



Benefits Administration Letter

Number: 04-208

Date: September 8, 2004

Subject: Federal Employees Health Benefits Program: Participation Requirements for Employees Retiring During a Period of Voluntary Separation Incentive Payments or Voluntary Early Retirement Authority

Purpose

The purpose of this letter is to update our policy on waivers of the Federal Employees Health Benefits (FEHB) participation requirements for employees who retire during a period of Voluntary Separation Incentive Payments (VSIP) and Voluntary Early Retirement Authority (VERA).

Background

The FEHB law (5 U.S.C 8905(b)) specifies that a retiring employee must have been enrolled in the FEHB Program for the 5 years of service immediately before retirement or, if less, for all service in which the employee was eligible for FEHB. The law gives the Office of Personnel Management (OPM) authority to waive the 5-year requirement when, because of exceptional circumstances, it would be against equity and good conscience not to allow the retiring employee to continue coverage.

OPM published procedures in 1994 and 1996 enabling employees retiring with a buyout (VSIP) to have pre-approved waivers of the 5-year participation requirement for continuing their FEHB coverage in retirement. These procedures were updated and amended in Benefits Administration Letter (BAL) 00-220, dated November 7, 2000.

As a result of recent legislation, OPM now has authority to approve agency requests to offer VSIP or VERA, or both, for the purpose of either downsizing or workforce restructuring. This BAL sets out new procedures for employees retiring with a VSIP or a VERA, or both, to have pre-approved waivers of the 5-year participation requirement.

Waiver Policy and Procedures

Those retiring in conjunction with a VSIP or VERA authority must have been covered under the FEHB Program (1) for the last 5 years of their Federal civilian service in order to continue

such coverage in retirement, or (2) if less than 5 years, for all service since the employee was eligible for these benefits unless these requirements are waived.

OPM will grant pre-approved waivers to employees who have been:

- Covered under the FEHB Program continuously since the beginning date of the agency's latest statutory VSIP authority, or OPM-approved VSIP or VERA authority; **and**
- Retire during the statutory VSIP or OPM-approved VSIP/VERA period; **and**
- Receive a VSIP; **or**
- Take early optional retirement; **or**
- Take discontinued service retirement based on an involuntary separation due to RIF, directed reassignment, reclassification to a lower grade, or abolishment of position.

Employees who meet these requirements do not need to write a letter requesting a waiver. Instead, agencies must attach a memorandum to the employee's retirement application stating that the employee meets the requirements for a pre-approved waiver by OPM as set forth in OPM's specific instructions to the agency. If your VSIP authority is based on a public law, please provide the public law number. Otherwise, provide the VSIP authority or VERA approval number that OPM assigned to your agency. Also include the beginning and ending dates of your agency's VSIP or VERA period.

Policy and Procedures for Employees of the Department of Defense (DoD). Section 9902(i) of title 5, United States Code (U.S.C.), as enacted by section 1101 of the National Defense Authorization Act for Fiscal Year (FY) 2004, Public Law 108-136 (November 24, 2003), provides authority for the Secretary of Defense to establish a permanent VSIP and VERA program within DoD. Since the DoD VSIP and VERA authority is permanent, the VSIP/VERA period is renewed each fiscal year and lasts from October 1 to September 30. For FY04, the beginning date of the VSIP/VERA period was November 24, 2003 (the date of the VSIP/VERA statutory authority), and the ending date is September 30, 2004.

OPM will grant pre-approved waivers to DoD employees who:

- Have been covered under the FEHB Program continuously since November 24, 2003, for FY04 waivers, and October 1 for each succeeding fiscal year for subsequent waivers; **and**
- Retire during the DoD VSIP/VERA period; **and**
- Receive a VSIP; **or**
- Take early optional retirement; **or**
- Take discontinued service retirement based on an involuntary separation due to RIF, directed reassignment, reclassification to a lower grade, or abolishment of position.

DoD employees who meet the above requirement do not need to write a letter requesting a waiver. Instead supporting Human Resources Offices must attach a memorandum that provides:

- A statement that the employee meets the requirements for a pre-approved waiver by OPM;

- The beginning and ending date of the VSIP/VERA period during which the employee retired (i.e., for FY04, November 24, 2003 and September 30, 2004; for subsequent years the beginning and ending date of the applicable year); and
- A statement that the employee was enrolled in the FEHB Program on the beginning date of the VSIP/VERA period during which he or she retired and that he or she was enrolled continuously to the date of retirement.

When Employees Do Not Qualify for a Pre-approved Waiver

Some employees who retire during a VSIP or VERA period may not be eligible for a pre-approved waiver. These include employees who retire on a regular optional retirement but do not qualify for a VSIP. Employees who do not qualify for a pre-approved waiver may request a waiver on a case-by-case basis by asking OPM to waive the participation requirement in their case. While we may eventually grant waivers to some of these employees, we will consider each case on its own merits, based on the criteria that are applied to all other retiring employees as outlined in the FEHB Handbook in the section entitled Annuitants and Compensators.

NOTE: OPM will make a decision only within 3 months before the retirement date, not earlier.

These employees should send OPM the following information:

- Explanation of why the employee believes OPM should consider granting a waiver (e.g. why employee cannot meet the 5-year requirement or why meeting it would be harmful). (This point should be first not last.)
- **All health benefit enrollment forms (SF 2809's and SF 2810's)** or electronic enrollment verification
- Service history SF 2801-1 for CSRS or SF 3107-1 for FERS
- Proof of coverage under CHAMPUS/TRICARE
- Copy of agency VSIP or VERA authority letter from OPM, if applicable
- **Exact date the employee plans to retire**
- **If an employee or a family member has a medical condition that is a factor in the decision to retire, include** any medical documentation the employee wants OPM to consider.

The employee should send the waiver request **with documentation** to the following address:

Office of Personnel Management
 Retirement Benefits Branch
 1900 E Street, NW
 Washington, DC 20415-3532
 Fax: 202-606-1640 or 202-606-4931

ADDITIONAL INFORMATION

If you have any further questions about these procedures, please call our information staff on (202) 606-0745. You may also send e-mail about this issue to Nataya Battle at nbattle@opm.gov.

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Employee and Family Support Policy