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Calendar No. 942

106TH CONGRESS *2d Session*	SENATE	REPORT 106–492

FEDERAL EMPLOYEES HEALTH BENEFITS CHILDREN'S EQUITY ACT OF 1999

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1688

TO AMEND CHAPTER 89 OF TITLE 5, UNITED STATES CODE, RELATING TO THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM, TO ENABLE THE FEDERAL GOVERNMENT TO ENROLL AN EMPLOYEE AND THE FAMILY OF THE EMPLOYEE IN THE PROGRAM WHEN A STATE COURT ORDERS THE EMPLOYEE TO PROVIDE HEALTH INSURANCE COVERAGE FOR A CHILD OF THE EMPLOYEE, BUT THE EMPLOYEE FAILS TO PROVIDE THE COVERAGE, AND FOR OTHER PURPOSES

OCTOBER 6, (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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OCTOBER 6 (legislative day SEPTEMBER 22), 2000.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1688]

The Committee on Governmental Affairs, to which was referred the bill (S. 1688) to amend chapter 89 of title 5, United States Code, relating to the Federal Employees Health Benefits Program, to enable the Federal Government to enroll an employee and the family of the employee in the program when a State court orders the employee to provide health insurance coverage for a child of the employee, but the employee fails to provide the coverage, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE

S. 1688, as reported by the Committee on Governmental Affairs, amends chapter 89 of title 5, United States Code, relating to the Federal Employees Health Benefit (FEHBP) Program, to enable the Federal Government to enroll an employee and the family of the employee in the Program when a State court orders the employee

to provide health insurance coverage for a child of the employee but the employee fails to provide the coverage.

This legislation ensures that a child of a Federal employee is covered in accordance with a court or administrative order even though the same order would ensure coverage for the child, if the child's parent were employed by an employer other than the Federal government.

II. Background

The Omnibus Reconciliation Act of 1993 required each State to pass a law requiring an employer to enroll a child in an employee's group health plan when a court orders the employee to provide health insurance coverage for the child but the employee fails to provide the coverage. The FEHBP law provides that the Federal employee "may enroll" in an FEHBP plan "either as an individual or for self and family" coverage. The law does not allow an employing agency to elect coverage on the employee's behalf. Further, the FEHBP law generally preempts State law with regard to coverage and benefits. Therefore, a Federal agency currently is unable to ensure that a child is covered in accordance with a court or administrative order even though the same order would ensure coverage for the child, if the child's parent were employed by an employer other than the Federal government.

S. 1688 provides Federal agencies the authority to enroll an employee in family coverage, if such action is necessary to enforce compliance with a court order requiring the employee to provide health insurance coverage for a child.

III. Legislative History

S. 1688 was introduced by Senators Carl Levin and Daniel Akaka on October 5, 1999 and referred to the Committee on Governmental Affairs. On November 17, 1999, the bill was referred to the Subcommittee on International Security, Proliferation, and Federal Services. By unanimous consent, the full Committee took up consideration of S. 1688 at its September 27, 2000 business meeting. No hearings were held on the bill.

On September 27, 2000, the Committee considered S. 1688. No amendments were offered and S. 1688 was ordered to be reported favorably by voice vote. Committee members present were Senators Roth, Stevens, Collins, Voinovich, Domenici, Cochran, Levin, Akaka, Durbin, Torricelli, Cleland, Edwards, and Thompson.

A House companion bill, H.R. 2842, introduced by Representative Elijah Cummings, on March 13, 1999, was passed by the House of Representatives under suspension of the rules on September 19, 2000. It was referred to the Committee on September 20, 2000.

IV. Section-by-Section Analysis

SECTION 1. SHORT TITLE

Section one provides the bill's short title, the "Federal Employees Health Benefits Children's Equity Act of 1999."

SECTION 2. ENROLLMENT OF CERTAIN EMPLOYEES AND FAMILIES

Section two amends 5 U.S.C. 8905 by adding a new subsection (f) to allow an employee who is not enrolled in an FEHBP plan to enroll in a plan for self and family coverage if the employee is required by a court order or an administrative order to provide health insurance coverage for a child who meets the definition of "member of family" under 5 U.S.C. 8901(5). Moreover, if such an employee fails to enroll and cannot show that the child is covered by other health insurance, this amendment would require the employing agency to enroll the employee for self and family under the low-option Service Benefit Plan (currently Blue Cross/Blue Shield).

The new subsection (f) also prescribes similar treatment for a similarly situated employee who is enrolled as an individual in an FEHBP plan. The amendment would ensure that, under the circumstances described in the preceding paragraph, the employee's enrollment would be changed to a self and family enrollment that would cover the child. An employee who did not change his or her enrollment voluntarily would be enrolled for self and family in the same plan in which the employee was already covered as an individual, unless that plan does not provide full benefits and services where the child resides. In the latter event, the employee would be enrolled for self and family under the low-option Service Benefit Plan.

Lastly, the new subsection (f) would bar the employee from discontinuing the self and family enrollment as long as the order remains in effect and the child continues to meet the definition in section 8901(5) or unless the employee can show that the child has other health insurance.

SECTION 3. FEDERAL EMPLOYEES' RETIREMENT SYSTEM ANNUITY SUPPLEMENTAL COMPUTATION

This section amends 8421a(b) of title 5 with respect to FERS annuitants who retire before age 62 and who receive a special annuity supplement. The supplement must be reduced by $1 for every $2 of earnings that exceed a minimum level established by the Social Security Administration.

The section delays the adjustment of the annuity supplement until July 1 to allow annuitants and OPM time to gather and process the necessary information. This section does not deprive any annuitant of a benefit. It simply ensures that the correct level of benefits is being paid.

V. Regulatory Impact Statement

S. 1688 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. With a greater number of children enrolled in the Federal Employee Health Benefits Program, states would realize decreased expenditures in Medicaid and the State Children's Health Insurance Program.

VI. Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 4, 2000.

Hon. Fred Thompson,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1688, the Federal Employees Health Benefits Children's Equity Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Charles L. Betley.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

S. 1688—Federal Employees Health Benefits Children's Equity Act of 1999

Summary: Under current law, the Federal Employees Health Benefits program (FEHB) has no authority to enforce compliance with a child support order to provide health insurance for an employee's children. S. 1688 would authorize the mandatory enrollment into family plan coverage and the deduction of premium contributions from the salaries of such employees who otherwise would not participate in FEHB or employees who elect self-only coverage, unless the employee provides documentation that insurance is provided from another source or the support order has ended.

Because the federal government contributes larger amounts to the premiums for employees with family coverage, the bill would increase discretionary costs of benefits for federal employees by about $3 million in 2001 and $56 million over the 2001–2005 period.

Government contributions to FEHB for federal retirees are considered mandatory spending. Because some employees would retire while still subject to support orders, S. 1688 would increase the FEHB costs of annuitants and therefore would be subject to pay-as-you-go procedures. However, the mandatory costs in FEHB would be less than $500,000 in 2001, and would sum to about $4 million over the 2001–2005 period. Direct spending would increase for the health benefits of postal employees and annuitants subject to the bill's provisions, but these costs are classified as off-budget and would not be subject to pay-as-you-go procedures.

The bill would also reduce mandatory federal and state outlays for Medicaid and the State Children's Health Insurance Program (SCHIP) because some children with parents who are not complying with medical support orders would end up on those programs' rolls, with mandatory federal savings of about $16 million over the 2001–2005 period. Finally, the bill would modify the earnings test that applies to supplemental benefits paid by the Federal Employees' Retirement System (FERS), but this provision would not have significant budgetary effects over the 2001–2005 period.

The bill includes no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

With a greater number of children enrolled in the FEHB programs, states would realize decreased expenditures in Medicaid and SCHIP totaling about $12 million over the 2001–2005 period.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1688 is shown in the following table. The bill would add to discretionary spending by all federal agencies for employee health benefits and would affect mandatory spending in budget functions 550 (health) and 600 (income security).

	Outlays by fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Incremental cost of family coverage under FEHB for more federal employees	3	7	12	16	18
CHANGES IN DIRECT SPENDING					
Postal Service contributions to FEHB	2	4	0	0	0
FEHB payments for retirees	*	*	1	1	2
Medicaid and SCHIP	−1	−2	−3	−5	−5
Total changes [1]	*	2	−2	−4	−3

[1] In addition to the FEHB, Medicaid, and SCHIP effects, the bill would affect direct spending under the Federal Employees' Retirement System, but CBO estimates that those effects would be less than $500,000 a year over the 2001–2005 period.
* = less than $500,000.
Note: Components may not add to totals because of rounding.

Basis of estimate: CBO's estimate of the federal costs of S. 1688 is based on assumptions about the number of employees who would be required to obtain family coverage who do not already do so, and the federal share of the change in spending by plans participating in FEHB for newly covered employees and children. In addition, CBO estimated savings for Medicaid and SCHIP based on assumptions about the number of children who would be covered by those programs under current law, but who would be covered by FEHB under the bill. Finally, the estimate of savings from the FERS annuity supplement policy change is based on the number of FERS retirees subject to the earnings test and the increased recoveries that can be expected from applying the tests over a longer period.

Spending subject to appropriation

S. 1688 would increase the number of federal employees who obtain FEHB family coverage because they are required to do so by a child support order by an estimated 11,500 workers. Data from the Census Bureau (Current Population Survey, April 1996 supplement) indicates that about 1 percent of the population, ages 18 through 64, fails to comply with a medical support order. Assuming that the rate of noncompliance among federal employees is similar to the national rate, after adjusting for the different age distribution of federal workers, CBO estimates that about 23,000 federal employees (not including postal workers) are not in compliance with a medical support order. Because administrative barriers in the child support enforcement system limit how many support orders are enforced, CBO expects that about half of those federal employees would be brought into compliance with medical support orders.

CBO also expects that it would take about four years to identify and bring into compliance those 11,500 employees. Because federal employment is likely to remain close to current levels over the next

five years, we assume that newly applied medical support orders would be approximately balanced by orders that end or by other employee attrition.

Based on information from the Office of Management and Budget (OPM), CBO estimates that the costs incurred by FEHB plans for single-parent families average two-thirds of the cost for two-parent families. For the purposes of this estimate, we assume that 90 percent of the employees brought into compliance with medical support orders under S. 1688 have self-only coverage under current law. For those employees, the estimated increase in federal spending would be about $900 per family policy in 2001, which is the difference between the federal share of the annual premium for self-only coverage and two-thirds of the federal share of the premium for family coverage, on average. Once expected compliance is fully phased-in (in 2004), the incremental cost of FEHB coverage for conversion from self-only to family coverage would cost about $9 million a year in 2001 dollars.

CBO assumes that the remaining 10 percent of the affected employees would be brought into compliance with medical support orders would have no FEHB coverage under current law. For those employees, the estimated effect on federal spending in 2001 would be about $3,500 per family policy, which is two-thirds of the federal share of the average annual premium for family coverage. The annualized cost of providing family coverage for those employees with no FEHB coverage under current law would be about $4 million a year in 2001 dollars.

Assuming that agency appropriations would be increased to maintain current levels of staffing and to reflect anticipated inflation in the cost of FEHB coverage, CBO estimates that implementing S. 1688 would increase discretionary spending for FEHB by $3 million in 2001 and by $56 million over the 2001–2005 period.

Direct spending

Health Care Costs. Enacting S. 1688 would increase costs to the U.S. Postal Service by about $2 million in fiscal year 2001 and $4 million in 2002 because an estimated 6,000 postal employees would be subject to medical support orders. By 2003, CBO anticipates that the Postal Service would increase postal rates and offset such costs. Postal Service spending and collections are classified as off-budget and thus the charges incurred by S. 1688 would not be subject to pay-as-you-go procedures.

A federal employee would be subject to the mandatory family enrollment until a support order expires. Some of the 11,500 employees affected by the bill would be required to cover their children after they retire from active federal employment, shifting the classification of costs from discretionary to mandatory spending. However, there are fewer support orders for older employees, and most children covered under such orders are likely to be close to reaching adulthood. Based on the rate of retirement of federal employees and assumptions about the rate of expiration of support orders, CBO estimates that the increase in direct spending by FEHB for payments to cover affected retirees would be negligible in 2001, but would total $4 million over the 2001–2005 period.

The bill would reduce spending by Medicaid and SCHIP. CBO estimates that 15 percent of the 17,500 employees and postal workers would have children who would enroll in those programs under current law if medical support orders are not enforced. (That is slightly lower than the estimated rate for the general population, reflecting an assumption that the children of federal workers are somewhat less likely to have low-enough incomes to qualify for such programs.) CBO estimates the Medicaid savings based on the average costs per child, multiplied by an average of 1.5 children covered under each support order. After accounting for anticipated inflation, the estimated federal share of Medicaid savings would be $1 million in 2001 and $16 million over the 2001–2005 period.

Some SCHIP savings also would occur, but CBO estimates that such savings would be less than $500,000 annually.

Modify Earnings Test for FERS Annuity Supplement. The Federal Employees' Retirement System pays supplemental benefits to certain nondisabled retirees until they reach age 62 and become eligible for Social Security. These supplemental benefits are subject to an earnings test. Individuals with earnings that exceed a certain level in a calendar year (about $10,000 in 2000) have their supplemental benefits reduced during the 12-month period starting on January 1 of the following year. S. 1688 would make reductions from the earnings test effective for the 12-month period starting on July 1 of the following year.

Under the current earnings test, OPM pays unreduced supplemental benefits for the first two or three months of each year until it receives the wage information needed to administer the earnings test. This inevitably leads to overpayments, which OPM does not try to recover. The bill's provisions would increase spending on supplemental benefits in 2001 (a one-time cost of moving the effective date to July 1) before yielding savings in later years by eliminating overpayments.

According to OPM, about 700 retirees currently have their supplemental benefits reduced because of the earnings test. (this figure will raise in the future as the number of FERS retirees grows.) CBO estimates that the earnings test reduces their supplemental benefits by 50 percent—a reduction of about $100 per month for current retirees. CBO estimates that S. 1688 would increase spending on supplemental benefits by about $240,000 in 2001 and reduce spending in later years. Annual savings would grow slowly and would reach $1 million in 2010.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By fiscal year, in millions of dollars—									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays ...	−1	−2	−3	−4	−3	−4	−4	−4	−4	−4
Changes in receipts ..	Not Applicable									

Intergovernmental and private-sector impact: S. 1688 contains no intergovernmental or private-sector mandates as defined in UMRA. With a greater number of children enrolled in the FEHB program, states would realize decreased expenditures in Medicaid and SCHIP totaling about $12 million over the 2001–2005 period.

Previous CBO cost estimate: On May 16, 2000, CBO transmitted a cost estimate for H.R. 2842, a similar bill ordered reported by the House Committee on Government Reform on March 30, 2000. The two bills are essentially identical, as are our cost estimates.

Estimate prepared by: Federal Costs: FEHB—Charles L. Betley, Child Support—Sheila Dacey, Other Costs—Eric Rollins, impact on state, local, and tribal governments: Leo Lex, impact on the private sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1688, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

* * * * * * *

Sec. 8421a. Reductions of account of earnings from work performed while entitled to an annuity supplement

(a) The amount of the annuity supplement to which an individual is entitled under section 8421 for any month (determined without regard to subsection (c) of such section) shall be reduced by the amount of any excess earnings of such individual which are required to be charged to such supplement for such month, as determined under subsection (b).

(b) The amount of an individual's excess earnings shall be charged to months as follows:

(1) * * *

* * * * * * *

(5) Notwithstanding paragraphs (1) through (4), the reduction required by subsection (a) shall be effective during the 12 month period beginning on the first day of the seventh month after the end of the calendar year in which the excess earnings were earned.

* * * * * * *

CHAPTER 89—HEALTH INSURANCE

* * * * * * *

Sec. 8905. Election of coverage

(a) * * *

(b) * * *

* * * * * * *

(f)(1)(A) An unenrolled employee who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may enroll for self and family coverage in a health benefits plan under this chapter.

(B) The employing agency of an employee described under subparagraph (A) shall enroll the employee in a self and family enrollment in the option which provides the lower level of coverage under the service benefit plan if the employee—

(i) fails to enroll for self and family coverage in a health benefits plan that provides full benefits and services in the location in which the child resides; and

(ii) does not provide documentation demonstrating that the required coverage has been provided through other health insurance.

(2)(A) An employee who is enrolled as an individual in a health benefits plan under this chapter and who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may change to a self and family enrollment in—

(i) the health benefits plan in which the employee is enrolled; or

(ii) another health benefits plan under this chapter.

(B) The employing agency of an employee described under subparagraph (A) shall change the enrollment of the employee to a self and family enrollment in the plan in which the employee is enrolled if—

(i) such plan provides full benefits and services in the location where the child resides; and

(ii) the employee—

(I) fails to change to a self and family enrollment; and

(II) does not provide documentation demonstrating that the required coverage has been provided through other health insurance.

(C) The employing agency of an employee described under subparagraph (A) shall change the coverage of the employee to a self and family enrollment in the option which provides the lower level of coverage under the service benefit plan if—

(i) the plan in which the employee is enrolled does not provide full benefits and services in the location in which the child resides; or

(ii) the employee fails to change to a self and family enrollment in a plan that provides full benefits and services in the location where the child resides.

(3)(A) Subject to subparagraph (B), an employee who is subject to a court or administrative order described under this section may not discontinue the self and family enrollment in a plan that provides full benefits and services in the location in which the child resides for the period that the court or administrative order remains in effect if the child meets the requirements of section 8901(5) during such period.

(B) Enrollment described under subparagraph (A) may be discontinued if the employee provides documentation demonstrating that the required coverage has been provided through other health insurance.

[(f)**]** *(g)* An employee, annuitant, former spouse, or person having continued coverage under section 8905a of this title enrolled in a health benefits plan under this chapter may change his coverage or that of himself and members of his family by an application filed within 60 days after a change in family status or at other times and under conditions prescribed by regulations of the office.

[(g)**]** *(h)*(1) Under regulations prescribed by the Office, the Office shall, before the start of any contract term in which—

(A) * * *

(B) * * *

(C) * * *

provide a period of not less than 3 weeks during which any employee, annuitant, former spouse, or person having continued coverage under section 8905a of this title enrolled in a health benefits plan described by such section shall be permitted to transfer that individual's enrollment to another such plan, or to cancel such enrollment, at such other times and subject to such conditions as the Office may prescribe in regulations.

(2) * * *

(3) * * *

* * * * * * *

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