HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
		Mar. 17, 1964, Pub. L. 88–284, §1 (less (1)–(13)), 78 Stat. 165.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–208 added subsec. (d).

1985—Pub. L. 99–53, §3(a)(2)(A), inserted ''or disability'' after ''and survivor'' in section catchline.

Subsec. (b). Pub. L. 99–53, §2(a), inserted reference to section 8903a of this title.

Subsec. (c). Pub. L. 99–53, §3(a)(1), added subsec. (c).

1978—Subsec. (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1976—Pub. L. 94–342 designated existing provisions as subsec. (a), added subsec. (b), and substituted ''employees and survivor annuitants'' for ''employee'' in section catchline.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 applicable with respect to termination of marriage taking effect before, on, or after Sept. 30, 1996, except that benefits are payable only with respect to amounts accruing for periods beginning on first day of month beginning after the later of termination of marriage or Sept. 30, 1996, see section 101(f) [title VI, §633(b)] of Pub. L. 104–208, set out as a note under section 8341 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–342, §2, July 6, 1976, 90 Stat. 808, provided that: ''The amendments made by the first section of this Act [amending this section] shall take effect on October 1, 1976, or on the date of the enactment of this Act [July 6, 1976], whichever date is later. Such amendments shall apply with respect to individuals whose survivor annuities are restored before, on, or after such date.''

INSURANCE COVERAGE FOR RESTORED DISABILITY ANNUITANTS

For provisions directing that subsec. (c) of this section shall apply with respect to any individual whose disability annuity is or was restored under section 8337(e) of this title after December 31, 1983, directing that the Office of Personnel Management notify each individual of any rights which such individual may have under subsec. (c) of this section, including any procedures or deadlines which might apply with respect to the exercise of those rights, directing that such notification be provided to any individual who, as of the 90th day after June 17, 1985, is receiving a disability annuity which was restored to such individual under section 8337(e) of this title after December 31, 1983, directing that nothing in subsec. (c) of this section be construed to authorize coverage under this chapter in the case of any individual who becomes enrolled in a health benefits plan under subsec. (c) of this section for any period before the date as of which such individual becomes so enrolled, and directing that such rule of construction apply with respect to any individual receiving a disability annuity which is or was restored under section 8337(e) of this title after December 31, 1983, and before the expiration of the 90-day period beginning on June 17, 1985, see section 3(c) of Pub. L. 99–53, set out as a note under section 8706 of this title.

§ 8909. Employees Health Benefits Fund

(a) There is in the Treasury of the United States an Employees Health Benefits Fund which is administered by the Office of Personnel Management. The contributions of enrollees and the Government described by section 8906 of this title shall be paid into the Fund. The Fund is available—

(1) without fiscal year limitation for all payments to approved health benefits plans; and

(2) to pay expenses for administering this chapter within the limitations that may be specified annually by Congress, except that the amounts required to be set aside under subsection (b)(2) shall not be subject to the limitations that may be specified annually by Congress.

Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made, to the maximum extent practicable, on a checks-presented basis (as defined under regulations of the Department of the Treasury).

(b) Portions of the contributions made by enrollees and the Government shall be regularly set aside in the Fund as follows:

(1) A percentage, not to exceed 1 percent of all contributions, determined by the Office to be reasonably adequate to pay the administrative expenses made available by subsection (a) of this section.

(2) In fiscal year 2026, $66,000,000, to be derived from all contributions, and to remain available until the end of fiscal year 2035, for the Director of the Office to carry out subsections (c) through (f) of the FEHB Protection Act of 2025.

(3) For each health benefits plan, a percentage, not to exceed 3 percent of the contributions toward the plan, determined by the Office to be reasonably adequate to provide a contingency reserve.

The Office, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves of the plans then under contract with the Office. When funds are so transferred, each contingency reserve shall be credited in proportion to the total amount of the subscription charges paid and accrued to the plan for the contract term immediately before the contract term in which the transfer is made. The income derived from dividends, rate adjustments, or other refunds made by a plan shall be credited to its contingency reserve. The contingency reserves may be used to defray increases in future rates, or may be applied to reduce the contributions of enrollees and the Government to, or to increase the benefits provided by, the plan from which the reserves are derived, as the Office from time to time shall determine.

(c) The Secretary of the Treasury may invest and reinvest any of the money in the Fund in in-

terest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations become a part of the Fund.

(d) When the assets, liabilities, and membership of employee organizations sponsoring or underwriting plans approved under section 8903(3) or 8903a of this title are merged, the assets (including contingency reserves) and liabilities of the plans sponsored or underwritten by the merged organizations shall be transferred at the beginning of the contract term next following the date of the merger to the plan sponsored or underwritten by the successor organization. Each employee, annuitant, former spouse, or person having continued coverage under section 8905a of this title affected by a merger shall be transferred to the plan sponsored or underwritten by the successor organization unless he enrolls in another plan under this chapter. If the successor organization is an organization described in section 8901(8)(B) of this title, any employee, annuitant, former spouse, or person having continued coverage under section 8905a of this title so transferred may not remain enrolled in the plan after the end of the contract term in which the merger occurs unless that individual is a full member of such organization (as determined under section 8903a(d) of this title).

(e)(1) Except as provided by subsection (d) of this section, when a plan described by section 8903(3) or (4) or 8903a of this title is discontinued under this chapter, the contingency reserve of that plan shall be credited to the contingency reserves of the plans continuing under this chapter for the contract term following that in which termination occurs, each reserve to be credited in proportion to the amount of the subscription charges paid and accrued to the plan for the year of termination.

(2) Any crediting required under paragraph (1) pursuant to the discontinuation of any plan under this chapter shall be completed by the end of the second contract year beginning after such plan is so discontinued.

(3) The Office shall prescribe regulations in accordance with which this subsection shall be applied in the case of any plan which is discontinued before being credited with the full amount to which it would otherwise be entitled based on the discontinuation of any other plan.

(f)(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to any payment made from the Fund.

(2) Paragraph (1) shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.

(g) The fund described in subsection (a) is available to pay costs that the Office incurs for activities associated with implementation of the demonstration project under section 1108 of title 10.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 98–615, § 3(6), Nov. 8, 1984, 98 Stat. 3204; Pub. L. 99–53, § 2(e), (f), June 17, 1985, 99 Stat. 94; Pub. L. 99–251, title I, § 101, Feb. 27, 1986, 100 Stat. 14; Pub. L. 100–654, title II, § 202(a), Nov. 14, 1988, 102 Stat. 3845; Pub. L. 101–508, title VII, § 7002(b), (c), Nov. 5, 1990, 104 Stat. 1388–330; Pub. L. 105–261, div. A, title VII, § 721(b)(4), Oct. 17, 1998, 112 Stat. 2065; Pub. L. 105–266, § 6(b)(1), Oct. 19, 1998, 112 Stat. 2369; Pub. L. 119–21, title IX, § 90101(g), July 4, 2025, 139 Stat. 363.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3007.	Sept. 28, 1959, Pub. L. 86–382, § 8, 73 Stat. 714. Mar. 17, 1964, Pub. L. 88–284, § 1(12), (13), 78 Stat. 165.
.....	5 U.S.C. 3008(b).	Sept. 23, 1959, Pub. L. 86–382, § 9(b), 73 Stat. 715.

In subsection (a), the words ''hereby created'' are omitted as executed. The words ''hereinafter referred to as the 'Fund' '' are omitted as unnecessary. The words ''to reimburse the Employees Health Benefits Fund for sums expended by the Commission in administering the provisions of this chapter for the fiscal years 1960 and 1961'' in former section 3008(b) are omitted as executed.

In subsection (d), the requirement that the assets and liabilities of plans of organizations that have been merged be transferred at the beginning of the contract term next following the date of the merger or enactment of this subsection is omitted as executed. The next beginning contract term referred to was November 1, 1964, and the transfers have been made. In the last sentence, the word ''hereafter'' is omitted as unnecessary.

In subsection (e), the word ''is'' is substituted for ''is or has been'' as this title is stated prospectively, and any existing rights and duties are preserved by technical section 8.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of the report.

Editorial Notes

REFERENCES IN TEXT

Subsections (c) through (f) of the FEHB Protection Act of 2025, referred to in subsec. (b)(2), are subsecs. (c) to (f) of section 90101 of Pub. L. 119–21, which are set out in a note under section 8905 of this title.

AMENDMENTS

2025—Subsec. (a)(2). Pub. L. 119–21, § 90101(g)(1), inserted '', except that the amounts required to be set aside under subsection (b)(2) shall not be subject to the limitations that may be specified annually by Congress'' before period at end.

Subsec. (b)(2), (3). Pub. L. 119–21, § 90101(g)(2), added par. (2) and redesignated former par. (2) as (3).

1998—Subsec. (e). Pub. L. 105–266 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (g). Pub. L. 105–261 added subsec. (g).

1990—Subsec. (a). Pub. L. 101–508, § 7002(b), inserted at end ''Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter

shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made, to the maximum extent practicable, on a checks-presented basis (as defined under regulations of the Department of the Treasury).''

Subsec. (f). Pub. L. 101–508, §7002(c), added subsec. (f).

1988—Subsec. (d). Pub. L. 100–654 substituted ''former spouse, or person having continued coverage under section 8905a of this title'' for ''or former spouse'' in two places.

1986—Subsec. (b). Pub. L. 99–251 substituted ''enrollees'' for ''employees'' in last sentence.

1985—Subsec. (d). Pub. L. 99–53, §2(e), substituted ''section 8903(3) or 8903a'' for ''section 8903(3)'' and inserted provision directing that if the successor organization is an organization described in section 8901(8)(B) of this title, any transferred employee, annuitant, or former spouse may not remain enrolled in the plan after the end of the contract term in which the merger occurs unless the individual is a full member of such organization (as determined under section 8903a(d) of this title).

Subsec. (e). Pub. L. 99–53, §2(f), inserted ''or 8903a'' before ''of this title''.

1984—Subsecs. (a), (b). Pub. L. 98–615, §3(6)(A), substituted ''enrollees'' for ''employees, annuitants,'' in provisions preceding par. (1).

Subsec. (d). Pub. L. 98–615, §3(6)(B), substituted ''Each employee, annuitant, or former spouse'' for ''Each employee or annuitant''.

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission'' wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable with respect to contract years beginning on or after Jan. 1, 1991, see section 7002(g) of Pub. L. 101–508, set out as a note under section 8902 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–654 applicable with respect to any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after end of 9-month period beginning Nov. 14, 1988, and with respect to any qualifying event occurring on or after first day of first calendar year beginning after end of such 9-month period, see section 203 of Pub. L. 100–654, set out as a note under section 8902 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–615 effective May 7, 1985, with enumerated exceptions, and applicable to any individual who is married to an employee or annuitant on or after that date, see section 4(a)(2) of Pub. L. 98–615, as amended, set out as a note under section 8341 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

DISPOSAL OF AMOUNTS REMAINING AS OF OCTOBER 19, 1998, IN CONTINGENCY RESERVE OF DISCONTINUED PLAN

Pub. L. 105–266, §6(b)(2), Oct. 19, 1998, 112 Stat. 2369, provided that: ''In the case of any amounts remaining as of the date of the enactment of this Act [Oct. 19, 1998] in the contingency reserve of a discontinued plan, such amounts shall be disposed of in accordance with section 8909(e) of title 5, United States Code, as amended by this subsection, by—

''(A) the deadline set forth in section 8909(e) of such title (as so amended); or

''(B) if later, the end of the 6-month period beginning on such date of enactment.''

AMOUNTS TO BE REFUNDED FROM CARRIERS' SPECIAL RESERVES

Pub. L. 99–272, title XV, §15202(a), Apr. 7, 1986, 100 Stat. 333, provided that:

''(1) The Office of Personnel Management—

''(A) shall determine the minimum level of financial reserves necessary to be held by a carrier for each health benefits plan under chapter 89 of such title for the purpose of ensuring the stable and efficient operation of such plan; and

''(B) shall require the carrier to refund to the Employees Health Benefits Fund (described in section 8909(a) of title 5, United States Code) any such reserves in excess of such minimum level in such amounts and at such times during fiscal years 1986 and 1987 as the Office determines appropriate.

''(2) In carrying out its responsibilities under this subsection, the Office shall ensure that the aggregate amount to be refunded to the Employees Health Benefits Fund under this subsection—

''(A) during fiscal year 1986 shall be not less than $800,000,000; and

''(B) during fiscal year 1987 shall be not less than $300,000,000.

''(3) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States as a result of a refund made under this subsection.

''(4)(A) Subject to subparagraphs (B) and (C), any amounts refunded to the Employees Health Benefits Fund under this subsection may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants, as defined by section 8901(3) of title 5, United States Code, (including the Government contribution for former employees of the United States Postal Service) enrolled in health benefits plans under such chapter.

''(B) This paragraph applies to a refund to the extent that such refund represents amounts attributable to Government contributions which were made under section 8906(b) of title 5, United States Code, (including contributions made by the United States Postal Service) as determined under regulations which the Office of Personnel Management shall prescribe.

''(C) Any part of the amount in the Employees Health Benefits Fund as a result of a refund made under this subsection may be transferred—

''(i) to the government of the District of Columbia, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the government of the District of Columbia to subscription charges under this chapter (as determined by the Office of Personnel Management); and

''(ii) to the United States Postal Service, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the United States Postal Service to subscription charges under this chapter (as determined by the Office).

''(5) The provisions of this subsection shall apply notwithstanding any provision of the Federal Employees Benefits Improvement Act of 1985 [probably means the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99–251, see Short Title of 1986 Amendment note set out under section 8901 of this title for classification].''

RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES

Pub. L. 99–251, title I, §112, Feb. 27, 1986, 100 Stat. 19, provided that:

''(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

''(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

''(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans (without regard to the health benefits plan or plans from which the refunds were received).

''(2) This subsection applies with respect to any amounts—

''(A) which are referred to in subsection (a)(2); and

''(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia, which shall be returned to such government) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

''(c) DEFINITIONS.—For the purpose of this section—

''(1) the term 'Employees Health Benefits Fund' refers to the fund described in section 8909(a) of title 5, United States Code;

''(2) the term 'carrier' has the meaning given such term by section 8901(7) of such title; and

''(3) the term 'health benefits plan' has the meaning given such term by section 8901(6) of such title.''

§ 8909a. Postal Service Retiree Health Benefits Fund

(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

(d)(1) Not later than June 30, 2026, and by June 30 of each succeeding year, the Office shall compute, for the most recently concluded fiscal year, the amount (if any) that Government contributions required to be paid from the Fund under section 8906(g)(2)(A) exceeded the estimated net claims costs under the enrollment of the individuals described in section 8906(g)(2)(A).

(2) Not later than September 30 of each year in which the Office makes a computation under paragraph (1), the United States Postal Service shall pay into the Fund the amount (if any) of the excess computed under such paragraph.

(e) Any computation required under section 3654(b) of title 39 shall be based on—

(1) the net present value of the future net claims costs with respect to—

(A) current annuitants of the United States Postal Service as of the end of the fiscal year ending on September 30 of the relevant reporting year; and

(B) current employees of the United States Postal Service who would, as of September 30 of that year—

(i) be eligible to become annuitants pursuant to section 8901(3)(A)(i) or (ii); and

(ii) if they were retired as of that date, meet the criteria for coverage of annuitants under section 8905(b);

(2) economic and actuarial methods and assumptions consistent with the methods and assumptions used in determining the Postal surplus or supplemental liability under section 8348(h); and

(3) any other methods and assumptions, including a health care cost trend rate, that the Director of the Office determines to be appropriate.

(f) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.

(g) For purposes of this section, the term ''estimated net claims costs'' shall mean the difference between—

(1) the sum of—

(A) the estimated costs incurred by a carrier in providing health services to, paying for health services provided to, or reimbursing expenses for health services provided to, annuitants of the United States Postal Service and any other persons covered under the enrollment of such annuitants; and

(B) an amount of indirect expenses reasonably allocable to the provision, payment, or reimbursement described in subparagraph (A), as determined by the Office; and

(2) the amount withheld from the annuity of or paid by annuitants of the United States Postal Service under section 8906.

(Added Pub. L. 109–435, title VIII, §803(a)(1)(B), Dec. 20, 2006, 120 Stat. 3251; amended Pub. L. 111–68, div. B, §164(a), Oct. 1, 2009, 123 Stat. 2053; Pub. L. 112–33, §124, Sept. 30, 2011, 125 Stat. 366; Pub. L. 112–74, div. C, title VI, §632, Dec. 23, 2011, 125 Stat. 928; Pub. L. 117–108, title I, §102(b), Apr. 6, 2022, 136 Stat. 1138.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117–108, §102(b)(2), substituted ''Benefits'' for ''Benefit'' in section catchline.

Subsecs. (d) to (g). Pub. L. 117–108, §102(b)(1), added subsecs. (d) to (g) and struck out former subsec. (d) which related to various computations of net present value of future payments, payments into the Postal Retiree Health Benefits Fund, and promulgation of regulations.

2011—Subsec. (d)(3)(A)(v). Pub. L. 112–74 substituted ''August 1, 2012'' for ''October 4, 2011''. See below.

Pub. L. 112–33 substituted ''October 4, 2011'', which is the date specified in section 106(3) of Pub. L. 112–33, for ''September 30, 2011''.

2009—Subsec. (d)(3)(A)(iii). Pub. L. 111–68 amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''$5,400,000,000, not later than September 30, 2009;''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–68, div. B, §164(b), Oct. 1, 2009, 123 Stat. 2053, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as