

## **Tribal Employer FAQs – Federal Employees Health Benefits (FEHB) Program**

The Office of Personnel Management (OPM) uses the term “tribal employer” to refer to Indian tribes, tribal organizations, and urban Indian organizations who are entitled to participate in FEHB.

### **Tribal Employer Entitlement to Participate in FEHB**

**1. How does a tribal employer become entitled to purchase FEHB coverage?**

In order to be entitled to purchase FEHB for their tribal employees, tribal employers will have to verify that they are carrying out at least one program under the Indian Self-Determination and Education Assistance Act (ISDEAA) or title V of the Indian Health Care Improvement Act (IHCIA).

**2. Will a tribal employer be able to split its eligible tribal employee population and only provide FEHB coverage to some?**

No. As is the case with participating Federal agencies to access the FEHB Program a tribal employer must offer coverage to all of its eligible tribal employees, or none at all. An exception may be made in the case of unionized tribal employees receiving health insurance coverage under the terms of a collective bargaining agreement.

**3. If a tribal employer cannot split its eligible tribal employee population, can it exclude unionized tribal employees who have health coverage due to a collective bargaining agreement?**

Unionized tribal employees may be carved out of the tribal employee population for purposes of FEHB eligibility if they receive alternative comprehensive health insurance coverage under the terms of a collective bargaining agreement. If the tribal employer is participating in FEHB, it may not offer alternative comprehensive coverage to non-unionized tribal employees.

**4. Can tribal employers who are members of a consortium that carries out programs under either ISDEAA or IHCIA make independent decisions about FEHB participation or must the entire consortium choose to purchase FEHB?**

Tribal employers who are members of a consortium can make independent decisions about FEHB participation; the consortium does not need make a collective decision about participation in the FEHB Program.

**5. Will a tribal employer be able to purchase vision and/or dental coverage through the Federal Employees Dental and Vision Program (FEDVIP)?**

No, the new law only affords tribal employers the opportunity to purchase FEHB and Federal Employees Group Life Insurance (FEGLI) coverage for eligible tribal employees. Tribal employers may offer supplementary dental or vision plans to their tribal employees.

**6. Must a tribal employer participate in both FEHB and FEGLI?**

No, a tribal employer can choose to participate in just FEHB, just FEGLI, both, or neither. *Please note that while implementation is underway, FEGLI is not currently available for tribal employees.*

**7. Does OPM require a minimum number of a tribal employer's tribal employees to enroll in the FEHB Program in order for the tribal employer to participate?**

No, there is no minimum number or percentage of tribal employees that must enroll in order to be entitled to participate in FEHB.

**8. If an Indian tribe has a health plan for its tribal members, can it continue that plan if the Indian tribe elects to participate in FEHB for its tribal employees?**

Yes, an Indian tribe can continue to offer its tribal members coverage under its separate health plan. The eligibility for the separate health plan must be based on tribal membership and not on the employee-employer relationship. Tribal employees are eligible for FEHB coverage regardless of their tribal membership status.

**9. May a tribal employer choose to participate in FEHB next year?**

Yes, tribal employers may generally elect to purchase FEHB for their tribal employees at any point. Effective dates of coverage will be available on the first day of every month.

**Process for Tribal Employer to Participate in FEHB**

**10. How does a tribal employer choose to participate in FEHB?**

A tribal employer must (1) express its interest to OPM and (2) complete an application packet that includes signing an agreement with OPM to participate in FEHB.

**11. How does a tribal employer express interest in FEHB?**

A tribal employer expresses interest in FEHB by emailing OPM at [tribalprograms@opm.gov](mailto:tribalprograms@opm.gov) or by calling the OPM Tribal Desk at 202.606.2530 (Benefit Officer inquiries only). In the email, the tribal employer must identify itself and state that it is interested in purchasing FEHB coverage for its eligible tribal employees.

**12. When must a tribal employer express interest in FEHB?**

A tribal employer must express its interest in participating in FEHB three months prior to the tribal employer's desired coverage effective date. For example, if a tribal employer wants an October 1st coverage effective date, it must express its interest to OPM by July 1st.

**13. Does expressing interest commit a tribal employer to purchase FEHB?**

No, expressing interest does not commit a tribal employer to purchase FEHB. If a tribal employer decides not to participate after expressing interest, OPM asks that the tribal employer inform OPM through [tribalprograms@opm.gov](mailto:tribalprograms@opm.gov) or fax to 202.606.0751 Attn: Tribal Programs.

**14. What happens after a tribal employer has expressed interest?**

OPM sends the tribal employer an Expressed Interest Fact Sheet to fill out. The Fact Sheet asks for basic contact information and for a copy of the ISDEAA or IHCA

contract, compact, grant, or funding agreement that entitles the tribal employer to purchase FEHB coverage. After the tribal employer sends back a completed Fact Sheet and a copy of the ISDEAA or IHCIA contract, compact, grant, or funding agreement, OPM will verify the tribal employer's entitlement to participate based on the ISDEAA or IHCIA documentation and will communicate its determination in due course. In the meanwhile, OPM will send the tribal employer an application packet to complete and return.

**15. What does the application packet include?**

The tribal employer must complete the application packet including signing the agreement with OPM. The application packet instructs the tribal employer to fill out contact information and the tribal employer profile. The tribal employer must also sign the Memorandum of Understanding with the National Finance Center, to have Temporary Continuation of Coverage be administered by the National Finance Center.

**16. When must OPM receive a completed application packet?**

OPM must **receive** a completed application packet two months prior to the tribal employer's desired coverage effective date. For example, if a tribal employer wants an October 1st coverage effective date, OPM must receive the application packet by August 1st.

**17. In what form must a tribal employer send the application packet to OPM?**

OPM prefers that the tribal employer first email a scanned copy of the application packet to [tribalprograms@opm.gov](mailto:tribalprograms@opm.gov). This will constitute formal receipt. After emailing the application packet, the tribal employer must send a physical original copy to OPM at:

U.S. Office of Personnel Management  
Federal Employee Insurance Operations  
Attn: Tribal Programs  
1900 E Street NW, Room 3425  
Washington, D.C. 20415

If the tribal employer cannot email a scanned copy of the application packet, then the day that OPM receives the physical original packet will be the date of formal receipt. OPM strongly recommends that the tribal employer use an express delivery service, as postal mail is often delayed due to irradiation of mail packages. At a minimum, the tribal employer should obtain a tracking number when sending the agreement to OPM so it will be assured that OPM received it. If the tribal employer wants its own original signed copy of the agreement between the tribal employer and OPM, it should mail two copies and OPM will sign and return the second original to the tribal employer. Otherwise, OPM will keep the original signed copy.

**18. After a tribal employer expresses interest and sends OPM a completed application packet, what happens next?**

After OPM has received the scanned or original application packet, it will assign the tribal employer a Tribal Desk contact at OPM to help the tribal employer's benefits officer with FEHB questions. After OPM has verified the ISDEAA or IHCIA

documentation and determined that the tribal employer is entitled to participate in FEHB, we will sign the agreement, and send an acknowledgement letter welcoming you to FEHB. The Tribal Desk contact will assist the tribal employer's benefits officer to conduct its Initial Enrollment Opportunity for its tribal employees.

**19. Do tribal employers need a broker to purchase FEHB?**

No. OPM does not negotiate with insurance brokers for the FEHB; OPM works directly with the health plans. OPM does not and will not pay any brokerage fees.

**Tribal Employer Premium Contributions and Payment**

**20. What must a tribal employer contribute to its tribal employees' premiums?**

At a minimum, a tribal employer must contribute the standard government contribution for its tribal employees' premiums. A tribal employer can find a chart of the standard government contribution in the premium charts available at [www.opm.gov/insure/health/tribes/rates/index.asp](http://www.opm.gov/insure/health/tribes/rates/index.asp).

**21. Is the tribal employer responsible for the standard government contribution for all enrollments, including Self and Family enrollments?**

Yes, a tribal employer is responsible for paying at least the standard government contribution for all enrollments, including Self and Family enrollments.

**22. What is the standard government contribution, and is it published in a chart?**

The standard government contribution is calculated by OPM each year. By statute, the government contribution is the lesser of: (1) 72 percent of amounts OPM determines are the Program-wide weighted average of premiums in effect each year, for Self Only and for Self and Family enrollments, respectively, or (2) 75 percent of the total premium for the particular plan an enrollee selects. A tribal employer can find a chart of the standard government contribution in the premium charts available at [www.opm.gov/insure/health/tribes/rates/index.asp](http://www.opm.gov/insure/health/tribes/rates/index.asp). The standard government contribution is the dollar amount found in the column labeled "Tribe Pays."

**23. Can a tribal employer contribute more than the standard government contribution for its tribal employees?**

Yes, as long as no individual enrollment falls below the standard government contribution, a tribal employer can contribute up to 100% of the premiums for its tribal employees.

**24. If a tribal employer decides to contribute more than the standard government contribution, will OPM approve the premium contribution scenario?**

No, OPM is not providing approval for premium contribution scenarios. The tribal employer is responsible for following OPM guidelines. The most important requirement is that a tribal employer pays at least the standard government contribution as designated by OPM.

In general, the following guidelines apply:

A tribal employer is allowed to contribute more than the standard government contribution (up to 100% of the premium) for its tribal employees. A tribal employer may:

- Pay different amounts based on type of FEHB enrollment: Self Only or Self and Family (as long as no individual enrollment falls below the standard government contribution)
- Pay a flat amount or flat percentage (as long as no individual enrollment falls below the standard government contribution)

A tribal employer cannot:

- Favor one plan over another by paying more for a specific FEHB plan or specific FEHB plan type.

**25. In looking at the percentage of the 2012 Monthly Premium to be paid by the tribal employer, it appears that the amount the tribal employer is obligated to pay can vary. For instance, some contributions are set at 75% and others are 60%. Why does this difference exist?**

The contribution amounts are based on the lesser of 72% of a Program-wide weighted average premium or 75% of the specific plan's premium, so the contribution amount will vary by plan. If a plan has a relatively low premium, the contribution amount might represent a higher proportion of the plan's premium than it will for a plan with a relatively high premium.

**26. How is a tribal employer billed for the premiums?**

A tribal employer is billed through the online portal known as the Tribal Insurance Processing System (TIPS). Tribal employers may view a current bill at any time within TIPS. Tribal employers may access TIPS at any time to make adjustments to their enrollments.

**27. How does a tribal employer pay for the premiums?**

Electronic debits will be generated from TIPS. The total premium amount for all the FEHB plans in which tribal employees are enrolled (both tribal employer and tribal employee contributions) will be debited from a tribal employer's bank account on a monthly basis. OPM handles the distribution of the premium amounts to the correct FEHB plans.

## **FEHB Plans and Plan Choice**

**28. Does the Tribal Employee choose the health benefits plan?**

Yes, the tribal employee chooses the FEHB plan. The tribal employer may not choose or influence the tribal employee's choice of plan. This is the same standard used for all Federal agencies and their employees.

**29. Can a tribal employer choose to make only one plan available to its tribal employees?**

No, a tribal employer cannot limit the number of available FEHB plan choices for its tribal employees.

**30. Can a tribal employer select the FEHB plan if the tribal employer is paying 100% of the costs?**

No, a tribal employer cannot select the plan for participation, even if the tribal employer is paying 100% of the costs. One of the hallmarks of the FEHB Program is an employee's ability to choose a health plan from the plans that are available.

**31. What plans are available to tribal employees?**

Generally, tribal employees are eligible to enroll in the same plans as Federal employees.

There are two ways to search for FEHB plans available in your area.

1. [www.opm.gov/insure/health/search/plansearch.aspx](http://www.opm.gov/insure/health/search/plansearch.aspx)

Type in your zip code and a list of plans available in your area will be generated. You can then select up to four plans to compare.

2. [www.opm.gov/insure/health/tribes/planinfo/index.asp](http://www.opm.gov/insure/health/tribes/planinfo/index.asp)

Click on your state to generate a list of plans available in the state. This site also allows you to see the FEHB plan brochures.

**32. When will tribal employees be notified of any plan or benefit changes?**

Information on plan and benefit changes for the following year are typically released in late October. Open Season runs from mid-November to mid-December. During Open Season, an eligible tribal employee can enroll, change enrollment type, plan or option, or cancel enrollment, without a qualifying life event. This schedule provides tribal employees with ample time to make an informed decision about their coverage for the following year.

**Tribal Employee Eligibility**

**33. Which tribal employees are eligible for FEHB coverage?**

Tribal employees must meet:

- (1) the Internal Revenue Service (IRS) definition of a common law employee and
- (2) FEHB Program eligibility requirements to be eligible for FEHB coverage.

For more information on the common law standard, please refer to pages two through five of the following document located at [www.irs.gov/pub/irs-utl/x-26-07.pdf](http://www.irs.gov/pub/irs-utl/x-26-07.pdf).

**34. Who makes the determination as to who meets the definition of a common law employee: OPM or the tribal employer?**

The tribal employer initially makes this determination. Individuals who believe they are eligible common law employees of a tribal employer but have been denied enrollment in FEHB may seek reconsideration from the tribal employer, and if still aggrieved, they may appeal a tribal employer's determination denying enrollment to an independent panel established by the tribal employer. Individuals who wish to appeal a panel determination denying enrollment may ask for OPM reconsideration. OPM's decision on enrollment is binding on the tribal employer. Individuals who continue to be aggrieved by OPM's final decision may bring suit against OPM in a Federal district court.

**35. Where can a tribal employer find information on FEHB Program eligibility requirements?**

A tribal employer can find information on the FEHB Program eligibility requirements in the Tribal FEHB Handbook, Chapter 4, Eligibility for Health Benefits at [www.opm.gov/insure/health/tribes/tribalhandbook.pdf](http://www.opm.gov/insure/health/tribes/tribalhandbook.pdf).

**36. Are part-time tribal employees eligible for coverage under FEHB?**

Generally, yes, part-time tribal employees are eligible for coverage under FEHB. A tribal employer may prorate the tribal employer and tribal employee share of the premium attributable to enrollment of its part-time tribal employees working between 16 and 32 hours per week on the basis of hours of part-time employment with the tribal employer. More information can be found in the Tribal FEHB Handbook, Chapters 2 and 4, at [www.opm.gov/insure/health/tribes/tribalhandbook.pdf](http://www.opm.gov/insure/health/tribes/tribalhandbook.pdf).

**37. Is coverage available for tribal retirees?**

No. The law allows tribal employers to purchase coverage for their tribal employees. It does not provide access to the FEHB Program for tribal retirees.

**38. If a tribal employee has a pre-existing condition, will there be a waiting period before he/she is able to receive coverage?**

No. There are no exclusions or waiting periods for pre-existing conditions in the FEHB Program.

**39. Can a tribal employee cover a common law spouse under a Self and Family enrollment?**

Yes, if the common law marriage is a legally valid marriage recognized by the State in which the tribal employee resides.

**40. Are tribal employees of a gaming establishment or casino covered under FEHB?**

The fact that employment occurs in a gaming establishment is not determinative. The FEHB does not make distinctions between commercial or governmental functions. So long as (1) the tribal employee meets the definition of a common law employee, (2) the tribal employer of the tribal employee elects to purchase FEHB, and (3) the tribal employee meets FEHB eligibility requirements, then that tribal employee is eligible to enroll in the FEHB Program.

**41. Are tribal board members eligible for FEHB coverage?**

No, tribal board members are not eligible for FEHB coverage unless they meet both the common law standard of employee of a tribal employer, and FEHB eligibility requirements.

**42. Which family members are eligible for coverage under a Self and Family enrollment?**

Family members eligible for coverage under a Self and Family enrollment are the tribal employee, the tribal employee's spouse (from a legally valid marriage including a valid common law marriage in States where such marriages are recognized), and the tribal employee's children under age 26, including legally adopted children, recognized natural (born out of wedlock) children, and stepchildren.

**Logistics**

**43. If a tribal employer joins mid-year, what happens to tribal employees who have already met their deductibles under their former health plan?**

If a tribal employer elects to purchase FEHB mid-year and a tribal employee chose a plan with a deductible, he/she would be required to pay it, even if he/she already paid a deductible under former health plan coverage.

**44. May a tribal employee make changes to his/her health benefits coverage at any time throughout the year?**

No. Like Federal employees, tribal employees participating in premium conversion can generally make changes to their health benefits coverage at two times:

1. During the annual Open Season, held in mid-November to mid-December.
2. When they experience a Qualifying Life Event.

*Please note:* Tribal employees who do not participate in premium conversion may cancel their coverage or change to Self Only any time during the year.

**45. Can a tribal employer order Standard Form (SF) 2809 Health Benefit Elections Forms and SF 2810s from OPM?**

No, tribal employers print these forms from OPM's website (same as Federal agencies and employees).

**46. Why is there an administrative fee being charged in addition to the FEHB premium?**

As is the case for Federal agencies, a tribal employer will be responsible for the costs associated with administrative services related to processing of tribal employee FEHB enrollments.

**47. Who pays the administrative fee?**

The tribal employer pays the full administrative fee for its tribal employees. The administrative fee is based on the total number of FEHB enrollments in TIPS, not on FEHB enrollment per tribal employer.



