered a major rule because there will be a minimal impact on costs to Federal agencies.

#### 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 only affects health insurance benefits of Federal employees and annuitants.

#### Regulatory Review

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

#### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or Tribal governments.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; see 5 CFR part 1320) requires that the U.S. Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented.

Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. OPM is not proposing any additional collections in this rule.

#### List of Subjects in 5 CFR Part 890

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

U.S. Office of Personnel Management.

**Kathleen Archuleta,**

*Director.*

Accordingly, 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; Sec. 890.301 also issued under sec. 311 of Pub. L. 111–03, 123 Stat. 64; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; 5 U.S.C. 8913; Sec. 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; Sec. 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; Pub. L. 111–148, as amended by Pub. L. 111–152.

#### Subpart G—[Removed and Reserved]

■ 1. Remove and Reserve subpart G, consisting of §§ 890.701 and 890.702. [FR Doc. 2014–29554 Filed 12–16–14; 8:45 am]

**BILLING CODE 6325–63–P**

#### DEPARTMENT OF COMMERCE

#### Bureau of Industry and Security

#### 15 CFR Parts 744 and 774

[Docket No. 140813667–4667–01]

RIN 0694–AG27

#### Expansion of the Microprocessor Military End-Use and End-User Control

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) is amending the microprocessor military end-use and end-user control in the Export Administration Regulations by expanding the scope of microprocessors

subject to the restriction to harmonize with technological advances to microprocessor chips and expand the scope to include related software and technology for the development and production of these chips. In addition, this rule adds a prohibition on the use of license exceptions (including License Exception ENC) and otherwise expands license requirements for exports, reexports, or transfers (in-country) of microprocessors subject to the military end-use and end-user restriction. This expansion is consistent with the foreign policy objectives of the United States of preventing U.S. exports that might contribute to destabilizing military capabilities against the United States and its citizens. The foreign policy report explaining the expansion was sent to Congress on December 1, 2014. This rule also expands the scope of controls to cover in-country transfers, in order to control in-country transfers to prohibited military end users or end uses. BIS is also making editorial and format revisions to this section to improve clarity.

**DATES:** *Effective date:* This rule is effective December 17, 2014.

**FOR FURTHER INFORMATION CONTACT:** Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–2440 or by email at [Sharron.cook@bis.doc.gov](mailto:Sharron.cook@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

On January 14, 2003 (68 FR 1796), the Bureau of Industry and Security (BIS) published a rule to implement the microprocessor military end-user and end-use control in § 744.17 of the Export Administration Regulations (EAR). That rule imposed an end-use and end-user based license requirement on the export of certain microprocessors to military end uses and end users in countries in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR).

End-use and end-user based controls are in addition to any controls based on the technical parameters of the item. Thus, the end-use and end-user based license requirements set forth in § 744.17 may apply to a transaction, even if the Commerce Country Chart indicates there are no license requirements, *i.e.*, no “X” in the box. When controls set forth under more than one section of the EAR apply to a transaction, the license requirements for such a transaction will be determined based on the requirements of all applicable sections of the EAR, and license applications will be reviewed under all applicable licensing policies.

To determine license requirements, one should follow the decision tree flowchart in Supplement No. 1 to part 732. An ECCN may have multiple license requirements, *e.g.*, CCL-based, end-use based, or end-user based. Also note that to use a license exception, each license requirement on an ECCN must be overcome.

#### Revisions to § 744.17 “Restrictions on Certain Exports, Reexports and Transfers (in-country) of Microprocessors and Associated ‘Software’ and ‘Technology’ for ‘Military End Uses’ and to ‘Military End Users’”

Since 744.17 was established, BIS’s administration of export controls has increasingly focused on end uses and end users. Consistent with this change, BIS is adding in-country transfer controls to this section of the EAR to incorporate restrictions that would apply even if a transaction is licensed for a particular destination.

BIS is also expanding the scope of microprocessors requiring a license under § 744.17 by removing the specific ECCN (3A991.a.1) from the text, so that the prohibition applies to any microprocessor meeting the specified performance criteria, and associated “software” and “technology.” As encryption and other “information security” functionality has become more commonplace in hardware, BIS has concluded that microprocessors classified under any ECCN in Category 5—Part 2 of the EAR (including ECCN 5A992.c for ‘mass market’ encryption chips and ECCN 5A002 for a variety of non-‘mass market’ microprocessors) warrant the same license requirement as BIS currently requires under § 744.17 for the microprocessors classified outside of Category 5—Part 2, even if no license would be required (NLR) or License Exception ENC would otherwise be available. Because of this scope revision, the first sentence of paragraph (a) is revised to clarify that this license requirement is in addition to all license requirements set forth in the EAR and not just anti-terrorism reasons for control. Furthermore, BIS is expanding the scope of the license requirement in § 744.17 to include “technology” and “software” for the “development” and “production” of the microprocessors described in § 744.17(a).

In relation to § 744.17(f) “Exceptions,” BIS is also moving, from paragraph (a) to paragraph (f), text that exempted from § 744.17 personnel and agencies of the U.S. Government or agencies of a cooperating government under License Exception GOV. In