





# **Eligibility**

*for Tribal Employees Purchasing  
Coverage Under the FEHB Program*

U.S. OFFICE OF PERSONNEL MANAGEMENT

# Agenda



- Tribal employee eligibility
- Family member eligibility
- Tribal employer responsibilities
- Test your knowledge

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# **Tribal Employee Eligibility**

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# Tribal Employee Eligibility

- All tribal employees are eligible based on common law standard
- This includes:
  - Full-time
  - Part-time
  - Seasonal (over 6 months)
  - Term

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# Tribal Employer Contributions

Tribal employees who work:

- Full-time receive the standard tribal employer contribution
- Part-time (between 16-32 hours per week) may receive a pro-rated tribal employer contribution
- Less than 16 or more than 32 hours per week receive the standard tribal employer contribution

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# Seasonal Tribal Employees

- Work on annual recurring basis for periods of less than 12 months
- Eligible for FEHB coverage only if expected to work for more than six months per year
- Eligible for tribal employer contribution
- Not eligible for FEHB coverage if expected to work less than six months per year

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# Term Tribal Employees

- Appointment to position that will last more than one year but not more than four years and is of a project nature
- Eligible for FEHB immediately
- Eligible for tribal employer contribution



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# Employees Generally Excluded

- Temporary employees
- Seasonal employees (less than 6 months per year)
- Intermittent employees
- Employees paid on a contract or fee basis
- Employees paid on a piecework basis
- Noncitizens working outside U.S.

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# Temporary Tribal Employees

- Excluded from coverage if position is for one year or less
- May enroll after one year of current continuous employment (excluding breaks in employment of 5 days or less)

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# Continuity of Coverage

- Tribal employees enrolled in FEHB who change to an FEHB excluded position may continue their enrollment
- Excluded positions
  - Do not meet FEHB requirements



# **Family Member Eligibility**

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# Types of Enrollment


Tribal employees may elect one of the two following types of enrollment:

- Self Only **or**
- Self and Family

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# Family Member Eligibility

- Spouse
  - Public Law 104-199, Defense of Marriage Act (DOMA): “the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”
- Children under age 26

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# Spouse

## Includes:

- State-recognized marriages such as:
  - Common law marriages
  - Tribal marriages

## Except:

- Same-sex marriages or domestic partners (Defense Of Marriage Act)

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# Children

## Children under age 26 including:

- Married children
- Adopted children
- Recognized natural children
- Foster children (if requirements met)
- Stepchildren
- Children incapable of self-support



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# Married Child

- Married children under 26 are eligible
- A married child's spouse and children are **not** eligible family members

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# Adopted and Recognized Natural Children

- Applicable State law governs child adoption
- A child born to a man and a woman who are not married to each other is a recognized natural child

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# Foster Child Requirements

- Child must be under age 26
- Tribal employee must provide written certification that the:
  - Child lives with tribal employee in regular parent-child relationship
  - Tribal employee is child's primary source of financial support
  - Tribal employee expects to raise the child to adulthood

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# Foster Child Requirements (contd)

A regular parent-child relationship exists when the tribal employee is:

- Exercising parental authority, responsibility, and control over the child
- Caring for, supporting, disciplining, and guiding the child **and**
- Making decisions about the child's education and medical care

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# Foster Child Requirements (contd)

- Certification is required for FEHB coverage
- The certification form must establish that foster child requirements are met and must be signed by the tribal employee
- The tribal employer must file the original Statement in the Tribal Employer Personnel Folder for the employee

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# Grandchildren Eligible as Foster Children

Can qualify as foster children if:

- The child lives with and has parent-child relationship with tribal employee
- Tribal employee is primary source of financial support for the child
- Tribal employee expects to raise the child to adulthood **and**
- Same certification required for grandchildren as for foster children.

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# ***NOT* Eligible as Foster Child**

A child placed in a tribal employee's home by a welfare or social service agency under an agreement where the agency retains control of the child or pays for maintenance

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# If a Foster Child Returns to Biological Parent(s) Home

The child cannot be covered again as a foster child unless:


- Biological parent dies, becomes disabled, or is imprisoned **or**
- Tribal employee obtains a court order taking parental responsibility away from biological parent



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# Stepchild

- Includes a spouse's natural or adopted child
- Does not include a spouse's stepchild by a previous marriage
- Does not have to live with tribal employee or be financially dependent upon the tribal employee

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# Child Incapable of Self-Support

- Disabling condition must have existed before age 26
- Condition must be expected to last at least one year
- Child can be working, but cannot be self-supporting
- Tribal employee must provide medical documentation

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# Child Incapable of Self-Support (contd)

- A child is automatically deemed incapable of self-support when:
  - The child’s condition is on the FEHB-approved “list” **and**
  - The condition began before age 26
- Documentation must be provided to the tribal employer

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# Child Incapable of Self-Support (contd)

- The health plan may automatically deem a child incapable of self-support
- If a child cannot be automatically deemed incapable of self-support, the tribal employer's Chief Medical Officer (or equivalent) must make a determination
- OPM will make the determination in absence of a Chief Medical Officer

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# Which Family Members Are Not Eligible?

- Grandchildren, unless foster child requirements are met
- Parents or parents-in-law
- Siblings (may qualify as a foster child in certain circumstances)
- Same-sex spouse or partner
- Boyfriends, girlfriends, or fiancés

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# Children's Equity

- A tribal employee must enroll in Self and Family coverage that provides full coverage for the tribal employee's child if:
  - The tribal employee is eligible for FEHB **and**
  - The tribal employee is subject to a court or administrative order to provide insurance coverage

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# Children's Equity (contd)

- Tribal Employer Review
  - To determine whether the tribal employee is eligible for FEHB coverage and
  - If so, whether the tribal employee is enrolled in a plan that provides full benefits for the child



# **Tribal Employer Responsibilities**



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# Tribal Employer Responsibilities

- Determine tribal employee eligibility
- Notify tribal employees
- Provide information about the FEHB Program
  - *The FEHB Guide for Tribal Employees*
  - Plan brochures
  - PlanSmartChoice

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# Tribal Employer Responsibilities (contd)

- Process FEHB enrollments and changes
  - Including elections to not enroll
- Review family members for eligibility
- Submit all information to NFC

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# Tribal Employer Responsibilities (contd)

- Reconcile FEHB enrollment records
- Manage FEHB enrollment eligibility appeal process
  - Independent panel
  - Inform tribal employees
  - OPM review of decisions



# Test Your Knowledge

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# Scenario #1

Sara, a tribal employee, married Patrick who has 2 children from a previous marriage. The children live with their mother but visit Sara and Patrick every other weekend and 4 weeks every summer.

Can Sara cover the children under her Self and Family FEHB enrollment?

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## A. Yes

- Yes. Although these are Sara's stepchildren, they do not have to live with her in order to be eligible for coverage.

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## Scenario #2

Pierre and Renee are married tribal employees. They each have children from a previous marriage who live with them. All are covered under Pierre's Self and Family enrollment. Renee and her children move out.

Can Renee enroll in her own Self and Family plan?

- A. No, Renee and her children are still covered under Pierre's plan
- B. Yes, right away
- C. Yes, during the next Open Season

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## A. No

- Renee and her children are still covered under Pierre's plan.
- Although Renee's children no longer live with Pierre, they are still covered under his Self and Family FEHB enrollment. There is no requirement for stepchildren to live with the enrollee.



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## Scenario #3

Randi's 24 year old daughter and son-in-law moved in with Randi. Randi wants to add the son-in-law to her Self and Family enrollment.

Is the son-in-law eligible for coverage?

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## A. No

- The son-in-law is not eligible. The spouse of an enrollee's child is not an eligible family member.
- Randi's daughter is automatically covered under Randi's Self and Family FEHB enrollment.

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## Scenario #4

A parent must be enrolled in Self and Family in order to request a determination of a child incapable of self support.

True or False?

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## A. False

- There is no need to have a Self and Family FEHB enrollment to request a determination. The child may have had other coverage or the parent may be a recently employed tribal employee.

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## Scenario #5

LaTonya is a tribal employee. Her brother takes a 2-year job assignment out of the country. He leaves his children with LaTonya.

Can the children be covered as foster children under LaTonya's Self and Family FEHB enrollment?

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## A. No

- In order for LaTonya to cover them as foster children, she must expect to raise them to adulthood.
- Because she is only looking after the children while her brother is abroad, this requirement hasn't been met.

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## Scenario #6

You received a court order stating that Maria, a tribal employee, must provide health insurance coverage for her children. You check her Tribal Employer Personnel Folder and discover that she is currently enrolled in a BCBS Self and Family plan.

What do you do?

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# What do you do?

- Since BCBS is available nationwide, she does not need to change coverage.
- Put a copy of the court order in her Tribal Employer Personnel Folder and flag it.
- Send a copy of the court order to the carrier.



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## Scenario #7

Rebecca's 22-year old daughter gets married and Rebecca would like to remove her from her Self and Family FEHB enrollment.

May Rebecca remove her daughter from coverage?

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## A. No

- Rebecca's daughter cannot be removed from Rebecca's Self and Family FEHB enrollment.
- Unless her daughter is a foster child, there is no residency or dependency requirement.
- Rebecca's daughter is automatically covered under Rebecca's Self and Family FEHB enrollment until she is 26 years old.

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## Scenario #8

Jamal is a part-time tribal employee and is enrolled in the FEHB Program. He changes to a seasonal work schedule and only works 4 months out of the year. He has a break in service of 5 days between jobs

May Jamal continue his FEHB enrollment?

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## A. No

- Because Jamal had a break in service of more than 3 calendar days he cannot continue his FEHB enrollment.
- If Jamal had a break in service of 3 calendar days or less, he could have continued his FEHB enrollment and continued receiving the tribal employer contribution.

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## Scenario #9

A seasonal tribal employee who is expected to work[s] more than 6 months out of the year on a recurring basis can continue his or her FEHB enrollment throughout the year.

True or False?

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## A. True

- Seasonal tribal employees who are expected to work more than 6 months out of the year may continue their FEHB enrollment.
- They will continue to pay their portion of their premiums and receive the tribal employer contribution.

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# Scenario #10

Luke is a tribal employee. He works as a grade school teacher and only works 9 months out of the year on a recurring basis.

Must Luke enroll in TCC during the months he is not working?

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## A. No

- TCC is only for former employees, Luke is still an employee.
- Luke may continue his FEHB enrollment during the months he is not working.
- He must continue to pay his portion of the premium or choose to incur a debt to the tribal employer. If the tribal employer offers the option of pre-paying, Luke may choose to pre-pay.
- He will continue receiving the tribal employer contribution.



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# Scenario #11

Rachel believes her 27-year old son is incapable of self-support due to a disability that existed before he attained age 26 and she would like to add him to her Self and Family enrollment. His condition is not on the “list.”

Who will determine if Rachel’s son is an eligible family member?

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# Who should determine?

- The Chief Medical Officer of the tribal employer will make the determination.
- If the tribal employer does not have a Chief Medical Officer, OPM will make the determination.

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# Scenario #11 (contd)

What if Rachel's son's condition is on the "list"?

Who will determine if Rachel's son is an eligible family member?

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# Who should determine?

- The tribal employer or the health plan will make the determination if the condition is on the “list.”

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# More to Come

Look for other presentations on:

- Enrollment
- Finance
- Guidance on FEHB Forms
  - SF 2809
  - SF 2810
- Temporary Continuation of Coverage (TCC)