



Healthcare and
Insurance

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

July 19, 2012

Dear Tribal Leader:

This is an update on the implementation of IHCIA § 409, which was enacted as part of the Affordable Care Act. This provision entitles tribes and tribal organizations operating programs under the Indian Self-Determination and Education Assistance Act, and urban Indian organizations operating a program under Title V of the Indian Health Care Improvement Act, to purchase coverage for their employees under the Federal Employees Health Benefits (FEHB) Program.

The Office of Personnel Management (OPM) is pleased to announce that the administrative systems are in place to enroll eligible tribal employees in the FEHB Program and to collect premiums for the health insurance plans that employees select. Twenty-seven tribal employers have elected to purchase FEHB for their nearly 3,000 tribal employees. The first enrollments were effective on May 1st, 2012. As a reminder, **entitled tribal employers may choose to purchase FEHB at any time**, with effective dates of coverage on the first of each month. OPM must be notified three months in advance of a tribal employer's intent to purchase FEHB.

Throughout the implementation process, OPM has received valuable feedback and assistance from tribal representatives across the country. As a result of this feedback, OPM has considered and decided upon the following policy matters:

- **Unionized tribal employees.** Because union negotiations often include specific health insurance coverage requirements, OPM has determined that if unionized employees are enrolled in a separate health plan(s) under the terms of a collective bargaining agreement they may be carved out of FEHB eligibility. A tribal employer who chooses to carve out unionized employees may offer alternative comprehensive health insurance coverage to these employees without violating the terms and conditions of their Agreement with OPM to purchase FEHB coverage. OPM maintains that all other tribal employees may not be offered alternative employer-sponsored health coverage.
- **FEHB eligibility disputes.** Tribal employers are responsible for making initial employee eligibility decisions. Tribal employees who wish to dispute an FEHB enrollment or eligibility decision may do so with an independent dispute resolution panel established by the tribal employer. The tribal employee may request that OPM reconsider decisions made by the independent dispute

resolution panel. Tribal employers will be bound by OPM's final determination on eligibility. Tribal employees who continue to be aggrieved by an OPM final determination denying eligibility may bring a lawsuit against OPM, seeking reversal of OPM's denial, in Federal district court.

- **Former tribal employees receiving COBRA when FEHB is purchased.** If, at the time a tribal employer first purchases FEHB coverage for its employees, the tribal employer has former tribal employees or family members receiving COBRA coverage, these former tribal employees and family members will not be eligible for FEHB Temporary Continuation of Coverage (TCC). The tribal employer may, however, continue to provide comprehensive, employer-sponsored health insurance to these former employees and family members without violating the terms of the Agreement with OPM.

Attached to this letter you will find the following four enclosures:

- A timeline for participating in FEHB.
- Frequently Asked Questions from our www.opm.gov/tribalprograms website. This list represents the most common questions OPM has received during tribal consultations, via email, and over the phone. OPM is providing these in response to requests from tribal employers with limited access to the internet.
- "Tribal Federal Employees Health Benefits (FEHB) Handbook Highlights." OPM has released a draft version of the Tribal FEHB Handbook, the attached document provides an overview of the contents of the draft Handbook. For a copy of the Handbook on disc, please contact OPM's Tribal Desk at the contact information provided below.
- A training presentation for tribal benefits officers. This presentation is an introduction to the FEHB Program for tribal employers interesting in participating in the FEHB Program.

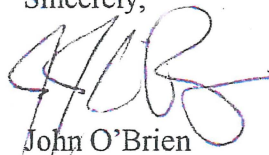
All of these resources and more are available on our website at the address provided below.

OPM wishes to continue to enhance and improve our outreach and educational efforts to tribes, tribal organizations, and urban Indian organizations. Although the number of participating tribal employers is growing, the potential for participation is much greater. Therefore, OPM is reaching out directly to you to help us in this effort. If you would like to discuss how the FEHB Program can meet your health care needs, please do not hesitate to contact OPM's Tribal Desk at the number provided below. When possible, an OPM representative will travel to the tribe, tribal organization, or urban Indian organization to meet in-person. In addition, if you are aware of any

conferences that target tribal employers, please notify OPM via phone or email. Finally, please pass along OPM's contact information to any tribal employers who may be eligible for the FEHB Program.

Again, I would like to thank the tribal representatives who have assisted OPM with the implementation process; your guidance and feedback have been instrumental to the success of the program. If you have any questions about the FEHB Program, please contact OPM's Tribal Desk at 202-606-2530 or tribalprograms@opm.gov. We have also added content to the Tribal Programs website, which can be accessed at www.opm.gov/tribalprograms.

Sincerely,



John O'Brien
Director
Healthcare and Insurance

Enclosures:

- Timeline for Purchasing FEHB
- Frequently Asked Questions
- Tribal FEHB Handbook Highlights
- Tribal Benefits Officer Training: Federal Employees Health Benefits Program Features