



*Retirement and Insurance Service
Benefits Administration Letter*

Number: 00-220

Date: November 7, 2000

Subject: Federal Employees Health Benefits (FEHB) Program: Waivers of the Participation Requirement for Employees Retiring During an Agency Buyout Period

PURPOSE

The purpose of this letter is to update our policy on waivers of the FEHB participation requirement for employees who retire during a period during which their agency has statutory authority to offer Voluntary Separation Incentive Payments (VSIPs) or buyouts.

BACKGROUND

The FEHB law (5 U.S.C. 8905(b)) specifies the requirements that a retiring employee must meet to be eligible to continue his or her enrollment after retirement. The employee must have been enrolled in the FEHB Program for the 5 years of service immediately before retirement or, if less, for all service in which the employee was eligible for FEHB. The law allows the Office of Personnel Management (OPM) to waive the 5-year requirement when, because of exceptional circumstances, it would be against equity and good conscience not to allow the retiring employee to continue coverage.

In April 1994, OPM established a procedure which enabled employees retiring with buyouts under the Federal Workforce Restructuring Act of 1994 (Pub.L. 103-226), and other similar legislation, to have pre-approved waivers of the 5-year participation requirement for continuing their FEHB coverage as retirees. (See Insurance Officers Information Bulletin #296, dated April 13, 1994.) We created this procedure in anticipation of a high volume of waiver requests during the period of downsizing covered by the legislation (March 30, 1994 through March 3, 1995).

Public Law 104-208, approved September 30, 1996, was similar to Pub.L. 103-226. This law authorized Voluntary Separation Incentive Payments (VSIPs) for all Executive branch agencies (other than those who have authority under other statutes) effective October 1, 1996 and ending December 30, 1997. Accordingly, Benefits Administration Letter (BAL) 96-208 dated December 4, 1996, granted pre-approved waivers for employees affected by this legislation.

UPDATED WAIVER POLICY

While these two Public Laws authorized Government-wide VSIP authority, more recently, Congress has been authorizing buyouts for individual agencies that are undergoing restructuring. Each agency's VSIP legislation specifies different beginning and ending dates. In view of this, we are updating our waiver policy to accommodate the needs of employees in those agencies that have, or will be receiving, individual buyout authority.

Under our amended waiver policy, OPM will grant waivers to employees who have been covered under the FEHB Program **continuously since October 1, 1996, or the beginning date of an agency's latest statutory buyout authority, whichever is later.** These employees must:

- Retire during the agency's statutory buyout period; **and**
- Receive a buyout under the agency's statutory buyout authority; **or**
- Take early optional retirement as a result of early-out authority in the agency; **or**
- Take a discontinued service retirement based on an involuntary separation due to RIF, directed reassignment, reclassification to a lower grade, or abolishment of position.

As in the past, since OPM has already established its waiver policy, employees who meet these requirements do not need to write a letter requesting a waiver. Instead, agencies must attach a memorandum to the employee's retirement application stating that the employee meets the requirements for a pre-approved waiver by OPM as set forth in this BAL 00-220. Please provide the number of the Public Law granting your agency VSIP authority and the beginning and ending dates of your agency's statutory buyout period.

EMPLOYEES WHO DO NOT QUALIFY FOR A PRE-APPROVED WAIVER

Some employees who retire during a buyout period will not be eligible for a pre-approved waiver. These include employees who retire on a regular optional retirement but do not qualify for a VSIP. Employees who do not qualify for a pre-approved waiver may request a waiver on a case-by-case basis by asking OPM to waive the participation requirement in their case. While we may eventually grant waivers to some of these employees, we will consider each case on its own merits, based on the criteria that are applied to all other retiring employees. These employees should explain why they believe OPM should consider them for a waiver (e.g. why they are unable to meet the 5-year requirement or why meeting it would be harmful to them) and send their waiver requests to the following address:

Office of Personnel Management
Retirement and Insurance Service
Office of Retirement Programs
1900 E Street, NW
Washington, DC 20415-3532

ADDITIONAL INFORMATION

If you have any further questions about this new waiver policy, please call our information staff on (202) 606-0191. You may also send email about this issue to Barbara Myers of my staff at bdmyers@opm.gov.

A handwritten signature in black ink that reads "Abby L. Block". The signature is written in a cursive style with a long horizontal line extending to the right.

Abby L. Block, Chief
Insurance Policy
and Information Division