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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AH46

Federal Employees Health Benefits Program: Opportunities to Enroll and Change Enrollment

AGENCY: Office of Personnel
Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to simplify and clarify the existing Federal Employees Health Benefits (FEHB) Program regulations concerning opportunities to enroll and change enrollment. These regulations will make it easier for employing offices to determine whether circumstances permit individuals to enroll or change enrollment, and will result in a reduced potential for error and improved customer service.

EFFECTIVE DATE: August 18, 1997.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION: On July 9, 1996, OPM issued proposed regulations in the *Federal Register* (61 FR 35973) that would amend Part 890 to (1) organize the opportunities to enroll and change enrollment into separate sections for each category of enrollee, (2) group enrollment opportunities within each category by similar characteristics, such as change in employment status, or loss of health benefits coverage, (3) standardize timeframes for individuals to enroll or change enrollment, (4) locate effective date information within the paragraph that describes the enrollment or change opportunity, (5) clarify some opportunities by removing certain hard to define requirements that individuals must meet to become eligible to enroll

or change, and (6) permit insurance carriers to determine incapacity of self-support for children over age 22 under certain conditions.

OPM received comments from six Government agencies, two insurance carriers, and one retired employees' association. While all of the commenters were in favor of the proposed regulations, some had specific areas of concern that we will address below. We have tried to list these issues in the same order as the regulations that they pertain to.

Two commenters recommended expanding the definition of "appropriate request" to include elections not to enroll, and to add the term "processing office." We have expanded the definition of "appropriate request" to include elections not to enroll. We have also defined "election not to enroll" in the definitions section. We do not believe that adding the term "processing office" to the definition of "appropriate request" is necessary because the term "employing office" as defined in § 890.101 means the office with jurisdiction and responsibility for health benefits actions. This would include the processing office.

We are removing the definition of "regular tour of duty" because it no longer reflects the definition as set forth in § 610.102 of this chapter.

Several commenters had concerns with the new paragraph (c) that we are adding to § 890.103 that will give the employing office authority to retroactively correct enrollee enrollment code errors. This paragraph applies only to enrollment code errors made by the employee and therefore should not be combined with paragraphs (a) and (b) which concern administrative errors. In the past, agencies had no authority to correct enrollee enrollment code errors. The intent of the new paragraph is to give enrollees who discover that they made an enrollment code error an opportunity to have it corrected; we did not intend to give them the opportunity to change their election should they find that they are dissatisfied with their election. An enrollee who reports an enrollment code error beyond the specified time frame must wait until the next open season to correct the error. If an error was made by the employing office, then it would be an administrative error and would be

subject to paragraphs (a) and (b) rather than this new paragraph (c).

One commenter believes that these regulations should require employees to furnish evidence of their eligibility to enroll or change enrollment. Employing offices have always been responsible for determining eligibility, and they may require whatever evidence they need to verify that an event actually occurred. In some cases, such as changes in employment status, the employing office has the information readily available; in others, such as documentation of a marriage, a move, or the loss of other group health insurance coverage, they can require additional evidence. Special regulatory language is not needed.

One commenter expressed concern about the reenrollment of an employee whose enrollment was terminated after 365 days of leave without pay status. When this employee returns to pay status, he or she may reenroll and the enrollment would normally take effect on the first day of the next pay period. However, if the employee is not in pay status in the pay period after the one in which he or she submitted the enrollment request, the enrollment could not take effect. If an employee's enrollment terminated after 365 days leave without pay, and the employee is not entitled to any further continuation of coverage because he or she has not had 4 consecutive months of pay status since exhausting the 365 days continuation of coverage in leave without pay, coverage terminates on the last day of his or her last pay period in pay status. There is no need for special regulatory language as this principle is reflected in § 890.304(a)(1)(v).

On July 22, 1996, OPM published interim regulations that require Federal agencies to provide employees entering leave without pay status, or whose pay is insufficient to cover their FEHB premium payments, written notice of their opportunity to continue their FEHB coverage (61 FR 37807). These employees have the option of continuing or terminating their FEHB coverage. Employees who elect to terminate their coverage may enroll upon their return to duty in a pay status in a position which provides eligibility for FEHB coverage. We have added a provision to paragraph 890.301(h)(1) of these final regulations that would reflect this enrollment opportunity.

One commenter expressed concern about our requirement that the effective date of an open season enrollment must follow a pay period during any part of which the employee is in pay status. This is not a new provision and we have made no change to the existing regulation. If an employee is in leave without pay status when an open season enrollment would normally take effect, the enrollment could not take effect until the employee returns to pay status.

One commenter suggested that we define changes in family status in the definitions section. We are concerned that it would be unnecessarily restrictive to specify in regulation the situations that we believe are changes in family status. We believe it is sufficient to continue to provide this information in our guidance in the FEHB Handbook for Personnel and Payroll Offices (formerly FPM Supplement 890-1). For the convenience of the reader, we will restate the examples of changes in family status given in the supplementary information of the proposed regulations, as follows: (1) Birth or acquisition of a child; (2) issuance of a court order specifically requiring an employee to enroll for his or her children or provide health benefits protection for them; (3) issuance or termination of a court order granting interlocutory divorce, limited divorce, legal separation, or separate maintenance to the enrollee or spouse; (4) entry into or discharge from military service of a spouse or of a child under age 22.

Two commenters suggest that we consider further changing the regulations to give the employing office discretion in determining effective dates of enrollment changes in certain situations. We do not favor making this change. We believe that specifying effective dates of coverage in regulation is easier to administer and assures that all enrollees and their family members are treated in a uniform manner. For example, when an enrollee changes from self only to self and family coverage because of the birth of a child, the regulations specify that the effective date of the change is the first day of the pay period in which the child is born.

One commenter expressed concern about the events based upon a loss of other FEHB coverage (paragraph 890.301(i)) and our extension of the enrollment timeframe from 31 to 60 days. We are extending the timeframe for uniformity and to try to reduce the number of requests for belated enrollment. We realized that some individuals may enroll after the expiration of the 31-day temporary extension of coverage, but within the 60

day timeframe and that this will cause a gap in coverage. However, as long as the individuals enrolls with the time limit required by regulation, he or she will not be penalized for purposes of meeting the requirements for continuing the FEHB enrollment into retirement (coverage for 5 years of service immediately before retirement, or, if less than 5 years, for all service since the first opportunity to enroll).

One commenter asked if OPM could treat employees and former spouses whose plan is discontinued and who do not select another plan the same as annuitants and deem them to have enrolled in the Blue Cross and Blue Shield (BCBS) Service Benefit Plan. The provision for annuitants was originally written when the Aetna plan left the FEHB Program and there were many annuitants who did not respond to our request that they change plans. It was intended to assure that no annuitant would be without FEHB coverage, especially since those who did not select another plan were deemed to have cancelled their enrollment and, generally, annuitants who cancel their enrollment may not reenroll. This provision is not difficult to administer since annuitants have one employing office. We do not favor extending this provision to employees or former spouses since they may make a belated change of enrollment if their employing office permits, or they can reenroll during the next open season. We believe that giving agencies the authority to place employees and former spouses who do not change plans in the BCBS Plan would be difficult for agencies to administer, since these enrollees might object to being placed in BCBS without their consent.

Several comments are concerned about our proposal to permit carriers to determine whether an enrollee's child over age 22 is incapable of self-support when the child's disability appears on a list of specific medical conditions provided by OPM. We agree that carriers and employing offices will need to communicate their determinations to each other and we plan to issue additional guidance and procedures on this issue. The purpose of our revision to the current regulation is to provide uninterrupted coverage when the child's condition is so severe that there would be no question that the child is incapable of self-support and that the condition would not abate. In cases where the child's condition does not appear on the OPM list, the enrollee would have to contact their employing office and follow the procedures currently required for approval.

We also are simplifying and clarifying the current regulations regarding the effective date of cancellation so that all cancellations take effect on the last day of the pay period in which the appropriate request cancelling the enrollment is received by the employing office.

Another commenter had several concerns about our section pertaining to former spouses. Former spouses may change to family status only if the child to be covered is a child of the former spouse and the employee or annuitant. In addition, former spouses who establish eligibility for a former spouse enrollment but postpone enrolling (e.g. because they are on active military service or are covered by CHAMPUS) may enroll at a later date. Therefore, there is no need for special regulatory language for former spouses who are discharged from the military. Finally, we deleted the first sentence of § 890.806(j) because it is redundant with § 890.806(a).

One commenter asked why these regulations allow annuitants and former spouses who cancel their enrollment for the purpose of enrolling in a Medicare-sponsored Coordinated Care Plan (also referred to as a Medicare HMO) or Medicaid (or similar State-sponsored program of medical assistance for the needy) to reenroll in FEHB, but do not extend this same opportunity to individuals enrolled under the Temporary Continuation of Coverage (TCC) provisions. FEHB law (5 U.S.C. 8905a) is very specific about the events that qualify individuals to continue their FEHB coverage under the TCC provisions, as follows: (1) Employees who lose coverage upon separation from service; (2) children who cease to meet the requirements for being unmarried dependent children, and (3) former spouses who lose coverage under a self and family enrollment because of termination of marriage, and who do not qualify for coverage under the former spouse provisions of FEHB law. There is nothing in the TCC provisions of law that would permit us to allow an individual to cancel their TCC for the purpose of obtaining MCCP or Medicaid (or similar State-sponsored) coverage and later reenroll.

We also would like to point out that we plan to revise the Table of Permissible Changes in Enrollment on the back of the Health Benefits Registration Form (Standard Form 2809) to incorporate these changes.

In addition, there were several suggestions to correct real or perceived technical or typographical errors in the proposed regulations. We have made

changes and clarifications where appropriate.

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 Federal employees, annuitants, and former spouses.

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, and Retirement.

Office of Personnel Management.

James B. King,

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; § 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 § 890.101, paragraph (a), the definitions for *Enrolled* and *Enrollee* are revised, the definitions for *Cancellation*, *Change of enrollment*, *Register*, *Register to enroll*, and *Regular tour of duty* are removed, and the definitions for *Appropriate request*, *Cancel*, *Change the enrollment*, *Election not to enroll*, and *Enroll* are added in alphabetical order to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

Appropriate request means a properly completed health benefits registration form or an alternative method acceptable to both the employing office and OPM. Alternative methods must be capable of transmitting to the health benefits plans the information they require before accepting an enrollment, change of enrollment, or cancellation. Electronic signatures, including the use of Personal Identification Numbers (PIN), have the same validity as a written signature.

* * * * *

Cancel means to submit to the employing office an appropriate request electing not to be enrolled by an enrollee who is eligible to continue enrollment.

Change the enrollment means to submit to the employing office an

appropriate request electing a change of enrollment to a different plan or option, or to a different type of coverage (self only or self and family).

* * * * *

Election not to enroll means to submit to the employing office an appropriate request electing not to be enrolled by an employee who is eligible to enroll.

* * * * *

Enroll means to submit to the employing office an appropriate request electing to be enrolled in a health benefits plan.

Enrolled means an appropriate request has been accepted by the employing office and the enrollment in a health benefits plan approved by OPM under this part has not been terminated or cancelled.

Enrollee means the individual in whose name the enrollment is carried. The term includes employees, annuitants, former employees, former spouses, or children who are enrolled after completing an appropriate request under the provisions of §§ 890.301, 890.306, 890.601, 890.803, or 890.1103 or have continued an enrollment as an annuitant or survivor annuitant under 5 U.S.C. 8905(b) or § 890.303.

* * * * *

3. In § 890.103, paragraphs (c) and (d) are redesignated as (d) and (e), and a new paragraph (c) is added to read as follows:

§ 890.103 Correction of errors.

* * * * *

(c) The employing office may make retroactive correction of enrollee enrollment code errors if the enrollee reports the error by the end of the pay period following the one in which he or she received the first written documentation (i.e. pay statement or enrollment change confirmation) indicating the error.

* * * * *

4. The title of Subpart C is received to read as follows:

Subpart C—Enrollment

5. Section 890.301 is revised to read as follows:

§ 890.301 Opportunities for employees to enroll or change enrollment; effective dates.

(a) *Initial opportunity to enroll.* An employee who becomes eligible may elect to enroll or not to enroll within 60 days after becoming eligible.

(b) *Effective date—generally.* Except as otherwise provided, an enrollment or change of enrollment takes effect on the first pay of the first pay period that begins after the date the employing office receives an appropriate request to

enroll or change the enrollment and that follows a pay period during any part of which the employee is in pay status.

(c) *Belated enrollment.* When an employing office determines that an employee was unable, for cause beyond his or her control, to enroll or change the enrollment within the time limits prescribed by this section, the employee may enroll or change the enrollment within 60 days after the employee office advises the employment of its determination.

(d) *Enrollment by proxy.* Subject to the discretion of the employing office, an employee's representative, having written authorization to do so, may enroll or change the enrollment for the employee.

(e) *Change to self only.* (1) An employee may change the enrollment from self and family to self only at any time.

(2) A change of enrollment to self only takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the employee and upon a showing satisfactory to the employing office that there was no family member eligible for coverage by the family enrollment, the employing office may make the change effective on the first day of the pay period following the one in which there was no family member.

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

(2) The Director of the Office of Personnel Management may modify the dates specified in paragraph (f)(1) of this section or hold additional open seasons.

(3) During an open season, an eligible employee may enroll and an enrolled employee may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes.

(4)(i) An open season new enrollment takes effect on the first day of the first pay period that begins in the next following year and which follows a pay period during any part of which the employee is in a pay status.

(ii) An open season change of enrollment takes effect on the first day of the first pay period which begins in January of the next following year.

(5) When a belated open season enrollment or change of enrollment is accepted by the employing office under paragraph (c) of this section, it takes effect as required by paragraph (f)(4) of this section.

(g) *Change in family status.* (1) An eligible employee may enroll and an enrolled employee may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the employee's family status changes, including a change in marital status or any other change in family status. The employee must enroll or change the enrollment within the period beginning 31 days before the date of the change in family status, and ending 60 days after the date of the change in family status.

(2) An enrollment or change of enrollment made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, takes effect on the first day of the pay period in which the child is born or becomes an eligible family member.

(h) *Change in employment status.* An eligible employee may enroll and an enrolled employee may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the employee's employment status changes. Except as otherwise provided, an employee must enroll or change the enrollment within 60 days after the change in employment status. Employment status changes include, but are not limited to—

(1) A return to pay status following loss of coverage under either—

(i) Section 890.304(a)(1)(v) due to the expiration of 365 days in leave without pay (LWOP) status, or

(ii) Section 890.502(b)(5) due to the termination of coverage during LWOP status.

(2) Reemployment after a break in service of more than 3 days.

(3) Restoration to a civilian position after serving in the uniformed services under conditions that entitle him or her to benefits under part 353 of this chapter, or similar authority.

(4) A change from a temporary appointment in which the employee is eligible to enroll under 5 U.S.C. 8906a, which requires payment of the full premium with no Government contribution, to an appointment that entitles the employee to receive the Government contribution.

(5) Separation from Federal employment when the employee or the employee's spouse is pregnant and the employee supplies medical documentation of the pregnancy. An employee who enrolls or changes the enrollment under this paragraph (h)(5) must do so during his or her final pay period. The effective date of an enrollment or a change of enrollment

under this paragraph (h)(5) is the first day of the pay period which the employing office receives an appropriate request to enroll or change the enrollment.

(6) A transfer from a post of duty within a State of the United States or the District of Columbia to a post of duty outside a State of the United States or the District of Columbia, or the reverse. An employee who enrolls or changes the enrollment under this paragraph (h)(6) must do so within the period beginning 31 days before leaving the old post of duty and ending 60 days after arriving at the new post of duty.

(7) A change, without a break in service or after a separation of 3 days or less, to part-time career employment as defined in 5 U.S.C. 3401(2) and 5 CFR part 340, subpart B, or a change from such part-time career employment to full-time employment that entitles the employee to the full Government contribution.

(i) *Loss of coverage under this part or under another group insurance plan.* An eligible employee may enroll and an enrolled employee may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the employee or an eligible family member of the employee loses coverage under this part or another group health benefits plan. Except as otherwise provided, an employee must enroll or change the enrollment within the period beginning 31 days before the date of loss of coverage, and ending 60 days after the date of loss of coverage. Losses of coverage include, but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or a change to self only, of the covering enrollment.

(2) Loss of coverage under another federally-sponsored health benefits program.

(3) Loss of coverage due to the termination of membership in an employee organization sponsoring or underwriting an FEHB plan.

(4) Loss of coverage due to the discontinuance of an FEHB plan in whole or in part. For an employee who loses coverage under this paragraph (i)(4):

(i) If the discontinuance is at the end of a contract year, the employee must change the enrollment during the open season, unless OPM establishes a different time. If the discontinuance is at a time other than the end of the contract year, OPM must establish a time and effective date for the employee to change the enrollment.

(ii) If the whole plan is discontinued, an employee who does not change the enrollment within the time set is considered to have canceled the plan in which enrolled.

(iii) If one option of a plan that has two options is discontinued, an employee who does not change the enrollment is considered to be enrolled in the remaining option of the plan.

(5) Loss of coverage under the Medicaid program or similar State-sponsored program of medical assistance for the needy.

(6) Loss of coverage under a non-Federal health plan because an employee moves out of the commuting area to accept another position and the employee's non-federally employed spouse terminates employment to accompany the employee. An employee may enroll or change the enrollment within the period beginning 31 days before the date the employee leaves employment in the old commuting area and ending 180 days after entry on duty at place of employment in the new commuting area.

(7) Loss of coverage under a non-Federal health plan.

(j) *Move from comprehensive medical plan's area.* An employee in a comprehensive medical plan who moves or becomes employed outside the geographic area from which the plan accepts enrollments, or if already outside this area, moves or becomes employed further from this area, may change the enrollment upon notifying the employing office of the move or change of place of employment. Similarly, an employee whose covered family member moves outside the geographic area from which the plan accepts enrollments, or if already outside this area, moves further from this area, may change the enrollment upon notifying the employing office of the family member's move. The change of enrollment takes effect on the first day of the pay period that begins after the employing office receives an appropriate request.

(k) *On becoming eligible for Medicare.* An employee may change the enrollment from one plan or option to another at any time beginning on the 30th day before becoming eligible for coverage under title XVIII of the Social Security Act (Medicare). A change of enrollment based on becoming eligible for Medicare may be made only once.

(1) *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 that does not exceed the employee's salary. The employee may enroll in another plan whose cost is no greater than his or her salary within 60 days after receiving such notification from the employing office. The change of enrollment takes effect immediately upon termination of the prior enrollment.

6. In § 890.302, paragraph (f) is revised to read as follows:

§ 890.302 Coverage of family members.

* * * * *

(f) *Determination of incapacity.* (1) Except as provided in paragraph (f)(2) of this section, the employing office shall make determinations of incapacity.

(2) Either the employing office or the carrier may make a determination of incapacity if a medical condition, as specified by OPM, exists that would cause a child to be incapable of self-support during adulthood.

* * * * *

7. In § 890.303, paragraph (a)(1) is amended by removing "registration" and adding in its place "enrollment", and paragraph (a)(3) is revised to read as follows:

§ 890.303 continuation of enrollment.

(a) * * *

(3) For the purpose of this part, an employee is considered to have enrolled at his or her first opportunity if the employee enrolled during the first of the periods set forth in § 890.301 in which he or she was eligible to enroll or was covered at that time by the enrollment of another employee or annuitant, or whose enrollment was effective not later than December 31, 1964.

* * * * *

8. In § 890.304, paragraph (a)(2) is amended by removing "§ 890.301(ee)" and adding in its place "§ 890.301(1)", paragraph (b)(1) is amended by removing "§ 890.301(q)" and adding in its place "§ 890.306(q)", and paragraph (d) is revised to read as follows:

§ 890.304 Termination of enrollment.

* * * * *

(d) *Cancellation.* (1) Except as provided in § 890.807(e), an enrollee may cancel his or her enrollment at any time by filing an appropriate request with the employing office. The cancellation takes effect on the last day of the pay period in which the appropriate request cancelling the enrollment is received by the employing office.

(2) If an annuitant submits documentation that the cancellation is for the purpose of enrolling in a prepaid health plan under section 1833 or 1876

of the Social Security Act, the cancellation becomes effective on the day before the enrollment under the prepaid health plan takes effect. Such documentation must be submitted to the employing office within the period beginning 31 days before and ending 31 days after the prepaid health plan enrollment takes effect.

(3) The enrollee and covered family members are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits.

* * * * *

9. Section 890.306 is revised to read as follows:

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

(a) *Requirements to continue coverage.* (1) To be eligible to continue coverage in a plan under this part, a former employee in receipt of an annuity must meet the statutory requirements under 5 U.S.C. 8905(b) of having retired on an immediate annuity and having been covered by a plan under this part for the 5 years of service immediately before retirement, or if less than 5 years, for all service since his or her first opportunity to enroll, unless OPM waives the requirement under § 890.108.

(2) To be eligible to continue coverage in a plan under this part, a survivor annuitant must be covered as a family member when the employee or annuitant dies.

(b) *Effective date—generally.* Except as otherwise provided, an annuitant's change of enrollment takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment.

(c) *Belated enrollment.* When an employing office determines that an annuitant was unable, for cause beyond his or her control, to continue coverage by enrolling in his or her own name or change the enrollment within the time limits prescribed by this section, the annuitant may do so within 60 days after the employing office advises the annuitant of its determination.

(d) *Enrollment by proxy.* Subject to the discretion of the employing office, an annuitant's representative, having written authorization to do so, may continue the annuitant's coverage by enrolling in the annuitant's own name, or change the enrollment for the annuitant.

(e) *Change to self only.* (1) An annuitant may change the enrollment from self and family to self only at any time.

(2) A change of enrollment to self only takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the annuitant and upon a showing satisfactory to the employing office that there was no family member eligible for coverage under the family enrollment, the employing office may make the change effective on the first day of the pay period following the one in which there was no family member.

(f) *Open season.* (1) During an open season as provided by § 890.301(f)—

(i) An enrolled annuitant may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes.

(ii) An annuitant who cancelled the enrollment under this part for the purpose of enrolling in a prepaid health plan under section 1833 or 1876 of the Social Security Act, and who subsequently voluntarily disenrolls from the prepaid health plan, may reenroll.

(iii) An annuitant who cancelled 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, and who wishes to reenroll in a plan under this part for reasons other than an involuntary loss of that coverage, may do so.

(2) An open season reenrollment or change of enrollment takes effect on the first day of the first pay period that begins in January of the next following year.

(3) When a belated open season reenrollment or change of enrollment is accepted by the employing office under paragraph (c) of this section, it takes effect as required by paragraph (f)(2) of this section.

(g) *Change in family status.* (1) An enrolled former employee in receipt of an annuity may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the annuitant's family status changes, including a change in marital status or any other change in family status. In the case of an enrolled survivor annuitant, a change in family status based on additional family members occurs only if the additional family members are family members of the deceased employee or annuitant. The annuitant must change the enrollment within the period beginning 31 days before the date of the change in family status, and

ending 60 days after the date of the change in family status.

(2) A change of enrollment made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, takes effect on the first day of the pay period in which the child is born or becomes an eligible family member.

(h) *Reenrollment of annuitants who cancelled enrollment to enroll in a Medicare-sponsored Coordinated Care Plan.* (1) An annuitant who had been enrolled (or was otherwise eligible to enroll) for coverage under this part and cancelled the enrollment for the purpose of enrolling in a prepaid health plan under section 1833 or 1876 of the Social Security Act (as provided by § 890.304(d)), and who is subsequently involuntarily disenrolled from the prepaid 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) takes effect on the date following the effective date of the disenrollment as shown on the documentation from the prepaid health plan.

(2) An annuitant who voluntarily disenrolls from the prepaid health plan must do so in conjunction with reenrolling in a plan under this part during the next available open season (as provided by paragraph (f) of this section) to assure continuing uninterrupted health plan coverage.

(i) *Reenrollment of annuitants who cancelled enrollment because of eligibility under Medicaid or 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 cancelled 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, 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 cancelled 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 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.

(j) *Annuitants who apply for postponed minimum retirement age plus 10 years of service (MRA plus 10) annuity.* (1) 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 separation, and whose enrollment is terminated under § 890.304(a)(1)(ii) may enroll in a health benefits plan under this part within 60 days after OPM mails the former employee a notice of eligibility. If such former employee dies before the end of this 60-day election period, a survivor who is entitled to a survivor annuity may enroll in a health benefits plan under this part within 60 days after OPM mails the survivor a notice of eligibility.

(2) The former employee's enrollment takes effect on the first day of the month following the month in which OPM receives the appropriate request or on the commencing date of annuity, whichever is later. A survivor's enrollment takes effect on the first day of the month following the month in which OPM receives the appropriate request.

(k) *Restoration of annuity or compensation payments.* (1) 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 5 U.S.C. 8337(e) after December 31, 1983, or 8455(b), may enroll in a health benefits plan under this part within 60 days after OPM mails a notice of insurance eligibility. The enrollment takes effect on the first day of the month after the date OPM receives the appropriate request.

(2) An annuitant who was enrolled in a health benefits plan under this part immediately before his or her compensation was terminated because OWCP determined that he or she had recovered from the job-related injury or disease, and whose compensation is restored due to a recurrence of disability, may enroll in a health benefits plan under this part within 60 days after OWCP mails a notice of insurance eligibility. The enrollment takes effect on the first day of the pay period after the date OWCP receives the appropriate request.

(3) 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 enroll in a health benefits plan under this part within 60 days after OPM mails a notice of eligibility. The enrollment takes effect on either—

(i) The first day of the month after the date OPM receives the appropriate request; or

(ii) The date of restoration of the survivor annuity or October 1, 1976, whichever is later.

(4) A surviving child who was covered by a health benefits enrollment under this part immediately before his or her survivor annuity was terminated because he or she ceased being a student, and whose survivor annuity is later restored, may enroll in a health benefits plan under this part within 60 days after OPM mails a notice of eligibility. The enrollment takes effect on the first day of the month after the date OPM receives the appropriate request or the date of restoration of the survivor annuity, whichever is later.

(5) A surviving child who was covered by a health benefits enrollment under this part immediately before his or her survivor annuity was terminated because he or she married, and whose survivor annuity is later restored because the marriage ended, may enroll in a health benefits plan under this part within 60 days after OPM mails a notice of eligibility. The enrollment takes effect on the first day of the month after the date OPM receives the appropriate request or the date of restoration of the survivor annuity, whichever is later.

(6) 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 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. The surviving spouse must enroll within 60 days after OPM mails a notice of eligibility. The enrollment takes effect on the first day of the month after the date OPM receives the appropriate request and the notice of death or court order terminating the remarriage.

(l) *Loss of coverage under this part or under another group insurance plan.* An annuitant who meets the requirements of paragraph (a) of this section, and who is not enrolled but is covered by another enrollment under this part may continue coverage by enrolling in his or her own name when the annuitant loses

coverage under the other enrollment under this part. An enrolled annuitant may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the annuitant or an eligible family member of the annuitant loses coverage under this part or under another group health benefits plan. Except as otherwise provided, an annuitant must enroll or change the enrollment within the period beginning 31 days before the date of loss of coverage and ending 60 days after the date of loss of coverage. Losses of coverage include, but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or a change to self only, of the covering enrollment;

(2) Loss of coverage under another federally-sponsored health benefits program;

(3) Loss of coverage due to the termination of membership in an employee organization sponsoring or underwriting an FEHB plan;

(4) Loss of coverage due to the discontinuance of an FEHB plan in whole or in part. For an annuitant who loses coverage under this paragraph (l)(4)—

(i) If the discontinuance is at the end of a contract year, the annuitant must change the enrollment during the open season, unless OPM establishes a different time. If the discontinuance is at a time other than the end of the contract year, OPM must establish a time and effective date for the annuitant to change the enrollment;

(ii) If a plan has only one option and is discontinued, an annuitant who does not change the enrollment is deemed to have enrolled in the standard option of the Blue Cross and Blue Shield Service Benefit Plan.

(iii) If a plan has two options, and one option of the plan is discontinued, an annuitant who does not change the enrollment is considered to be enrolled in the remaining option of the plan.

(iv) If a plan has two options and both options are discontinued, an annuitant who does not change the enrollment is deemed to have enrolled in the corresponding option of the Blue Cross and Blue Shield Service Benefit Plan. If the annuitant is enrolled in a high option and his or her annuity is insufficient to pay the withholding for the high option, the annuitant is deemed to have enrolled in the standard option of the Blue Cross and Blue Shield Service Benefit Plan. The exemptions from debt collection procedures that are provided under §§ 831.1305(d)(2) and 845.205(d)(2) of

this chapter apply to elections under this paragraph (l)(4)(iv);

(5) Loss of coverage under the Medicaid program or similar State-sponsored program of medical assistance for the needy.

(6) Loss of coverage under a non-Federal health plan.

(m) *Move from comprehensive medical plan's area.* An annuitant in a comprehensive medical plan who moves or becomes employed outside the geographic area from which the plan accepts enrollments, or, if already outside this area, moves or becomes employed further from this area, may change the enrollment upon notifying the employing office of the move or change of place of employment. Similarly, an annuitant whose covered family member moves outside the geographic area from which the plan accepts enrollments, or if already outside this area, moves further from this area, may change the enrollment upon notifying the employing office of the family member's move. The change of enrollment takes effect on the first day of the pay period that begins after the employing office receives an appropriate request.

(n) *Overseas post of duty.* An annuitant may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes within 60 days after the retirement or death of the employee on whose service title to annuity is based, if the employee was stationed at a post of duty outside a State of the United States or the District of Columbia at the time of retirement or death.

(o) *On return from a uniformed service.* An enrolled annuitant who enters on duty in a uniformed service for 31 days or more may change the enrollment within 60 days after separation from the uniformed service.

(p) *On becoming eligible for Medicare.* An annuitant may change the enrollment from one plan or option to another at any time beginning on the 30th day before becoming eligible for coverage under title XVIII of the Social Security Act (Medicare). A change of enrollment based on becoming eligible for Medicare may be made only once.

(q) *Annuity insufficient to pay withholdings.* (1) If an annuity is insufficient to pay the withholdings for the plan that the annuitant is enrolled in, the retirement system must provide the annuitant with information regarding the available plans and written notification of the opportunity to either—

(i) Pay the premium directly to the retirement system in accordance with § 890.502(d); or

(ii) Enroll in any plan in which the annuitant's share of the premium is less than the amount of annuity. If the annuitant elects to change to a lower cost enrollment, the change takes effect immediately upon loss of coverage under the prior enrollment.

(2) If the annuitant is enrolled in the high option of a plan that has two options, and does not change the enrollment to a plan in which the annuitant's share of the premium is less than the amount of annuity or does not elect to pay premiums directly, the annuitant is deemed to have enrolled in the standard option of the same plan, unless the annuity is insufficient to pay the withholdings for the standard option.

(3) An annuitant whose enrollment was terminated because the amount of annuity was insufficient to cover the enrollee's share of the premium may apply to be reinstated in any available plan or option.

(4) 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 the enrollment to any available plan or option in which the enrollee's share of the total premium exceeds his or her monthly annuity.

(5) The effective date of the reinstatement of enrollment of an annuitant whose enrollment was terminated, or the change of enrollment of an annuitant who previously changed enrollment because his or her annuity was insufficient to cover the annuitant's share of the total premium, and who elects to pay premiums directly to the retirement system in accordance with § 890.502(f) is either—

(i) The first day of the first pay period that begins after the appropriate request is received by the retirement system; or,

(ii) The later of the date the enrollment was terminated or changed, or May 29, 1990.

(6) Retroactive reinstatement or change of enrollment is contingent upon payment of appropriate contributions retroactive to the effective date of the reinstatement or the change of enrollment. For the purpose of this paragraph (q)(6), a previous cancellation of enrollment because of insufficient annuity to cover the full amount of the withholdings is deemed to be a termination of enrollment.

(r) *Sole survivor.* When an employee or annuitant enrolled for self and family dies, leaving a survivor annuitant who is entitled to continue the enrollment, and it is apparent from available records that the survivor annuitant is the sole survivor entitled to continue the enrollment, the office of the retirement system which is acting as employing office must change the enrollment from self and family to self only, effective on the commencing date of the survivor annuity. 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 must rescind the action retroactive to the effective date of the change to self only, with corresponding adjustment in withholdings and contributions.

(s) *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 an enrollment under this part immediately before the remarriage, may elect to continue an enrollment under this part acquired as a dependent by virtue of the remarriage or to enroll in his or her own right (by virtue of entitlement to the original survivor annuity) in any plan or option under this part within 60 days after the termination of the remarriage and entitlement to a survivor annuity.

§ 890.602 [Amended]

10. Section 890.602 is amended by removing "register" and adding in its place "elect to enroll".

§ 890.803 [Amended]

11. In § 890.803, paragraph (a)(3)(i) is amended by removing "5" CFR 831.606 (a) and (b) and 842.605 (a) and (b)" and adding in its place §§ 831.613 (a) and (b) and 842.605 (a) and (b) of this chapter".

§ 890.805 [Amended]

12. In § 890.805, paragraph (a)(2)(v) is amended by removing "appointment" and adding in its place "apportionment".

13. Section 890.806 is revised to read as follows:

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

(a) *Initial opportunity to enroll.* A former spouse who has met the eligibility requirements of § 890.803 and the application time limitation requirements of § 890.805 may enroll at any time after the employing office establishes that these requirements have been met.

(b) *Effective date—generally.* (1) Except as otherwise provided, an enrollment takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request and satisfactory proof of eligibility as required by paragraph (a) of this section. If a former spouse requests immediate coverage, and the employing office receives an appropriate request and satisfactory proof of eligibility within 60 days after the date of divorce, the enrollment may be made effective on the same day that temporary continuation of coverage under subpart K of this part would otherwise take effect.

(2) A change of enrollment takes effect on the first day of the first pay period that begins after the date the employing office receives the appropriate request.

(c) *Belated enrollment.* When an employing office determines that a former spouse was unable, for cause beyond his or her control, to enroll or change the enrollment within the time limits prescribed by this section, the former spouse may do so within 60 days after the employing office advises the former spouse of its determination.

(d) *Enrollment by proxy.* Subject to the discretion of the employing office, a former spouse's representative, having written authorization to do so, may enroll or change the enrollment for the former spouse.

(e) *Change to self only.* (1) A former spouse may change the enrollment from self and family to self only at any time.

(2) A change of enrollment to self only takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the former spouse and upon a showing satisfactory to the employing office that there was no family member eligible for coverage under the family enrollment, the employing office may make the change take effect on the first day of the pay period following the one in which there was no family member.

(f) *Open season.* (1) During an open season as provided by § 890.301(f)—

(i) An enrolled former spouse may change the enrollment from self only to self and family provided the family member(s) is eligible for coverage under § 890.804, from one plan or option to another, or make any combination of these changes.

(ii) A former spouse who cancelled the enrollment under this part for the purpose of enrolling in a prepaid health plan under section 1833 or 1876 of the Social Security Act, and who subsequently voluntarily disenrolls

from the prepaid health plan, may reenroll.

(iii) A former spouse who cancelled 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, and who wishes to reenroll in a plan under that part for reasons other than an involuntary loss of that coverage, may do so.

(2) An open season reenrollment or change of enrollment takes effect on the first day of the first pay period that begins in January of the next following year.

(3) When a belated open season reenrollment or change of enrollment is accepted by the employing office under paragraph (c) of this section, it takes effect as required by paragraph (f)(2) of this section.

(g) *Change in family status.* (1) An enrolled former spouse may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes within the period beginning 31 days before and ending 60 days after the birth or acquisition of a child who meets the eligibility requirements of § 890.804.

(2) A change in enrollment under paragraph (g)(1) of this section takes effect on the first day of the pay period in which the child is born or becomes an eligible family member.

(h) *Reenrollment of former spouses who cancelled enrollment to enroll in a Medicare-sponsored Coordinated Care Plan.* (1) A former spouse who had been enrolled for coverage under this part and cancelled enrollment for the purpose of enrolling in a prepaid health plan under section 1833 or 1876 of the Social Security Act, 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 prepaid 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) takes effect on the date following the effective date of the disenrollment as shown on the documentation from the prepaid health plan.

(2) A former spouse who voluntarily disenrolls from the prepaid health plan must do so in conjunction with reenrolling in a plan under this part during the next available open season (as provided by paragraph (f) of this

section) to assure continuing uninterrupted health plan coverage.

(i) *Reenrollment of former spouses who cancelled enrollment because of eligibility under Medicaid or similar State-sponsored program of medical assistance for the needy.* (1) A former spouse who had been enrolled for coverage under this part and cancelled 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, 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) takes effect on the date following the date of loss of Medicaid or similar State-sponsored coverage.

(2) A former spouse who cancelled 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 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.

(j) *Loss of coverage under this part or under another group insurance plan.* An enrolled former spouse may change the enrollment from self only to self and family, from one plan or option to another or make any combination of these changes when the former spouse or a child who meets the eligibility requirements under § 890.804 loses coverage under another enrollment under this part or under another group health benefits plan. Except as otherwise provided, the former spouse must change the enrollment within the period beginning 31 days before the date of loss of coverage and ending 60 days after the date of loss of coverage, provided he or she continues to meet the eligibility requirements under § 890.803. Losses of coverage include but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or a change to self only, of the covering enrollment;

(2) Loss of coverage under another federally-sponsored health benefits program;

(3) Loss of coverage due to the termination of membership in an employee organization sponsoring or underwriting an FEHB plan;

(4) Loss of coverage due to the discontinuance of an FEHB plan in whole or in part. For a former spouse who loses coverage under this paragraph (j)(4)—

(i) If the discontinuance is at the end of a contract year, the former spouse must change the enrollment during the open season, unless OPM establishes a different time. If the discontinuance is at a time other than the end of the contract year, OPM must establish a time and effective date for the former spouse to change the enrollment;

(ii) If the whole plan is discontinued, a former spouse who does not change the enrollment within the time set is considered to have cancelled the plan in which enrolled.

(iii) If one option of a plan that has two options is discontinued, a former spouse who does not change the enrollment is considered to be enrolled in the remaining option of the plan.

(5) Loss of coverage under the Medicaid program or similar State-sponsored program of Medical assistance for the needy.

(6) Loss of coverage under a non-Federal health plan.

(k) *Move from comprehensive medical plan's area.* A former spouse in a comprehensive medical plan who moves or becomes employed outside the geographic area from which the plan accepts enrollments, or, if already outside this area, moves or becomes employed further from this area, may change the enrollment upon notifying the employing office of the move or change of place of employment. Similarly, a former spouse whose covered family member moves outside the geographic area from which the plan accepts enrollments, or if already outside this area, moves further from this area, may change the enrollment upon notifying the employing office of the family member's move. The change of enrollment takes effect on the first day of the pay period that begins after the employing office receives an appropriate request.

(1) *On becoming eligible for Medicare.* A former spouse may change the enrollment from one plan or option to another at any time beginning on the 30th day before becoming eligible for coverage under title XVIII of the Social Security Act (Medicare). A change of enrollment based on becoming eligible for Medicare may be made only once.

(m) *Annuity insufficient to pay withholdings.* (1) If the annuity of a former spouse is insufficient to pay the

full subscription charge for the plan in which he or she is enrolled, the retirement system must provide the former spouse with information regarding the available plans and written notification of the opportunity to either—

(i) Pay the premium directly to the retirement system in accordance with § 890.808(d); or

(ii) Enroll in any plan with a full premium that is less than the amount of annuity. If the former spouse elects to change to a lower cost enrollment, the change takes effect immediately upon loss of coverage under the prior enrollment.

(2) If the former spouse is enrolled in the high option of a plan that has two options, and does not elect a plan with a full premium that is less than the annuity or does not elect to pay premiums directly, he or she is deemed to have enrolled in the standard option of the same plan unless the annuity is insufficient to pay the full subscription charge for the standard option.

(3) A former spouse who is enrolled in a plan with only one option, who fails to make the election required by this paragraph (m)(3) will be subject to the provisions of § 890.807(c).

14. Section 890.807 is amended by revising the heading for paragraph (c), and revising paragraphs (c) (1) and (e) to read as follows:

§ 890.807 Termination of enrollment.

* * * * *

(c) *Failure to make an election under § 890.806(1).* (1) If the annuity is insufficient to pay the full subscription charge due for the plan in which the former spouse is enrolled, the former spouse may elect one of the two opportunities offered under § 890.806(1) (electing a plan with a full subscription charge that is less than the annuity; or paying premiums directly to the retirement system in accordance with § 890.808(d)). Except as provided in paragraph (c)(3) of this section the enrollment of a former spouse who fails to make an election within the specified time frame will be terminated.

* * * * *

(e) *Cancellation.* (1) A former spouse may cancel his or her enrollment at any time by filing an appropriate request with the employing office. The cancellation takes effect on the last day of the pay period in which the appropriate request cancelling the enrollment is received by the employing office.

(2) If a former spouse submits documentation that the cancellation is for the purpose of enrolling in a prepaid health plan under section 1833 or 1876

of the Social Security Act, the cancellation becomes effective on the day before the enrollment under the prepaid health plan takes effect. Such documentation must be submitted to the employing office within the period beginning 31 days before and ending 31 days after the prepaid health plan enrollment takes effect.

(3) The former spouse and family members, if any, are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits.

(4) Except for a former spouse who provides documentation that he or she is canceling for the purpose of enrolling in a prepaid health plan under section 1833 or 1876 of the Social Security Act, or for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, a former spouse who cancels his or her enrollment may not later reenroll.

15. In section 890.808, paragraph (e) is revised to read as follows:

§ 890.808 Employing office responsibilities.

* * * * *

(e) *Withholding from annuity.* The retirement system acting as employing office for a former spouse will establish a method for withholding the full subscription charge from the former spouse's annuity check. When the annuity is insufficient to cover the full subscription charge, the retirement system will follow the procedures specified in § 890.806(1).

16. Section 890.1105 is amended by revising the section heading, by revising paragraphs (b), (c), (d), and (f), and by adding a new paragraph (g) to read as follows:

§ 890.1105 Initial election of temporary continuation of coverage; application time limitations and effective dates.

* * * * *

(b) *Former employees.* A former employee's election under this subpart must be submitted to the employing office within 60 days after the later of—

(1) The date of separation; or

(2) The date the former employee received the notice from the employing office.

(c) *Children.* A child's election under this subpart must be submitted to the employing office within 60 days after the later of—

(1) The date of the qualifying event; or

(2) If the employee notified the employing office within the 60-day time period specified under § 890.1104(b)(1) of this part, the date the child received the notice from the employing office. If

the employee did not notify the employing office within the specified time period, the child's opportunity to elect continued coverage ends 60 days after the qualifying event.

(d) *Former spouses.* (1) A former spouse's election must be received by the employing office within 60 days after the later of—

(i) The date of the qualifying event; or

(ii) The date coverage under subpart H of this part was lost because of remarriage or loss of qualifying court order, if the loss of coverage under subpart H occurred before the expiration of the 36-month period specified in § 890.1107(c); or

(iii) If the employee, annuitant, or former spouse notified the employing office of the termination of the marriage within the time period specified in § 890.1104(c)(1), the date the former spouse received the notice from the employing office described in § 890.1104(c)(2). If the employee, annuitant, or former spouse did not notify the employing office within the specified time period, the former spouse's opportunity to elect continued coverage ends 60 days after the qualifying event.

(2) The effective date of former spouse coverage is the later of—

(i) The date determined under paragraph (g) of this section; or

(ii) The date of the divorce or annulment.

* * * * *

(f) *Belated elections.* Except as provided in paragraphs (c)(2) and (d)(1)(iii) of this section, when an employing office determines that an eligible individual was unable, for cause beyond his or her control, to elect temporary continuation of coverage within the time limits prescribed by this section, that office must accept the election within 60 days after it advises the individual of that determination.

(g) *Effective date of coverage.* Except as provided in paragraph (d)(2)(ii) of this section, the effective date of temporary continuation of coverage is the day after other coverage under this part expires, including the 31-day temporary extension of coverage under § 890.401. If an individual elects temporary continuation of coverage after the 31-day temporary extension of coverage expires, but before the expiration of the applicable election period specified in this section, coverage is restored retroactively, with appropriate contributions and claims, to the same extent and effect as though no break in coverage occurred.

17. Section 890.1108 is revised to read as follows:

§ 890.1108 Opportunities to change enrollment; effective dates.

(a) *Effective date—generally.* Except as otherwise provided, a change of enrollment takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment.

(b) *Belated change of enrollment.* When an employing office determines that an enrollee was unable, for cause beyond his or her control, to change the enrollment within the time limits prescribed by this section, the enrollee may do so within 60 days after the employing office advises the enrollee of its determination.

(c) *Change of enrollment by proxy.* Subject to the discretion of the employing office, an enrollee's representative, having written authorization to do so, may change the enrollment for the enrollee.

(d) *Change to self only.* (1) An enrollee may change the enrollment from self and family to self only at any time.

(2) A change of enrollment to self only takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the enrollee and upon a showing satisfactory to the employing office that there was no family member eligible for coverage under the family enrollment, the employing office may make the change effective on the first day of the pay period following the one in which there was no family member.

(e) *Open season.* (1) During an open season as provided by § 890.301(f), an enrollee (except for a former spouse who is eligible for continued coverage under § 890.1103(a)(3)) may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes. A former spouse who is eligible for continued coverage under § 890.1103(a)(3) may change from one plan or option to another, but may not change from self only to self and family unless the individual to be covered under the family enrollment qualifies as a family member under § 890.1106(a)(2).

(2) An open season change of enrollment takes effect on the first day of the first pay period that begins in January of the next following year.

(3) When a belated open season change of enrollment is accepted by the employing office under paragraph (b) of this section, it takes effect as required by paragraph (e)(2) of this section.

(f) *Change in family status.* (1) Except for a former spouse, an enrollee may

change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the enrollee's family status changes, including a change in marital status or any other change in family status. The enrollee must change the enrollment within the period beginning 31 days before the date of the change in family status, and ending 60 days after the date of the change in family status.

(2) A former spouse who is covered under this section may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes within the period beginning 31 days before and ending 60 days after the birth or acquisition of a child who qualifies as a covered family member under § 890.1106(a)(2).

(3) A change of enrollment made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, takes effect on the first day of the pay period in which the child is born or becomes an eligible family member.

(g) *Reenrollment of individuals who lose other coverage under this part.* An individual whose continued coverage under this section terminates because of the provisions of § 890.1110(a)(3) (termination due to other coverage under another provision of this part) may reenroll if the coverage that terminated the enrollment under this part ends, but not later than the expiration of the period described in § 890.1107. Coverage does not extend beyond the expiration of the period described in § 890.1107. The effective date of the reenrollment is the day following the termination of the coverage described in § 890.1110(a)(3).

(h) *Loss of coverage under this part or under another group insurance plan.* An enrollee may change the enrollment from self only to self and family, from one plan or option to another, or make any combination of these changes when the enrollee loses coverage under this part or a qualified family member of the enrollee loses coverage under this part or under another group health benefits plan. Except as otherwise provided, an enrollee must change the enrollment within the period beginning 31 days before the date of loss of coverage and ending 60 days after the date of loss of coverage. Losses of coverage include, but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or change to self only, of the covering enrollment.

(2) Loss of coverage under another federally-sponsored health benefits program.

(3) Loss of coverage due to the termination of membership in an employee organization sponsoring or underwriting an FEHB plan.

(4) Loss of coverage due to the discontinuance of an FEHB plan, in whole or in part. For an enrollee who loses coverage under this paragraph (h)(4)—

(i) If the discontinuance is at the end of a contract year, the enrollee must change the enrollment during the open season, unless OPM establishes a different time. If the discontinuance is at a time other than the end of the contract year, OPM must establish a time and effective date for the enrollee to change the enrollment.

(ii) If the whole plan is discontinued, an enrollee who does not change the enrollment within the time set is considered to have cancelled the plan in which enrolled.

(iii) If a plan has two options, and one option of the plan is discontinued, an enrollee who does not change the enrollment is considered to be enrolled in the remaining option of the plan.

(5) Loss of coverage under the Medicaid program or similar State-sponsored program of medical assistance for the needy.

(6) Loss of coverage under a non-Federal health plan.

(i) *Move from comprehensive medical plan's area.* An enrollee in a comprehensive medical plan who moves or becomes employed outside the geographic area from which the plan accepts enrollments, or, if already outside this area, moves or becomes employed further from this area, may change the enrollment upon notifying the employing office of the move or change of place of employment. Similarly, an enrollee whose covered family member moves outside the geographic area from which the plan accepts enrollments, or if already outside this area, moves further from this area, may change the enrollment upon notifying the employing office of the family member's move. The change of enrollment takes effect on the first day of the pay period that begins after the employing office receives an appropriate request.

(j) *On becoming eligible for Medicare.* An enrollee may change the enrollment from one plan or option to another at any time beginning on the 30th day before becoming eligible for coverage under title XVIII of the Social Security Act (Medicare). A change of enrollment

based on becoming eligible for Medicare may be made only once.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 97-036-1]

Brucellosis in Cattle; State and Area Classifications; Iowa

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Iowa from Class A to Class Free. We have determined that Iowa meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Iowa.

DATES: Interim rule effective July 14, 1997. Consideration will be given only to comments received on or before September 16, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-036-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-036-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, Suite 3B08, 4700 River Road, Unit 36, Riverdale, MD 20737-1231, (301) 734-7708; or e-mail: mgilsdorf@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as