

**Tribal Consultation Minutes**  
**Access to Federal Employee Health Benefits and Federal Employee Group Life Insurance**  
**July 21, 2011, 9:15 – 11:30 am**  
**CRIHB/NPIHB Joint Biennial Meeting**  
**Sacramento, CA**

**OPM Presenters**

John O'Brien  
Jay Fritz  
Chris Meuchner  
Ian Hunter  
Louise Dyer

**Attendees**

Approximately 150

**Meeting Agenda**

Introductions and Opening of the Consultation Process (O'Brien)  
Overview of the Federal Employees Health Benefits Program (Fritz)  
Overview of the Federal Employees' Group Life Insurance Program (Meuchner)  
Explanation of Policy Papers (Dyer)  
Questions and Answers (OPM Team)

**Audience Comments / Questions and Answers**

Q: What is OPM referring to when they discuss an employee's right to appeal a denial of enrollment eligibility?

A: This refers to the employee being told by their tribal employer that they are not eligible for FEHB/FEGLI coverage. If an employee believes that he or she was wrongfully deemed ineligible, there must be an appeals process, the details of which are yet to be determined.

Q: Are on-site contracted health providers – those covered under tribal personnel policies, or those covered under Federal Tort Claims Act – eligible for coverage?

A: Generally, contractors are not considered eligible for federal insurance benefits. A common law definition of employee will be applied to determine employee eligibility. There are many factors that are considered, (including who pays salary, who has essential control of employee functions and decision making, etc.) none of which are dispositive, although this is a broad definition being applied.

Q: How will self-insured tribes participate?

A: FEHB coverage will be another option for self-insured tribes to consider. If they determine that they are able to get a better deal by continuing with their current coverage, they are free to choose not to purchase FEHB coverage.

Q: What about tribal clinics – the concern is that they will not be allowed into an FEHB plan's network, since they do not treat all people. May they issue referrals and be reimbursed by FEHB plans?

A: Health plans contract with providers as needed to serve their enrolled population. Providers need to meet the contractual requirements of the health plan in order to participate in the plan's network.

Q: What will the administrative cost be?

A: This has yet to be determined, but OPM is pursuing options to help keep these costs reasonable and to make coverage available as soon as possible.

Q: Is the paymaster function being set up just for use by tribal employees, or is it a system to be used by others?

A: The paymaster is being set up for the use of tribal employees. This is necessary because tribal employees are not federal employees, and thus do not have employing federal agencies to handle these administrative tasks. This provision opens FEHB and FEGLI coverage to up to 600 independent and unique tribes, tribal organizations and urban Indian organizations, and the enrollments of all who participate will need to be centralized and coordinated in some way.

Q: Has OPM released a timeline or dates for particular benchmarks associated with this implementation?

A: OPM understands that tribes need information on this implementation in order to make their insurance related business decisions prior to entering into agreements for coverage beginning in January 2012. With that in mind, OPM hopes to release a timeline as quickly as possible. While OPM wants to implement quickly, there is a need to implement properly, as well.

Q: Could a tribe have too high an experience rating and be told by OPM that they cannot access this coverage?

A: No. So long as a tribe is entitled to access this coverage under the law, the tribe will be able to participate.

Q: May a tribe choose FEHB to cover the government side of their operations, and not provide FEHB coverage to gaming employees?

A: OPM wishes to avoid employees within a tribe being split into different risk pools. This is important to avoid adverse selection and preserve the existing FEHB risk pool.

Q: If tribes have historically split their risk pools based on government and non-government enterprises, would they be able to continue doing this, offering some employees FEHB coverage but not others?

A: OPM wishes to avoid employees within a tribe being split into different risk pools. This is important to avoid adverse selection and preserve the existing FEHB risk pool.

Q: May a tribe choose to enroll in FEGLI and not FEHB?

A: Yes. A tribe may choose to participate in either FEHB or FEGLI, both, or neither.

Q: Will the technical work group move forward in parallel with the rest of implementation?

A: Yes. In the interest of making coverage available as quickly as possible, OPM will proceed with the workgroup in parallel. OPM is also currently working on draft regulations.

Q: What happens with tribal members who are also employees? May they have different coverage?

A: If the coverage is not employer based (e.g. in this case the coverage would presumably be based on membership) then the tribe is not precluded from offering separate coverage for members. OPM is only concerned with multiple coverage offerings given to employees.

Q: Will OPM be responding to the CRIHB/NPIHB matrix of tribal concerns and recommendations provided at this consultation?

A: Yes. OPM will put together a response and make it available on the web at [www.opm.gov/tribalprograms](http://www.opm.gov/tribalprograms).

Q: Is there a minimum amount that a tribe must pay toward their employee's salary that is needed to establish eligibility? Would part-time employees be eligible?

A: Tribes will determine employee eligibility. OPM wishes to treat tribal employees the same as federal employees are currently treated, and the same requirements related to payment, type of appointment and hours worked will apply where feasible. OPM expects tribes to provide an employer contribution amount that is no less than the minimum amount the Government pays for coverage which is approximately 72% of the average annual total FEHB premium amount and approximately 33 percent of total premium for FEGLI coverage.

Q: Will there be a lower employee contribution percentage for tribes with financial constraints?

A: At this time, OPM wishes to treat tribal employees in the same way that federal employees are treated. This includes an employer contribution of approximately 72 percent of total premium for FEHB coverage, and approximately 33 percent of total premium for FEGLI coverage.

Q: Are retired employees covered?

A: The law provides tribes with the right to purchase coverage only for their employees.

Q: Would qualifying former employees be given the opportunity to be covered under Temporary Continuation of Coverage?

A: Yes.

#### COMMENTS:

-Tribes would like OPM to revisit the employer contribution issue, and the segmenting of employees into government and commercial groupings for purposes of offering coverage.

-Tribes believe that their employee population is too small to have an impact on the FEHB risk pool.

-Tribes believe that, in many locations, there will be network adequacy issues that should serve as justification for allowing parallel benefits packages.

-Comments from the meeting will be coordinated and distributed by CRIHB/NPIHB leadership, and OPM will provide written responses, which will be posted on the web at [www.opm.gov/tribalprograms](http://www.opm.gov/tribalprograms).

-Tribes would like to see public comment on the policy paper submitted by the Seminole Tribe. OPM is reviewing the submission and will post comments on the web at [www.opm.gov/tribalprograms](http://www.opm.gov/tribalprograms).

-Tribal leadership mentioned Section 402 which references dual status enrollees- both tribal member and an employee. This is a greater cost to the tribes for a member, even if there is no coverage.

-Tribal leadership wanted confirmation that they would still have FEHB coverage as an option in 2014 once the exchanges are rolled out.

-Tribes wished to reemphasize the consultation role related to administrative fees and the issue of cost for members v. employees.