

For: FSA and RMA Employees

**Federal Employee Health Benefits (FEHB) Program Eligibility Modification for Certain
Temporary, Seasonal, and Intermittent Employees**

Approved by: Acting Associate Administrator for Operations and Management



1 Temporary, Seasonal, and Intermittent Employee FEHB Eligibility

A Overview

Recent regulations provided in 5 CFR 890.301 changed FEHB Program eligibility for certain employees on temporary appointments and/or seasonal and intermittent schedules as follows:

- before 5 CFR 890.301 modifications:
 - most employees on temporary appointments became eligible for FEHB coverage after completing 1 year of current continuous employment and, after eligible, the employee did **not** receive an employer contribution to premium
 - employees working on seasonal schedules for less than 6 months in a year and/or working intermittent schedules were **excluded** regardless of the work hours.
- under 5 CFR 890.301, the following categories of employees will be eligible to enroll in an FEHB plan and receive the same Government contribution as full-time permanent employees:
 - employees on temporary appointments
 - employees on seasonal schedules who will be working a schedule of less than 6 months in a year
 - intermittent employees who are expected to work 130 hours per month or more for at least 90 calendar days.

Disposal Date	Distribution
March 1, 2015	All FSA and RMA employees; State Offices relay to County Offices

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1 Temporary, Seasonal, and Intermittent Employee FEHB Eligibility

A Overview (Continued)

Temporary employees working for 12 consecutive months that are already eligible to enroll in the FEHB Program, and are expected to work for 130 hours per month for at least 90 calendar days, are eligible to receive a full employer contribution toward the FEHB premium.

B Purpose

This notice:

- announces a regulatory modification to FEHB Program coverage to include certain temporary, seasonal, and intermittent employees who are identified as full-time employees

Note: Full-time employee means an employee who is employed, on average, 130 hours in a calendar month.

- provides questions and answers (Exhibit 1) for implementing FEHB eligibility modification
- provides an example Temporary, Seasonal, and Intermittent Employee FEHB Eligibility Notification (Exhibit 2).

C Employee Information

Enrollment for newly eligible employees will be accepted during a 60-calendar-day period after the employing office notifies employees of their eligibility to enroll in an FEHB health plan.

Coverage will become effective the first day of the first pay period that begins after the date the employing office receives an appropriate request for FEHB health plan enrollment that follows a pay period during any part of which the employee is in a pay status.

D Employing Office Action

Employing offices should determine eligibility of existing temporary, seasonal, and intermittent employees and on determining eligibility, promptly provide employees Exhibit 2, offering employees an opportunity to enroll in the FEHB Program so that coverage becomes effective **no later than January 2015**.

Employing offices will continue to determine eligibility of individuals employed after the effective date of this regulation.

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E Human Resources Division (HRD) Contacts

This table provides HRD contacts.

IF supervisor is located in...	THEN contact...
FSA or RMA, except FSA State and County Offices	any of the following: <ul style="list-style-type: none">• Dana Candler, HRD, at by either of the following:<ul style="list-style-type: none">• e-mail to dana.candler@kcc.usda.gov• telephone at 816-926-6117• Patty Gepford, HRD, at by either of the following:<ul style="list-style-type: none">• e-mail to patricia.gepford@kcc.usda.gov• telephone at 816-926-6259• Kedra Watts, HRD, at by either of the following:<ul style="list-style-type: none">• e-mail to kedra.watts@usda.gov• telephone at 202-401-0678.
State or County Office	State Office administrative staff or Southwest Area Regional Service Office Human Resources Team.

Questions and Answers for Implementing the FEHB Eligibility Modification

- Q1. When can newly eligible employees enroll and when are they effective?
- A1. Enrollments for newly eligible employees will be accepted during a 60-calendar-day period after the employing office notifies employees of their eligibility to enroll in a FEHB health plan. Coverage will become effective as provided for by 5 CFR. 890.301 (the first day of the first pay period that begins after the date the employing office receives an appropriate request, and that follows a pay period during any part of which the employee is in pay status).
- Q2. How will eligible employees be identified?
- A2. Employing Agencies will be responsible for identifying newly eligible employees, as they are now. Employing Agencies will work with HRD and payroll providers to correctly identify newly eligible temporary, seasonal, and intermittent employees, record their selection of FEHB coverage, and withhold the employee share of premium from wages.
- Q3. What happens if employees originally expected to meet the criteria for enrollment work fewer hours?
- Q3. Employing Agencies **must** make a prospective determination at time of hire, or at the time the rule becomes effective, about whether a newly eligible temporary, seasonal, or intermittent employee is likely to meet the criteria to be included in the eligibility modification. Employing Agencies do **not** have to report to OPM about how that determination is made. If employing Agency determines that the individual is eligible, but that employee actually works fewer hours, coverage **cannot** be rescinded based on actual hours worked. For this reason, OPM expects that employing Agencies will use their best judgment in extending benefits to temporary, seasonal, and intermittent employees.
- Q4. What happens if a full-time employee is expected to work for fewer than 90 calendar days, but the employee actually works for 90 calendar days or more?
- A4. A full-time employee who is expected to work for fewer than 90 calendar days is considered to be in a 90-calendar-day waiting period and no offer of FEHB coverage should be made. If the expectation changes, that employee should be notified by the employing office and given an opportunity to enroll promptly, but no later than the 91st day of employment. FEHB coverage would be prospective, as it is in most circumstances, rather than retroactive to the first day of employment.
- Q5. What is the earliest date a newly eligible employee could get coverage?
- A5. The effective date of this rule is **November 17, 2014**. Employing Agencies should be prepared to offer coverage at that time. This final rule is being published now so that newly eligible full-time temporary, seasonal, and intermittent employees can be enrolled no later than **January 2015**.

Questions and Answers for Implementing the FEHB Eligibility Modification (Continued)

- Q6. Will employing Agencies pay the same Government contribution to premium as for other FEHB enrollees?
- A6. Eligible full-time temporary, seasonal, and intermittent employees will receive a full Government contribution to premium. The Part Time Career Act allows Agencies to prorate the Government contribution for certain employees working between 16 and 32 hours per week. However, the Part Time Career Act specifically **excludes** temporary and intermittent employees. As such, employing Agencies are **not** authorized to pay a prorated premium for any temporary or intermittent employees.
- Q7. Do employing Agencies have to count work hours for each employee during a calendar month?
- A7. To implement this FEHB eligibility modification, employing Agencies **must** make a prospective determination about how many hours each temporary, seasonal, and intermittent employee is expected to work, and about whether the employee is expected to work for at least 90 calendar days. That prospective determination is an estimate of the hours that the employee will work, rather than an actual count of hours worked.
- Q8. Can employing Agencies use a pay period-based timekeeping system rather than a calendar month-based system?
- A8. OPM expects that Agencies will continue to use their pay period-based timekeeping systems. There is **no** requirement that Agencies or shared service providers use a calendar month-based timekeeping system to make the prospective determination about full-time status of newly eligible employees. The final rule references calendar month hours so that the rule's definition of full-time is consistent with the definition in the IRS regulations.
- Q9. Do the same rules apply about break-in-service, continuity of coverage, and non-pay status for newly eligible employees, as for employees who were already eligible to participate in FEHB?
- A9. Generally, all the same rules about break-in-service, continuity of coverage, and non-pay status would apply for newly eligible employees as for all other employees.
- Q10. Will OPM issue a new SF-2809?
- A10. OPM is reviewing all forms and may make changes to forms and instructions in the future. Agencies can continue to use the current SF-2809 to record new FEHB enrollments.
- Q11. Should employing Agencies identify employees already on the payroll that now qualify for enrollment?
- A11. Yes, employing Agencies should review employment records and determine which temporary, seasonal, and intermittent employees qualify for an offer of FEHB coverage. Employing Agencies shall make an offer of coverage promptly so that coverage can be effective no later than **January 2015**.

Questions and Answers for Implementing the FEHB Eligibility Modification (Continued)

- Q12. Does Temporary Continuation of Coverage eligibility apply to temporary, seasonal, and intermittent employees?
- A12. Temporary Continuation of Coverage eligibility applies to temporary, seasonal, and intermittent employees, the same as the rules apply to permanent employees.
- Q13. Full-time temporary employees may be placed on intermittent status because of budgetary reasons. Can temporary employees continue to pay insurance premiums out of pocket?
- A13. Temporary employees remain eligible and will be required to pay their bi-weekly or monthly insurance premiums, as applicable.
- Q14. Are part-time temporary employees eligible for insurance, if they pay the full premium, or does insurance eligibility apply only to full-time employees as defined in the notice?
- A14. **Only** full-time employees, as defined in this notice, are eligible for insurance.
- Q15. What is the definition of a “month” in this notice.
- A15. Month means January, February, March, etc., according to a standard calendar year month. There are 12 months in a calendar year.

Example Temporary, Seasonal, and Intermittent Employee FEHB Eligibility Notification

After employing offices have determined FEHB eligibility for existing temporary, seasonal, and intermittent employees, promptly provide employees the following notification, offering employees an opportunity to enroll in the FEHB Program so that coverage becomes effective no later than **January 2015**.

**Temporary, Seasonal, and Intermittent Employee
FEHB Eligibility Notification**

Dear Employee:

The Office of Personnel Management (OPM) recently issued a final rule that modified the Federal Employee’s Health Benefits (FEHB) Program to include certain temporary, seasonal, and intermittent employees who are identified as full-time employees. Full-time employee is defined as an employee who is employed on average 130 hours in a calendar month. The regulatory modification contained in 5 CFR 890.301 makes FEHB coverage available to these newly eligible employees no later than January 2015.

The following categories of employees will be eligible to enroll in an FEHB plan and receive the same Government contribution as full-time permanent employees:

- a. employees on temporary appointments
- b. employees on seasonal schedules who will be working a schedule of less than 6 months in a year
- c. intermittent employees who are expected to work 130 hours per month or more for at least 90 calendar days.

A review of your employment records indicates that you qualify for an offer of FEHB coverage. You are hereby notified that you have 60 days from the date of this notification to enroll in a FEHB plan. To enroll you must complete an SF 2809 and submit it to your servicing HR Office. Your coverage will become effective the first day of the first pay period that begins after the date your servicing HR Office receives your FEHB enrollment form that follows a pay period during any part of which you are in a pay status.

Your eligibility to enroll expires on _____. This eligibility window will not be extended. If you have any questions regarding this notification, please contact your servicing HR Office.

Human Resources Staff Member and Date

Acknowledgement of Receipt
Employee Name and Date