



Benefits Administration Letter

Number: 09-203

Date: March 24, 2009

Subject: Federal Employees Health Benefits Program: Changes due to the Children's Health Insurance Program Reauthorization Act of 2009

Background

Public law 111-03, the Children's Health Insurance Program (CHIP) Reauthorization Act of 2009 (the Act), signed by President Barack Obama on February 4, 2009, allows states to subsidize health insurance premium payments for certain low-income children who have access to qualified employer-sponsored health insurance coverage. Most Federal Employees Health Benefits (FEHB) Program plans, excluding high-deductible health plans, are considered qualified, employer-sponsored health insurance coverage under the Act. Therefore, FEHB-eligible enrollees who meet the criteria for child health assistance are eligible to receive state premium subsidy assistance payments to help them pay for the FEHB plan premiums.

New Enrollment Opportunities

The Act provides new opportunities for eligible employees to enroll in the FEHB Program or to change enrollment from self only to self and family. Current FEHB regulations already allow an eligible enrollee who loses coverage under the FEHB or another group health plan, including loss of eligibility or assistance under Medicaid or CHIP, to enroll or change enrollment from self only to self and family within the period beginning 31 days before and ending 60 days after the date of loss of coverage. Now, enrollees may also make these enrollment changes if an eligible family member *gains* health insurance coverage or Medicaid or CHIP assistance.

To comply with the Act, agencies must allow eligible employees to enroll or change enrollment from self only to self and family if the employee or an eligible family member becomes eligible for assistance under a Medicaid plan or a state CHIP. Employees must request the change in enrollment within 60 days after the date the employee or family member is determined to be eligible for assistance. Employees may make these enrollment changes regardless of whether they are covered under premium conversion (pays premiums with pre-tax dollars).

Opting-Out of Government Receipt of Premium Subsidy

Under the Act, states may provide the premium assistance subsidy either directly to an employer or to the employee as reimbursement for out-of-pocket expenditures. Policies relating to the payment of premium subsidy assistance will vary from state to state. An employer may notify a state in order to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. According to the Act, if the employer opts-out, the employer will withhold the total amount of the employee premium contribution required for enrollment, and the state will then pay the premium assistance subsidy directly to the employee.

If an employing agency becomes aware that a state where it operates has a premium subsidy assistance policy that remits funds directly to employers or that a state is attempting to provide a premium assistance subsidy to the Government on behalf of an employee eligible for the FEHB Program, the agency should notify the state and opt-out of receipt of direct receipt of premium subsidy payments. Eligible FEHB enrollees should receive state premium assistance subsidies directly, and the agency should continue to withhold the full employee share of the premium as usual.

Notification and Coordination Requirements

The Act requires employers to notify their employees about state Medicaid and child health insurance assistance programs. A working group will be established by the Department of Health and Human Services (HHS) and the Department of Labor (DOL) to create model employee notification forms. After the model notification forms have been published, agencies will be required to distribute the forms to employees on a regular basis.

There are also new requirements to provide employee and health plan information to states to allow a cost-benefit determination relating to premium assistance subsidies. Model coordination forms will likewise be drafted and published according to the Act. Agencies may need to provide information to states to comply with this requirement.

We will provide more information on notification and state coordination requirements as further guidance becomes available. If you have any questions regarding this BAL please contact Maggie Martel, Senior Policy Analyst, Strategic Human Resources Policy, at 202-606-0004 or email Marguerite.Martel@opm.gov.

Sincerely,

Kathleen M. McGettigan
Deputy Associate Director
Center for Retirement and
Insurance Services