

103^D CONGRESS
1ST SESSION

H. R. 45

To amend title 5, United States Code, to reform the program under which health benefits are provided to Federal employees.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ACKERMAN (for himself and Mrs. MORELLA) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to reform the program under which health benefits are provided to Federal employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employees
5 Health Benefits Reform Act of 1993”.

6 **SEC. 2. REVISED PROGRAM.**

7 Chapter 89 of title 5, United States Code, is amended
8 to read as follows:

“CHAPTER 89—HEALTH INSURANCE

“Sec.

“8901. Definitions.

- “8902. Eligibility requirements for individual coverage.
- “8903. General program description.
- “8904. Benefits under the Governmentwide plan.
- “8905. Contributions under the Governmentwide plan.
- “8906. Utilization review under the Governmentwide plan.
- “8907. Administration of the Governmentwide plan.
- “8908. Prepayment plans.
- “8909. Supplementary plans.
- “8910. Contract requirements.
- “8911. Automatic coverage; elections of coverage.
- “8911a. Continued coverage for certain individuals.
- “8911b. Coverage for certain other employees.
- “8911c. Coverage of restored employees and survivor or disability annuitants.
- “8911d. Double coverage; change in family status.
- “8911e. Clarifying provisions.
- “8912. Flexible spending plan.
- “8913. Federal Employees Health Benefits Board.
- “8914. Employees Health Benefits Fund.
- “8915. Debarment and other sanctions against providers.
- “8916. Open enrollment periods; informational requirements.
- “8917. Studies, reports, and audits.
- “8918. Jurisdiction of courts.
- “8919. Regulations.
- “8920. Effect of other statutes.

1 **“§ 8901. Definitions**

2 “For the purpose of this chapter—

3 “(1) the term ‘employee’ means—

4 “(A) the President;

5 “(B) a Member of Congress;

6 “(C) a Congressional employee;

7 “(D) an individual first employed by the
 8 government of the District of Columbia before
 9 October 1, 1987;

10 “(E) an individual employed by Gallaudet
 11 College;

12 “(F) an individual employed by a county
 13 committee established under section 8(b) of the
 14 Soil Conservation and Domestic Allotment Act;

1 “(G) an individual appointed to a position
2 on the office staff of a former President under
3 section 1(b) of the Act of August 25, 1958;

4 “(H) an individual appointed to a position
5 on the office staff of a former President or a
6 former Vice President under section 4 of the
7 Presidential Transition Act of 1963 who, imme-
8 diately before the date of such appointment,
9 was an employee as defined under any other
10 subparagraph of this paragraph; and

11 “(I) an employee (as defined by section
12 2105) not otherwise specified in any of the pre-
13 ceding subparagraphs;

14 but does not include—

15 “(i) an employee of a corporation super-
16 vised by the Farm Credit Administration if pri-
17 vate interests elect or appoint a member of the
18 board of directors;

19 “(ii) an individual who is not a citizen or
20 national of the United States and whose perma-
21 nent duty station is outside the United States,
22 unless, on September 30, 1979, the individual
23 was an employee for the purpose of this chapter
24 (as then in effect), by reason of service in an
25 Executive agency, the United States Postal

1 Service, or the Smithsonian Institution in the
2 area which was then known as the Canal Zone;

3 “(iii) an employee of the Tennessee Valley
4 Authority; or

5 “(iv) an employee excluded by regulation of
6 the Office of Personnel Management under sec-
7 tion 8919(b);

8 “(2) the term ‘Government’ means the Govern-
9 ment of the United States and the government of
10 the District of Columbia;

11 “(3) the term ‘annuitant’ means—

12 “(A) an employee who retires—

13 “(i) on an immediate annuity under
14 subchapter III of chapter 83, or another
15 retirement system for employees of the
16 Government, after 5 or more years of serv-
17 ice;

18 “(ii) under section 8412 or 8414; or

19 “(iii) for disability under subchapter
20 III of chapter 83, chapter 84, or another
21 retirement system for employees of the
22 Government;

23 “(B) a family member who receives an im-
24 mediate annuity as the survivor of an employee
25 (including a family member entitled to an

1 amount under section 8442(b)(1)(A), whether
2 or not such family member is entitled to an an-
3 nuity under section 8442(b)(1)(B)) or of a re-
4 tired employee described by subparagraph (A);

5 “(C) an employee who receives monthly
6 compensation under subchapter I of chapter 81
7 and who is determined by the Secretary of
8 Labor to be unable to return to duty; and

9 “(D) a family member who receives month-
10 ly compensation under subchapter I of chapter
11 81 as the surviving beneficiary of—

12 “(i) an employee who dies as a result
13 of injury or illness compensable under that
14 subchapter; or

15 “(ii) a former employee who is sepa-
16 rated after having completed 5 or more
17 years of service and who dies while receiv-
18 ing monthly compensation under that sub-
19 chapter and who has been held by the Sec-
20 retary to have been unable to return to
21 duty;

22 “(4) the term ‘service’, as used by paragraph
23 (3), means service which is creditable under sub-
24 chapter III of chapter 83 or chapter 84;

1 “(5) a reference to the family, or members of
2 the family, of an individual shall be considered to be
3 a reference to—

4 “(A) the spouse of such individual; and

5 “(B) each child of such individual;

6 “(6) the term ‘health benefits plan’ means a
7 group insurance policy or contract, medical or hos-
8 pital service agreement, membership or subscription
9 contract, or similar group arrangements provided by
10 a carrier for the purpose of providing, paying for, or
11 reimbursing expenses for health services;

12 “(7) the term ‘carrier’ means a voluntary asso-
13 ciation, corporation, partnership, or other non-
14 governmental organization which is lawfully engaged
15 in providing, paying for, or reimbursing the cost of,
16 health services under group insurance policies or
17 contracts, medical or hospital service agreements,
18 membership or subscription contracts, or similar
19 group arrangements, in consideration of premiums
20 or other periodic charges payable to the carrier, in-
21 cluding a health benefits plan duly sponsored or un-
22 derwritten by an employee organization;

23 “(8) the term ‘employee organization’ means
24 any association or other organization which satisfies
25 the definition given that term under the provisions

1 of this chapter (as last in effect before the date of
2 enactment of the Federal Employees Health Bene-
3 fits Reform Act of 1993);

4 “(9) the term ‘dependent’, in the case of any
5 child, means that the employee, annuitant, or other
6 enrollee involved is either living with or contributing
7 to the support of such child, as determined in ac-
8 cordance with regulations prescribed by the Office;

9 “(10) the term ‘former spouse’ means a former
10 spouse of an employee, former employee, or annu-
11 itant—

12 “(A) who has not remarried before age 55
13 after the marriage to the employee, former em-
14 ployee, or annuitant was dissolved;

15 “(B) who was enrolled in a basic plan
16 under this chapter (or an approved health bene-
17 fits plan under this chapter, as previously in ef-
18 fect) as a family member at any time during
19 the 18-month period before the date of the dis-
20 solution of the marriage to the employee,
21 former employee, or annuitant; and

22 “(C)(i) who is receiving any portion of an
23 annuity under section 8345(j) or 8467 or a sur-
24 vivor annuity under section 8341(h) or 8445
25 (or benefits similar to either of the aforemen-

1 tioned annuity benefits under a retirement sys-
2 tem for Government employees other than the
3 Civil Service Retirement System or the Federal
4 Employees' Retirement System);

5 “(ii) as to whom a court order or a decree
6 referred to in section 8341(h), 8345(j), 8445,
7 or 8467 (or similar provision of law under any
8 such retirement system other than the Civil
9 Service Retirement System or the Federal Em-
10 ployees' Retirement System) has been issued, or
11 for whom an election has been made under sec-
12 tion 8339(j)(3) or 8417(b) (or similar provision
13 of law); or

14 “(iii) who is otherwise entitled to an annu-
15 ity or any portion of an annuity as a former
16 spouse under a retirement system for Govern-
17 ment employees;

18 except that such term shall not include any such
19 unremarried former spouse of a former employee
20 whose marriage was dissolved after the former em-
21 ployee's separation from the service (other than by
22 retirement);

23 “(11) the term ‘child’ means—

24 “(A) an unmarried dependent child under
25 22 years of age, including—

1 “(i) an adopted child or recognized
2 natural child; and

3 “(ii) a stepchild or foster child, but
4 only if the child lives with the employee,
5 annuitant, or other enrollee in a regular
6 parent-child relationship;

7 “(B) an unmarried dependent child, as de-
8 scribed in subparagraph (A) (except for being
9 22 years of age or older), who is incapable of
10 self-support because of mental or physical dis-
11 ability which existed before age 22; and

12 “(C) an unmarried dependent child, as de-
13 scribed in subparagraph (A) (except for being
14 at least 22 but less than 23 years of age, ex-
15 cluding any child under subparagraph (B)),
16 who is a student regularly pursuing a full-time
17 course of study or training in residence in a
18 high school, trade school, technical or vocational
19 institute, junior college, college, university, or
20 comparable recognized educational institution;

21 “(12) the term ‘basic health benefits plan’ or
22 ‘basic plan under this chapter’ means—

23 “(A) the Governmentwide plan (as de-
24 scribed in sections 8904 through 8907); and

1 “(B) an approved health benefits plan de-
2 scribed in section 8908;

3 “(13) the term ‘supplementary health benefits
4 plan’ or ‘supplementary plan under this chapter’
5 means an approved health benefits plan described in
6 section 8909;

7 “(14) the term ‘enrollee’, as used with respect
8 to a plan, means an individual enrolled in such plan;

9 “(15) the term ‘covered individual’, as used
10 with respect to a plan, means—

11 “(A) an enrollee in such plan; and

12 “(B) each individual covered by such plan
13 as a member of the enrollee’s family;

14 “(16) the term ‘Board’ means the Federal Em-
15 ployees Health Benefits Board under section 8913;

16 “(17) the term ‘Fund’ means the Employees
17 Health Benefits Fund under section 8914;

18 “(18) the term ‘provider of health care services
19 or supplies’ or ‘provider’ means a physician, hos-
20 pital, or other individual or entity which furnishes
21 health care services or supplies;

22 “(19) the term ‘administrative year’ means a
23 fiscal year;

24 “(20) the term ‘provider-agreement program’
25 means a program under which participating provid-

1 **“§ 8903. General program description**

2 “Benefits under this chapter shall be provided
3 under—

4 “(1) the Governmentwide plan (as described in
5 sections 8904 through 8907);

6 “(2) group-practice or individual-practice pre-
7 payment plans (or any combination thereof), as de-
8 scribed in section 8908; and

9 “(3) supplementary health benefits plans, as de-
10 scribed in section 8909.

11 **“§ 8904. Benefits under the Governmentwide plan**

12 “(a) The Governmentwide plan shall offer benefits
13 under a standard option and high option, respectively.

14 “(b)(1) Under the standard option, the following
15 types of benefits shall be covered to the following extent
16 (subject to any term or condition under this paragraph
17 or subsection (c)):

18 “(A) Hospital benefits—80 percent (subject to
19 a \$200 per admission deductible).

20 “(B) Surgical-medical benefits—80 percent.

21 “(C) X-rays and laboratory tests—80 percent.

22 “(D) Emergency and accidental benefits—100
23 percent.

24 “(E) Prescribed drugs—75 percent (subject to
25 a \$10 copayment per prescription or refill, if ob-

1 tained through a mail order prescription drug pro-
2 gram under section 8907(b)(2)(C)(ii)(III)).

3 “(F) Well-baby benefits—80 percent.

4 “(G) Mammography—80 percent.

5 “(2)(A) Benefits under the high option shall be as
6 set forth in subparagraph (B) or (C), as applicable, de-
7 pending on whether or not they are obtained through a
8 provider-agreement program under section
9 8907(b)(2)(C)(ii)(I).

10 “(B) If not obtained through such a provider-agree-
11 ment program, the following types of benefits shall be cov-
12 ered to the following extent (subject to any term or condi-
13 tion under this subparagraph or subsection (c)):

14 “(i) Hospital benefits—90 percent (subject to a
15 \$100 per admission deductible).

16 “(ii) Surgical-medical benefits—85 percent.

17 “(iii) X-rays and laboratory tests—85 percent.

18 “(iv) Emergency and accidental benefits—100
19 percent.

20 “(v) Prescribed drugs—80 percent (subject to a
21 \$5 copayment per prescription or refill, if obtained
22 through a mail order prescription drug program
23 under section 8907(b)(2)(C)(ii)(III)).

24 “(vi) Well-baby benefits—85 percent.

25 “(vii) Mammography—85 percent.

1 “(C) If obtained through such a provider-agreement
2 program, the following types of benefits shall be covered
3 to the following extent (subject to any term or condition
4 under this subparagraph or subsection (c)):

5 “(i) Hospital benefits—100 percent.

6 “(ii) Surgical-medical benefits—100 percent.

7 “(iii) X-rays and laboratory tests—100 percent.

8 “(iv) Emergency and accidental benefits—100
9 percent.

10 “(v) Prescribed drugs—85 percent (subject to a
11 \$5 copayment per prescription or refill, if obtained
12 through a mail order prescription drug program
13 under section 8907(b)(2)(C)(ii)(III)).

14 “(vi) Well-baby benefits—100 percent.

15 “(vii) Mammography—100 percent.

16 “(3)(A) In addition to the respective benefits de-
17 scribed in paragraph (1) and paragraph (2) (B) and (C),
18 mental health and substance abuse benefits—

19 “(i) shall be provided under the standard and
20 high options to the extent set forth in subparagraphs
21 (B) and (C), respectively (subject to clause (ii) and
22 any term or condition under subparagraph (B) or
23 (C) or subsection (c)); and

24 “(ii) shall not be available except to the extent
25 that the benefit is received through an exclusive pro-

1 vider-agreement program under section
2 8907(b)(2)(C)(ii)(II).

3 “(B) Mental health and substance abuse benefits
4 under the standard option shall be as follows:

5 “(i) Inpatient basis—75 percent (subject to a
6 \$200 per admission deductible).

7 “(ii) Outpatient basis—75 percent (up to 30
8 visits per individual per administrative year).

9 “(C) Mental health and substance abuse benefits
10 under the high option shall be as follows:

11 “(i) Inpatient basis—80 percent.

12 “(ii) Outpatient basis—75 percent (up to 100
13 visits per individual per administrative year, but
14 with any visits beyond 50 in an administrative year
15 subject to a specific determination under section
16 8906 that more than 50 visits are necessary).

17 “(4) The Federal Employees Health Benefits Board
18 may submit to Congress recommendations for any addi-
19 tional benefits, or changes in benefits, under the Govern-
20 mentwide plan which the Board considers appropriate.
21 Any such recommendations—

22 “(A) shall be consistent with the intent that the
23 same types of benefits shall be covered under both
24 options; and

1 “(B) shall include the Board’s estimate of any
2 resulting costs or savings anticipated during each of
3 the first 5 administrative years of their implementa-
4 tion.

5 “(c)(1) Subject to paragraph (2), benefits under the
6 Governmentwide plan shall be specifically defined, and
7 shall be subject to such maximums, limitations, exclusions,
8 and other terms or conditions as the Board, in consulta-
9 tion with the Office of Personnel Management, shall by
10 regulation prescribe.

11 “(2) Such regulations shall provide that—

12 “(A)(i) a deductible of \$250 per administrative
13 year under the standard option, and \$150 per ad-
14 ministrative year under the high option, must be
15 met by a covered individual before any benefits shall
16 be payable by the plan on such individual’s behalf;
17 except that

18 “(ii) in the case of a family enrollment, once
19 the deductible is met by any 2 family members, the
20 deductible shall be waived for any other members of
21 the family for the rest of the administrative year;

22 “(B) any payment made to or on behalf of an
23 individual for a covered charge shall be based on the
24 lesser of—

1 “(i) the actual charge for the service or
2 item involved; or

3 “(ii) the reasonable and customary charge
4 for such service or item, as determined by the
5 Board in consultation with the Office; and

6 “(C) if, in any administrative year, after the
7 appropriate deductible has been met, total out-of-
8 pocket expenses (excluding any to the extent that
9 they exceed reasonable and customary levels, as de-
10 termined under subparagraph (B)(ii)) for the indi-
11 vidual (or, in the case of a family enrollment, for the
12 family) exceed the catastrophic limit established
13 under paragraph (3) for individual coverage (or, in
14 the case of a family enrollment, for family coverage),
15 the plan shall pay 100 percent of all covered charges
16 incurred by the individual (or, in the case of a fam-
17 ily enrollment, each covered individual in such fam-
18 ily).

19 “(3)(A) Except as provided in subparagraph (B), the
20 catastrophic limit—

21 “(i) under the standard option shall be—

22 “(I) \$2,000 per administrative year for in-
23 dividual coverage; and

24 “(II) \$4,000 per administrative year for
25 family coverage; and

1 “(ii) under the high option shall be—

2 “(I) \$1,000 per administrative year for in-
3 dividual coverage; and

4 “(II) \$2,000 per administrative year for
5 family coverage.

6 “(B)(i) The Office shall prescribe regulations under
7 which, in any case in which the enrollee is an employee,
8 the catastrophic limit under this paragraph shall be estab-
9 lished using a formula which makes the catastrophic limit
10 commensurate with the rate of basic pay payable to such
11 employee, except that no limit determined under this sub-
12 paragraph may exceed the catastrophic limit which would
13 otherwise apply under subparagraph (A).

14 “(ii) In the case of a family enrollment, if the employ-
15 ee’s spouse is also an employee and such spouse is receiv-
16 ing a higher rate of basic pay, the formula shall instead
17 use the spouse’s rate of basic pay.

18 “(4) The following rules apply with respect to a ‘per
19 admission’ deductible under section 8904:

20 “(A) The per admission deductible shall be in
21 addition to any deductible requirement under para-
22 graph (2)(A).

23 “(B) No amount applied toward meeting a per
24 admission deductible may be taken into account for

1 purposes of meeting an administrative year deduct-
2 ible.

3 “(d) A provider shall not be eligible for payments
4 under this section unless it agrees to comply with the re-
5 quirements of section 8906 (if applicable), relating to utili-
6 zation review.

7 “(e) Any amount payable by the Governmentwide
8 plan for any covered charge shall be paid to the provider
9 of the item or service involved, unless the enrollee elects
10 to be reimbursed for such amount instead.

11 **“§ 8905. Contributions under the Governmentwide**
12 **plan**

13 “(a)(1) The Office of Personnel Management shall
14 determine the enrollment charges for coverage in the Gov-
15 ernmentwide plan in accordance with this subsection.

16 “(2)(A) The enrollment charges shall reasonably and
17 equitably reflect—

18 “(i) the cost of providing benefits under the
19 Governmentwide plan (taking into account any sav-
20 ings anticipated through any provider-agreement
21 program or any other cost-control or cost-reduction
22 measure under the plan);

23 “(ii) the cost of administering such plan; and

24 “(iii) any amounts necessary to maintain an
25 adequate contingency reserve.

1 Enrollment charges shall be determined on a basis which,
2 in the judgment of the Office, is consistent with the lowest
3 schedule of basic rates generally charged for group health
4 benefit plans issued to large employers. In so determining
5 such charges, costs under clauses (i) and (ii) shall be allo-
6 cated to each option in a manner which is reasonable and
7 equitable.

8 “(B) The enrollment charges determined for the first
9 administrative year shall be continued for later adminis-
10 trative years, except that they may be readjusted for a
11 later year, based on past experience and benefit adjust-
12 ments taking effect in such later year. Any readjustment
13 in such charges shall be made on a basis which, in the
14 judgment of the Office, is consistent with the general prac-
15 tice of carriers which issue group health benefit plans to
16 large employers.

17 “(3) Enrollment charges under this subsection—

18 “(A) shall be established not later than 6
19 months before the beginning of the administrative
20 year to which they apply;

21 “(B) shall be established in consultation with
22 the Board; and

23 “(C) shall, with respect to any administrative
24 year, be effective—

1 “(i) for an employee, beginning on the first
2 day of the employee’s first pay period of such
3 administrative year; and

4 “(ii) for an annuitant, beginning on the
5 first day of the first period of such administra-
6 tive year for which an annuity payment is
7 made.

8 “(4) Any enrollment charges established under this
9 subsection shall be published in the Federal Register and
10 the Code of Federal Regulations not later than 5 months
11 before the beginning of the administrative year to which
12 they apply.

13 “(5) In establishing enrollment charges under this
14 subsection, projected administrative costs for the Govern-
15 mentwide plan may not exceed 1 percent of the projected
16 cost of providing benefits under such plan.

17 “(b)(1)(A) For the first administrative year during
18 which the Governmentwide plan is in effect, the biweekly
19 contribution required of an employee enrolled in such plan
20 shall be—

21 “(i) if enrolled in the standard option—

22 “(I) for self alone, \$10 per pay period; or

23 “(II) for self and family, \$22 per pay pe-
24 riod; or

25 “(ii) if enrolled in the high option—

1 “(I) for self alone, \$20 per pay period; or

2 “(II) for self and family, \$44 per pay pe-
3 riod.

4 “(B) For each subsequent administrative year, the bi-
5 weekly contribution required of an employee enrolled in
6 the Governmentwide plan shall be the amount last re-
7 quired (under subparagraph (A) or pursuant to adjust-
8 ment under this subparagraph, as applicable) before the
9 start of such year, increased by the lesser of—

10 “(i) the percentage by which the medical care
11 component of the consumer price index (as deter-
12 mined by the Bureau of Labor Statistics) for the
13 last base quarter before the start of such year ex-
14 ceeds such component of such index (as so deter-
15 mined) for the second to last base quarter before the
16 start of such year (if at all); or

17 “(ii) the percentage by which the average of the
18 enrollment charges determined under subsection (a)
19 for such year exceeds the average of the enrollment
20 charges determined under such subsection for the
21 previous administrative year (if at all).

22 For purposes of this subparagraph, the term ‘base quar-
23 ter’ means the 3-month period ending on December 31st
24 of a year.

1 “(2) The Office shall provide for conversion of bi-
2 weekly rates of contribution under this subsection to rates
3 for employees paid on other than a biweekly basis and for
4 annuitants, and for this purpose may provide for the ad-
5 justment of the converted rate to the nearest cent.

6 “(3)(A) Except as otherwise provided in subpara-
7 graph (B) or section 8912(3), contributions under this
8 subsection shall be made through withholdings from the
9 pay of the enrolled employee or the annuity of the enrolled
10 annuitant, as the case may be.

11 “(B) An annuitant whose annuity is insufficient to
12 cover the full amount of the withholdings required under
13 this subsection may enroll (or remain enrolled) in the Gov-
14 ernmentwide plan, notwithstanding any other provision of
15 this section, if the annuitant elects, under conditions pre-
16 scribed by regulations of the Office, to pay currently into
17 the Fund, through the retirement system that administers
18 the annuitant’s health benefits enrollment, an amount
19 equal to the withholdings that would otherwise be required
20 under this subsection.

21 “(c)(1) The amount necessary to pay the total enroll-
22 ment charge (as determined under subsection (a)), after
23 the enrollee’s contribution is deducted, shall be paid
24 through Government contributions.

1 “(2) Such Government contributions, in any instance
2 in which they are being made on behalf of an employee,
3 shall be made at the same time as the employee contribu-
4 tion is made.

5 “(3) Government contributions under this subsection
6 for an employee shall be paid—

7 “(A) in the case of employees generally, from
8 the appropriation or fund which is used to pay the
9 employee;

10 “(B) in the case of an elected official, from an
11 appropriation or fund available for payment of other
12 salaries of the same office or establishment;

13 “(C) in the case of an employee of the legisla-
14 tive branch who is paid by the Clerk of the House
15 of Representatives, from the contingent fund of the
16 House; and

17 “(D) in the case of an employee in a leave with-
18 out pay status, from the appropriation or fund
19 which would be used to pay the employee if such em-
20 ployee were in a pay status.

21 “(4)(A) Except as provided in subparagraph (B),
22 Government contributions under this subsection for an an-
23 nuitant shall be paid from annual appropriations which
24 are authorized to be made for that purpose and which may
25 be made available until expended.

1 “(B) Government contributions under this subsection
2 for an individual who first becomes an annuitant by reason
3 of retirement from employment with the United States
4 Postal Service on or after October 1, 1986, or for a survi-
5 vor of such an individual or of an individual who died on
6 or after October 1, 1986, while employed by the United
7 States Postal Service, shall be paid by the United States
8 Postal Service.

9 “(5)(A) In the case of an employee holding a position
10 on a part-time career employment basis (as defined in sec-
11 tion 3401(2)), the Government contribution shall be equal
12 to—

13 “(i) the amount which would be payable by the
14 Government if the employee were employed on a full-
15 time career basis, multiplied by

16 “(ii) the percentage derived by—

17 “(I) dividing the average number of hours
18 in such employee’s regularly scheduled work-
19 week by the average number of hours in the
20 regularly scheduled workweek of an employee
21 serving in a comparable position on a full-time
22 career basis (as determined under regulations
23 prescribed by the Office); and

24 “(II) multiplying the quotient under
25 subclause (I) by 100.

1 “(B) Any shortfall in Government contributions shall,
2 to the extent attributable to subparagraph (A), be made
3 up through a corresponding increase in the amount of the
4 employee contribution.

5 **“§ 8906. Utilization review under the Government-**
6 **wide plan**

7 “(a) In order to help prevent excessive or otherwise
8 inappropriate types or levels of hospital, medical, or men-
9 tal-health care, and the costs associated therewith, the
10 Board shall establish procedures to ensure that cost- and
11 utilization-control measures (consistent with those com-
12 mon to group health benefits plans offered by large em-
13 ployers) are implemented under the Governmentwide plan.

14 “(b) Any second opinion, certification, or other form
15 of review required under this section shall be obtained
16 from the appropriate carrier under section 8907 (or per-
17 son under contract with such carrier for that purpose).
18 The Office of Personnel Management shall establish the
19 qualification requirements for any person performing any
20 such review for purposes of this section.

21 “(c) With respect to mental health and substance
22 abuse benefits, a carrier (or other qualified reviewing en-
23 tity) may, when medically appropriate, recommend alter-
24 natives to inpatient care.

1 **“§ 8907. Administration of the Governmentwide plan**

2 “(a)(1) The Governmentwide plan shall be adminis-
3 tered on a regional basis. To that end, the Office of Per-
4 sonnel Management, in consultation with the Board, shall
5 establish such number of geographic regions as the Office
6 considers appropriate in order that each individual who
7 is covered by the plan shall be included within the adminis-
8 trative jurisdiction of 1 of those regions.

9 “(2) The Office may modify the number or bound-
10 aries of the regions established under this subsection only
11 as of the start of a contract term (described in subsection
12 (b)(2)(B)) or at such other times as the Office may by
13 regulation prescribe.

14 “(b)(1) The processing of claims, implementation of
15 utilization review requirements, and other functions relat-
16 ing to the administration of the plan (as identified by the
17 Office) shall be the responsibility of the carrier designated
18 under paragraph (2) with respect to such region.

19 “(2)(A) The Office, in accordance with competitive
20 bidding procedures established by the Office, may contract
21 with a carrier to carry out the functions required under
22 paragraph (1) with respect to a region.

23 “(B) Each contract shall be for a uniform term of
24 at least 3 administrative years, but may be made auto-
25 matically renewable from term to term in the absence of
26 notice of termination by either party.

1 “(C) To be eligible for consideration, a carrier
2 must—

3 “(i) be licensed to issue group health insurance
4 in each State (including the District of Columbia, if
5 applicable) which is included, in whole or in part,
6 within the region involved, except that an organiza-
7 tion which at any time during the 24-month period
8 ending on the date of enactment of the Federal Em-
9 ployees Health Benefits Reform Act of 1993 was
10 under contract with the Office under the provisions
11 of this title then designated as section 8902 for a
12 health plan that was self-insured shall be eligible for
13 consideration regardless of the number of States in
14 which it is licensed to issue group insurance; and

15 “(ii) demonstrate that it has or will have (by
16 the start of the contract term)—

17 “(I) a provider-agreement program suffi-
18 cient to provide the benefits described in section
19 8904(b)(2)(C);

20 “(II) an exclusive provider-agreement pro-
21 gram relating to mental health and substance
22 abuse benefits; and

23 “(III) a mail order prescription drug pro-
24 gram.

1 “(D) Subsections (c), (e), and (f) of section 8910
2 shall apply to a contract under this section in the same
3 way as if it were a contract under section 8908.

4 “(E) An employee organization shall not be subject
5 to the requirement under subparagraph (C)(i).

6 “(3) If no carrier is selected with respect to a region,
7 the Office shall carry out the functions described in para-
8 graph (1) with respect to such region.

9 “(c) Notwithstanding any other provision of this sec-
10 tion, an employee organization which, at any time during
11 the 24-month period before the date of enactment of the
12 Federal Employees Health Benefits Reform Act of 1993,
13 was under contract with the Office under the provisions
14 of this title then designated as section 8902 for a health
15 benefits plan that was self-insured, may be selected to ad-
16 minister the Governmentwide plan with respect to—

17 “(1) an employee within that organization’s
18 bargaining unit (as determined under applicable pro-
19 visions of law);

20 “(2) an annuitant under section 8901(3) (A) or
21 (C) who, immediately before becoming such an an-
22 nuitant, was an employee within that organization’s
23 bargaining unit (as so determined); and

1 “(3) any individual who is covered by such plan
2 as a family member of any such employee or annu-
3 itant.

4 Any selections under this subsection shall be made by the
5 Office.

6 **“§ 8908. Prepayment plans**

7 “(a)(1) The Office of Personnel Management may
8 contract for (without regard to section 5 of title 41 or
9 other statute requiring competitive bidding) or approve
10 one or more of the following health benefits plans:

11 “(A) GROUP-PRACTICE PREPAYMENT PLANS.—
12 Group-practice prepayment plans which offer health
13 benefits of the types referred to in paragraph (2), in
14 whole or substantial part on a prepaid basis, with
15 professional services thereunder provided by physi-
16 cians practicing as a group in a common center or
17 centers. The group shall include at least 3 physi-
18 cians who receive all or a substantial part of their
19 professional income from the prepaid funds and who
20 represent 1 or more medical specialties appropriate
21 and necessary for the population proposed to be
22 served by the plan.

23 “(B) INDIVIDUAL-PRACTICE PREPAYMENT
24 PLANS.—Individual-practice prepayment plans which
25 offer health benefits of the types referred to in para-

1 graph (2), in whole or substantial part on a prepaid
2 basis, with professional services thereunder provided
3 by individual physicians who agree, under certain
4 conditions approved by the Office, to accept the pay-
5 ments provided by the plans as full payment for cov-
6 ered services given by them including, in addition to
7 in-hospital services, general care given in their of-
8 fices and the patients' homes, out-of-hospital diag-
9 nostic procedures, and preventive care, and which
10 plans are offered by organizations which have suc-
11 cessfully operated similar plans before approval by
12 the Office of the plan in which employees may en-
13 roll.

14 “(C) MIXED-MODEL PREPAYMENT PLANS.—
15 Mixed-model prepayment plans are a combination of
16 the type of plans described in subparagraph (A) and
17 the type of plans described in subparagraph (B).

18 “(2) The plans described in paragraph (1) shall offer,
19 at a minimum, the same types of benefits as are offered
20 under the standard option of the Governmentwide plan.

21 “(b)(1) The Government contribution on behalf of
22 any individual enrolled in a plan under this section—

23 “(A) shall be equal to an amount which bears
24 the same relationship to the total enrollment charge

1 for the coverage involved as the ratio under para-
2 graph (2); and

3 “(B) shall be paid from the same source as
4 would be required under paragraph (3) or (4) of sec-
5 tion 8905(c) (as applicable).

6 “(2) The ratio to be used for purposes of paragraph
7 (1)(A) is equal to—

8 “(A) the sum of the biweekly Government con-
9 tribution under the Governmentwide plan for the
10 standard and high options, respectively (for self or
11 self and family, as applicable), as determined under
12 section 8905(c), divided by

13 “(B) the sum of the total biweekly enrollment
14 charge under the Governmentwide plan for the
15 standard and high options, respectively (for self or
16 self and family, as applicable), as determined under
17 section 8905(a).

18 “(c)(1) Except as otherwise provided in paragraph
19 (2) or section 8912(3), there shall be withheld from the
20 pay of an enrolled employee or the annuity of an enrolled
21 annuitant (as the case may be) the amount necessary to
22 pay the total enrollment charge for a plan under this sec-
23 tion, after taking into account the amount of the Govern-
24 ment contribution.

1 “(2) In the case of an annuitant whose annuity is
2 insufficient to cover the full amount of the withholding
3 required under paragraph (1), the same election as pro-
4 vided for under section 8905(b)(3)(B) shall be available.

5 **“§ 8909. Supplementary plans**

6 “(a) The Office of Personnel Management may con-
7 tract for (without regard to section 5 of title 41 or other
8 statute requiring competitive bidding) or approve one or
9 more health benefits plans which offer benefits of the
10 types referred to in subsection (b), which are sponsored
11 or underwritten, and administered, in whole or substantial
12 part, by employee organizations, and which are available
13 only to individuals who at the time of enrollment are mem-
14 bers of the organization (and family members).

15 “(b) Any such plan may offer dental benefits, vision-
16 care benefits, and any other type of benefit, mutually
17 agreed to by the employee organization and the Office, not
18 offered by the Governmentwide plan.

19 “(c)(1)(A) Except as provided in subparagraph (B),
20 an individual shall be eligible to enroll (or remain enrolled)
21 in any plan under this section during any period of time
22 during which such individual is enrolled in a basic health
23 benefits plan.

24 “(B) An individual shall not be eligible to enroll (or
25 remain enrolled) in any plan under this section if—

1 “(i) such individual’s eligibility for coverage in
2 a basic health benefits plan is under section 8911a;
3 or

4 “(ii) such individual has nongroup coverage
5 under the basic health benefits plan.

6 “(2) Coverage under this section for family members
7 may not be provided during any period of time during
8 which they are not also covered under a basic health bene-
9 fits plan.

10 “(d)(1) The enrollee shall pay the full enrollment
11 charge for coverage under this section. Except as other-
12 wise provided in paragraph (2) or section 8912(3), pay-
13 ments under this subsection shall be made through
14 withholdings from the pay of the enrolled employee or the
15 annuity of the enrolled annuitant (as the case may be).

16 “(2) In the case of an annuitant whose annuity is
17 insufficient to cover the full amount of the withholding
18 required under paragraph (1), the same election as pro-
19 vided for under section 8905(b)(3)(B) shall be available.

20 **“§ 8910. Contract requirements**

21 “(a) Each contract under section 8908 or 8909—

22 “(1) shall be for a uniform term of at least 1
23 administrative year, but may be made automatically
24 renewable from term to term in the absence of no-
25 tice of termination by either party; and

1 “(2) shall contain a detailed statement of bene-
2 fits offered and shall include such maximums, limi-
3 tations, exclusions, and other definitions of benefits
4 as the Office considers necessary or desirable.

5 “(b) The Office of Personnel Management may pre-
6 scribe reasonable minimum standards for any plan under
7 section 8908 or 8909 and for carriers offering the plans.
8 Approval of a plan may be withdrawn only after notice
9 and opportunity for hearing to the carrier concerned with-
10 out regard to subchapter II of chapter 5 and chapter 7.
11 The Office may terminate the contract of a carrier, effec-
12 tive at the end of the contract term, if the Office finds
13 that at no time during the preceding two contract terms
14 did the carrier have 300 or more employees and annu-
15 itants (exclusive of family members) enrolled in the plan.

16 “(c)(1) A contract may not be made, or a plan ap-
17 proved, under section 8908 or 8909 which excludes an in-
18 dividual because of race, sex, health status, annuitant sta-
19 tus, or, at the time of the first opportunity to enroll, be-
20 cause of age.

21 “(2)(A) A contract may not be made, or a plan ap-
22 proved, under section 8908 which does not offer to each
23 employee, annuitant, family member, former spouse, or
24 person having continued coverage under section 8911a
25 whose enrollment in the plan is ended, except by a can-

1 cellation of enrollment, a temporary extension of coverage
2 during which that individual may exercise the option to
3 convert, without evidence of good health, to a nongroup
4 contract providing health benefits; an employee, annu-
5 itant, family member, former spouse, or person having
6 continued coverage under section 8911a who exercises this
7 option shall pay the full periodic charges of the nongroup
8 contract.

9 “(B) The benefits and coverage made available under
10 subparagraph (A) are noncancelable by the carrier except
11 for fraud, over-insurance, or nonpayment of periodic
12 charges.

13 “(d) With respect to any contract under section 8908
14 or 8909, the rates determined for the first contract term
15 may be redetermined, for any later administrative year,
16 in the same manner as provided for under section
17 8905(a)(2)(B).

18 “(e) Each contract under section 8908 or 8909 shall
19 require the carrier to agree to pay for or provide a health
20 service or supply in any case in which the Office finds that
21 the employee, annuitant, family member, or other individ-
22 ual is entitled thereto under the terms of the contract.

23 “(f) The provisions of any contract under section
24 8908 or 8909 which relate to the nature or extent of cov-
25 erage or benefits (including payments with respect to ben-

1 efits) shall supersede and preempt any State or local law,
2 or any regulation issued thereunder, which relates to
3 health insurance or plans to the extent that such law or
4 regulation is inconsistent with such contractual provisions.

5 **“§ 8911. Automatic coverage; elections of coverage**

6 “(a)(1) Subject to paragraph (2)(A), an employee
7 shall, as of the date of first becoming eligible for coverage
8 under this chapter, be covered under the Governmentwide
9 plan’s standard option for self alone.

10 “(2)(A) Instead of the coverage provided for under
11 paragraph (1), an employee may elect—

12 “(i) a different level or type of coverage under
13 the Governmentwide plan;

14 “(ii) coverage under a different basic health
15 benefits plan; or

16 “(iii) exclusion from coverage under this chap-
17 ter.

18 “(B) In addition to or instead of any election under
19 subparagraph (A), an employee (excluding any employee
20 who makes an election under subparagraph (A)(iii)) may
21 elect—

22 “(i) to be covered under a supplementary health
23 benefits plan;

24 “(ii) to participate in the flexible spending plan
25 under section 8912; or

1 “(iii) any other option which would be available
2 to such employee during an open enrollment period
3 (described in section 8916).

4 “(C) Any election under subparagraph (A) or (B)—

5 “(i) must be submitted to the employing office
6 of the individual involved, in writing, in such form
7 and within such time as the Office of Personnel
8 Management shall by regulation prescribe; and

9 “(ii) shall, if it is submitted in accordance with
10 clause (i) but after coverage commences, become ef-
11 fective at the beginning of the next applicable pay
12 period.

13 “(3) An election of noncoverage under this subsection
14 shall not prevent the employee from subsequently making
15 any election for which such employee is eligible during an
16 open enrollment period or at any other time otherwise al-
17 lowable under this chapter.

18 “(b) An annuitant who, at the time of becoming an
19 annuitant, was enrolled in a basic plan under this chap-
20 ter—

21 “(1) as an employee for a period of not less
22 than—

23 “(A) the 5 years of service immediately be-
24 fore retirement; or

1 “(B) the full period or periods of service
2 between the last day of the first period, as pre-
3 scribed by regulations of the Office, in which
4 that individual is eligible to enroll in the plan
5 and the date on which such individual becomes
6 an annuitant;

7 whichever is shorter; or

8 “(2) as a member of the family of an employee
9 or annuitant;

10 may continue that individual’s enrollment under the condi-
11 tions of eligibility prescribed by regulations of the Office.
12 The Office may, in its sole discretion, waive the require-
13 ments of this subsection in the case of an individual who
14 fails to satisfy such requirements if the Office determines
15 that, due to exceptional circumstances, it would be against
16 equity and good conscience not to allow such individual
17 to be enrolled as an annuitant in a basic plan under this
18 chapter.

19 “(c)(1) A former spouse may—

20 “(A) within 60 days after the dissolution of the
21 marriage, or

22 “(B) in the case of a former spouse of a former
23 employee whose marriage was dissolved after the
24 employee’s retirement, within 60 days after the dis-
25 solution of the marriage or, if later, within 60 days

1 after an election is made under section 8339(j)(3) or
2 8417(b) for such former spouse by the retired em-
3 ployee,
4 enroll in a basic plan under this chapter as an individual
5 or for self and family (as provided in paragraph (2)), sub-
6 ject to agreeing to pay the employee and Government con-
7 tributions which would be payable in the case of an em-
8 ployee enrolled in the same plan and level of benefits. The
9 former spouse shall submit an enrollment application and
10 make payments to the agency which, at the time of divorce
11 or annulment, employed the employee to whom the former
12 spouse was married or, in the case of a former spouse who
13 is receiving annuity payments under section 8341(h),
14 8345(j), 8445, or 8467, to the Office.

15 “(2) Coverage for self and family under this sub-
16 section shall be limited to—

17 “(A) the former spouse; and

18 “(B) unmarried dependent natural or adopted
19 children of the former spouse and the employee who
20 are—

21 “(i) under 22 years of age;

22 “(ii) 22 years of age or older, but incapa-
23 ble of self-support because of mental or physical
24 disability which existed before age 22; or

1 “(iii) students (as described in section
2 8901(6)(C)) at least 22 but less than 23 years
3 of age (excluding anyone under clause (ii)).

4 **“§8911a. Continued coverage for certain individuals**

5 “(a) Any individual described in paragraph (1) or (2)
6 of subsection (b) may elect to continue coverage under this
7 chapter (including under the Governmentwide plan) in ac-
8 cordance with this section.

9 “(b) This section applies with respect to—

10 “(1) any employee who—

11 “(A) is separated from service either vol-
12 untarily or involuntarily, excluding an employee
13 involuntarily separated for gross misconduct (as
14 defined under regulations prescribed by the Of-
15 fice of Personnel Management); and

16 “(B) would not otherwise be eligible for
17 any benefits under this chapter (determined
18 without regard to any temporary extension of
19 coverage and without regard to any benefits
20 available under a nongroup contract); and

21 “(2) any individual who—

22 “(A) ceases to meet the requirements for
23 being considered an unmarried dependent child
24 under this chapter;

1 “(B) on the day before so ceasing to meet
2 the requirements referred to in subparagraph
3 (A), was covered under a basic plan under this
4 chapter as a member of the family of an em-
5 ployee or annuitant; and

6 “(C) would not otherwise be eligible for
7 any benefits under this chapter (determined
8 without regard to any temporary extension of
9 coverage and without regard to any benefits
10 available under a nongroup contract).

11 “(c)(1) The Office shall prescribe regulations and
12 provide for the inclusion of appropriate terms in contracts
13 with carriers to provide that—

14 “(A) with respect to an employee who becomes
15 (or will become) eligible for continued coverage
16 under this section as a result of separation from
17 service, the separating agency shall, before the end
18 of the 30-day period beginning on the date as of
19 which coverage (including any temporary extensions
20 of coverage) would otherwise end, notify the individ-
21 ual of such individual’s rights under this section;
22 and

23 “(B) with respect to a child of an employee or
24 annuitant who becomes eligible for continued cov-
25 erage under this section as a result of ceasing to

1 meet the requirements for being considered a mem-
2 ber of the employee's or annuitant's family—

3 “(i) the employee or annuitant may pro-
4 vide written notice of the child's change in sta-
5 tus (complete with the child's name, address,
6 and such other information as the Office may
7 by regulation require)—

8 “(I) to the employee's employing
9 agency; or

10 “(II) in the case of an annuitant, to
11 the Office; and

12 “(ii) if the notice referred to in clause (i)
13 is received within 60 days after the date as of
14 which the child involved first ceases to meet the
15 requirements involved, the employing agency or
16 the Office (as the case may be) must, within 14
17 days after receiving such notice, notify the child
18 of such child's rights under this section.

19 “(2) In order to obtain continued coverage under this
20 section, an appropriate written election (submitted in such
21 manner as the Office by regulation prescribes) must be
22 made—

23 “(A) in the case of an individual seeking contin-
24 ued coverage based on a separation from service, be-

1 fore the end of the 60-day period beginning on the
2 later of—

3 “(i) the effective date of the separation; or

4 “(ii) the date the separated individual re-
5 ceives the notice required under paragraph
6 (1)(A); or

7 “(B) in the case of an individual seeking con-
8 tinued coverage based on a change in circumstances
9 making such individual ineligible for coverage as an
10 unmarried dependent child, before the end of the 60-
11 day period beginning on the later of—

12 “(i) the date as of which such individual
13 first ceases to meet the requirements for being
14 considered an unmarried dependent child; or

15 “(ii) the date such individual receives no-
16 tice under paragraph (1)(B)(ii);

17 except that if a parent fails to provide the notice re-
18 quired under paragraph (1)(B)(i) in timely fashion,
19 the 60-day period under this subparagraph shall be
20 based on the date under clause (i), irrespective of
21 whether or not any notice under paragraph
22 (1)(B)(ii) is provided.

23 “(d)(1)(A) An individual receiving continued coverage
24 under this section shall be required to pay currently into

1 the Fund, under arrangements satisfactory to the Office,
2 an amount equal to the sum of—

3 “(i) the employee and Government contribu-
4 tions which would be required in the case of an em-
5 ployee enrolled in the same plan and level of bene-
6 fits; and

7 “(ii) an amount, determined under regulations
8 prescribed by the Office, necessary for administra-
9 tive expenses, but not to exceed 2 percent of the
10 total amount under clause (i).

11 “(B) Payments under this section to the Fund
12 shall—

13 “(i) in the case of an individual whose contin-
14 ued coverage is based on such individual’s separa-
15 tion, be made through the agency which last em-
16 ployed such individual; or

17 “(ii) in the case of an individual whose contin-
18 ued coverage is based on a change in circumstances
19 referred to in subsection (c)(2)(B), be made
20 through—

21 “(I) the Office if, at the time coverage
22 would (but for this section) otherwise have been
23 discontinued, the individual was covered as the
24 child of an annuitant; or

1 “(II) the employee’s employing agency as
2 of the time referred to in subclause (I) if the
3 individual was covered as the child of an em-
4 ployee at such time.

5 “(2) If an individual elects to continue coverage
6 under this section before the end of the applicable period
7 under subsection (c)(2), but after such individual’s cov-
8 erage under this chapter (including any temporary exten-
9 sions of coverage) expires, coverage shall be restored retro-
10 actively, with appropriate contributions (determined in ac-
11 cordance with paragraph (1)) and claims (if any), to the
12 same extent and effect as though no break in coverage
13 had occurred.

14 “(3)(A) An individual making an election under sub-
15 section (c)(2)(B) may, at such individual’s option, elect
16 coverage either as an individual or for self and family.

17 “(B) For the purpose of this paragraph, members of
18 an individual’s family shall be determined in the same way
19 as would apply under this chapter in the case of an en-
20 rolled employee.

21 “(C) Nothing in this paragraph shall be considered
22 to limit an individual making an election under subsection
23 (c)(2)(A) to coverage for self alone.

24 “(e)(1) Continued coverage under this section may
25 not extend beyond—

1 “(A) in the case of an individual whose contin-
2 ued coverage is based on separation from service,
3 the date which is 18 months after the effective date
4 of the separation; or

5 “(B) in the case of an individual whose contin-
6 ued coverage is based on ceasing to meet the re-
7 quirements for being considered an unmarried de-
8 pendent child, the date which is 36 months after the
9 date on which the individual first ceases to meet
10 those requirements, subject to paragraph (2).

11 “(2)(A) In the case of an individual described in sub-
12 paragraph (B), extended coverage under this section may
13 not extend beyond the date which is 36 months after the
14 separation date referred to in subparagraph (B)(iii).

15 “(B) This paragraph applies with respect to any indi-
16 vidual who—

17 “(i) ceases to meet the requirements for being
18 considered an unmarried dependent child;

19 “(ii) as of the day before so ceasing to meet the
20 requirements referred to in clause (i), was covered
21 as the child of a former employee receiving contin-
22 ued coverage under this section based on the former
23 employee’s separation from service; and

24 “(iii) so ceases to meet the requirements re-
25 ferred to in clause (i) before the end of the 18-

1 month period beginning on the date of the former
2 employee's separation from service.

3 “(f)(1) The Office shall prescribe regulations under
4 which, in addition to any individual otherwise eligible for
5 continued coverage under this section, and to the extent
6 practicable, continued coverage may also, upon appro-
7 priate written application, be afforded under this sec-
8 tion—

9 “(A) to any individual who—

10 “(i) if subparagraphs (A) and (C) of para-
11 graph (10) of section 8901 were disregarded,
12 would be eligible to be considered a former
13 spouse within the meaning of such paragraph;
14 but

15 “(ii) would not, but for this subsection, be
16 eligible to be so considered; and

17 “(B) to any individual whose coverage as a
18 family member would otherwise terminate as a result
19 of a legal separation.

20 “(2) The terms and conditions for coverage under the
21 regulations shall include—

22 “(A) consistent with subsection (c), any nec-
23 essary notification provisions, and provisions under
24 which an election period of at least 60 days' dura-
25 tion is afforded;

1 “(B) terms and conditions identical to those
2 under subsection (d), except that contributions to
3 the Fund shall be made through such agency as the
4 Office by regulation prescribes;

5 “(C) provisions relating to the termination of
6 continued coverage, except that continued coverage
7 under this section may not (subject to paragraph
8 (3)) extend beyond the date which is 36 months
9 after the date on which the qualifying event under
10 this subsection (the date of divorce, annulment, or
11 legal separation, as the case may be) occurs; and

12 “(D) provisions designed to ensure that any
13 coverage pursuant to this subsection does not ad-
14 versely affect any eligibility for coverage which the
15 individual might otherwise have under this chapter
16 (including as a result of any change in personal cir-
17 cumstances) if this subsection had not been enacted.

18 “(3) In the case of an individual—

19 “(A) who becomes eligible for continued cov-
20 erage under this subsection based on a divorce, an-
21 nulment, or legal separation from a person who, as
22 of the day before the date of the divorce, annulment,
23 or legal separation (as the case may be) was receiv-
24 ing continued coverage under this section for self

1 and family based on such person's separation from
2 service; and

3 "(B) whose divorce, annulment, or legal separa-
4 tion (as the case may be) occurs before the end of
5 the 18-month period beginning on the date of the
6 separation from service referred to in subparagraph
7 (A),

8 extended coverage under this section may not extend be-
9 yond the date which is 36 months after the date of the
10 separation from service, as referred to in subparagraph
11 (A).

12 **"§ 8911b. Coverage for certain other employees**

13 "(a)(1) An employee enrolled in a basic plan under
14 this chapter who is placed in a leave without pay status
15 may have such employee's coverage and the coverage of
16 members of such employee's family continued under the
17 plan for not to exceed 12 months under regulations pre-
18 scribed by the Office of Personnel Management. The regu-
19 lations may provide for the waiving of contributions by
20 the employee.

21 "(2) An employee who enters on approved leave with-
22 out pay to serve as a full-time officer or employee of an
23 organization composed primarily of employees within 60
24 days after entering on that leave without pay, may file
25 with such employee's employing agency an election to con-

1 tinue such employee's health benefits enrollment and ar-
2 range to pay currently into the Fund, through such em-
3 ployee's employing agency, both employee and agency con-
4 tributions from the beginning of leave without pay. The
5 employing agency shall forward the enrollment charges so
6 paid to the Fund. If the employee does not so elect, such
7 employee's enrollment will continue during nonpay status
8 and end as provided by paragraph (1) and implementing
9 regulations.

10 “(b)(1)(A) The Office shall prescribe regulations
11 under which temporary employees (who meet the require-
12 ments of paragraph (2)) may enroll, either as an individ-
13 ual or for self and family, in a basic plan under this chap-
14 ter.

15 “(B) To be eligible to enroll under this subsection,
16 a temporary employee must have completed 12 months of
17 current continuous employment, excluding any break in
18 service of 5 days or less.

19 “(2) Any temporary employee enrolled in a basic plan
20 under this subsection shall be responsible for paying,
21 through withholdings from pay, both employee and Gov-
22 ernment contributions.

1 **“§8911c. Coverage of restored employees and survi-**
2 **vor or disability annuitants**

3 “(a) An employee enrolled in a basic plan under this
4 chapter who is removed or suspended without pay and
5 later reinstated or restored to duty on the ground that
6 the removal or suspension was unjustified or unwarranted
7 may, at such employee’s option, enroll as a new employee
8 or have such employee’s coverage restored, with appro-
9 priate adjustments made in contributions and claims, to
10 the same extent and effect as though the removal or sus-
11 pension had not taken place.

12 “(b) A surviving spouse whose survivor annuity under
13 this title was terminated because of remarriage and is
14 later restored may, under such regulations as the Office
15 of Personnel Management may prescribe, enroll in a basic
16 plan under this chapter if such spouse was covered by any
17 such plan immediately before such annuity was termi-
18 nated.

19 “(c) A disability annuitant whose disability annuity
20 under section 8337 was terminated and is later restored
21 under the second or third sentence of subsection (e) of
22 such section may, under regulations prescribed by the Of-
23 fice, enroll in a basic plan under this chapter if such annu-
24 itant was covered by any such plan immediately before
25 such annuity was terminated.

1 **“§ 8911d. Double coverage; change in family status**

2 “(a) If an employee, annuitant, or other individual
3 eligible to enroll in a basic plan under this chapter has
4 a spouse who is also eligible to enroll, either spouse, but
5 not both, may enroll for self and family, or each spouse
6 may enroll as an individual. However, an individual may
7 not be covered both as an enrollee and as a family mem-
8 ber.

9 “(b) An employee, annuitant, or other individual en-
10 rolled in a basic plan under this chapter may change such
11 individual’s coverage or that of the individual and mem-
12 bers of such individual’s family by an application filed
13 within 60 days after a change in family status or at other
14 times and under conditions prescribed by regulations of
15 the Office of Personnel Management.

16 **“§ 8911e. Clarifying provisions**

17 “The following rules shall apply in administering the
18 provisions of sections 8911 through 8911d:

19 “(1) In administering a provision which re-
20 quires that an individual currently be, or previously
21 have been, enrolled in (or covered under) a basic
22 health benefits plan, as a condition for continued en-
23 rollment or other treatment under this chapter, en-
24 rollment in (or coverage under) a plan under this
25 chapter (as previously in effect) shall be treated as
26 if it had been under a basic health benefits plan.

1 “(2) In order to compute any remaining period
2 of eligibility for continued coverage (where eligibility
3 is limited to a specific term), any period of contin-
4 ued coverage under this chapter (as previously in ef-
5 fect) shall be treated as a period of continued cov-
6 erage under a basic health benefits plan.

7 “(3) The Office of Personnel Management shall
8 prescribe rules relating to procedures for continuing
9 the coverage of an individual who is last covered (be-
10 fore first starting continued coverage under a basic
11 health benefits plan, as an annuitant or otherwise)
12 under a health benefits plan under this chapter (as
13 previously in effect). The rules shall include provi-
14 sions to provide that if continued coverage is elected,
15 but no basic plan under this chapter is indicated,
16 coverage shall be under the Governmentwide plan.

17 “(4) The Office shall prescribe any other rules
18 which may be necessary to carry out the purposes of
19 this section.

20 **“§ 8912. Flexible spending plan**

21 “The Office of Personnel Management shall by regu-
22 lation provide for the establishment of a flexible spending
23 plan. Such plan—

24 “(1) shall be available to employees with health
25 insurance coverage under this chapter;

1 “(2) shall be designed and maintained in a
2 manner that ensures that benefits—

3 “(A) meet the requirements for exclusion
4 from gross income under section 105(b) of the
5 Internal Revenue Code of 1986; and

6 “(B) are provided pursuant to salary re-
7 duction agreements meeting the requirements of
8 section 125 of the Internal Revenue Code of
9 1986 for exclusion from gross income;

10 “(3) shall require, as a condition for participa-
11 tion, that the employee agree that the amounts de-
12 ducted or withheld from pay under the plan—

13 “(A) shall be sufficient to pay the full
14 amount of the employee contributions for any
15 basic or supplementary health benefits plan in
16 which the employee is enrolled; and

17 “(B) shall be used for that purpose;

18 “(4) shall provide that any amounts in excess
19 of those required under paragraph (3) may be used
20 for any deductible, copayment, coinsurance, or other
21 amount for which the employee is liable under a
22 basic or supplementary health benefits plan; and

23 “(5) shall provide that any amounts forfeited
24 under the plan shall be transferred to a separate ac-
25 count—

1 “(A) which shall be within the Employees
2 Health Benefits Fund; and

3 “(B) which shall be used for purposes of
4 the programs under section 8919(e).

5 **“§ 8913. Federal Employees Health Benefits Board**

6 “(a) There shall be established a Federal Employees
7 Health Benefits Board.

8 “(b)(1) The Board shall be composed of 6 members,
9 all of whom shall be appointed by the President, except
10 that—

11 “(A) 2 shall be appointed taking into consider-
12 ation any recommendations made by the Speaker of
13 the House of Representatives after consultation with
14 the minority leader of the House of Representatives;
15 and

16 “(B) 2 shall be appointed taking into consider-
17 ation any recommendations made by the majority
18 leader of the Senate after consultation with the mi-
19 nority leader of the Senate.

20 “(2) A member of the Board shall be appointed for
21 a term of 4 years, except that of the members first ap-
22 pointed—

23 “(A) 2 shall be appointed for a term of 3 years;
24 and

25 “(B) 2 shall be appointed for a term of 2 years.

1 Terms of the members first appointed shall be specified
2 by the President at the time of appointment.

3 “(3)(A) A vacancy on the Board shall be filled in the
4 manner in which the original appointment was made.

5 “(B) An individual chosen to fill a vacancy shall be
6 appointed for the unexpired term of the member replaced.

7 “(4) A member may continue to serve after the expi-
8 ration of such member’s term until a successor is ap-
9 pointed, but for not more than 12 months.

10 “(5) A chairman shall be elected by the members of
11 the Board.

12 “(6) Any appointment or recommendation under this
13 subsection shall be made from among individuals who—

14 “(A) represent organizations representing sub-
15 stantial numbers of employees or annuitants; and

16 “(B) are generally recognized for their knowl-
17 edge and experience in the field of health insurance,
18 health care, or employee compensation.

19 “(c) In carrying out their responsibilities under this
20 chapter, members of the Board shall act solely in the in-
21 terest of individuals participating in the Governmentwide
22 plan.

23 “(d) The Board may—

24 “(1) appoint such personnel as may be nec-
25 essary; and

1 “(2) procure the services of experts or consult-
2 ants in accordance with section 3109.

3 **“§ 8914. Employees Health Benefits Fund**

4 “(a) There is in the Treasury of the United States
5 an Employees Health Benefits Fund which is adminis-
6 tered by the Office of Personnel Management. All con-
7 tributions of enrollees and the Government made under
8 this chapter shall be paid into the Fund. The Fund is
9 available—

10 “(1) without fiscal year limitation for benefits
11 payable under the Governmentwide plan and all pay-
12 ments to approved health benefits plans under sec-
13 tion 8908 or 8909; and

14 “(2) to pay expenses for administering this
15 chapter within the limitations that may be specified
16 annually by Congress.

17 “(b)(1) Portions of the contributions made by enroll-
18 ees in any of the basic health benefits plans and by the
19 Government on their behalf shall be regularly set aside
20 in the Fund as follows:

21 “(A) From contributions for the Government-
22 wide plan, those portions allocable to defraying the
23 cost of administering such plan and maintaining a
24 contingency reserve for such plan, respectively, as
25 determined under section 8905(a).

1 “(B) From the contributions for each of the
2 other basic plans under this chapter, a percentage
3 (not to exceed the percentage of the total enrollment
4 charge under the Governmentwide plan allocable to
5 defraying administrative costs attributable to such
6 plan) determined by the Office to be reasonably ade-
7 quate to pay the administrative costs attributable to
8 the basic plan involved.

9 “(2) The Office, from time to time and in amounts
10 it considers appropriate, may transfer unused funds for
11 administrative expenses of the Governmentwide plan to
12 the contingency reserve of such plan. Such contingency re-
13 serve may be used to defray increases in future rates
14 under, or may be applied to reduce the contributions of
15 enrollees and the Government to, the Governmentwide
16 plan, as the Office shall from time to time determine.

17 “(3)(A) Of any amounts paid into the Fund for ad-
18 ministrative expenses, 90 percent shall be available for ex-
19 penses incurred by the Office and 10 percent shall be
20 available for expenses incurred by the Board.

21 “(B) The Office, from time to time and in amounts
22 it considers appropriate, may transfer any unused funds
23 for administrative expenses of the respective basic health
24 benefits plans to the account established under section
25 8912(5) to subsidize the programs under section 8919(e).

1 “(c) The Secretary of the Treasury may invest and
2 reinvest any of the money in the Fund in interest-bearing
3 obligations of the United States, and may sell these obliga-
4 tions for the purposes of the Fund. The interest on and
5 the proceeds from the sale of these obligations become a
6 part of the Fund.

7 “(d) When the assets, liabilities, and membership of
8 employee organizations sponsoring or underwriting plans
9 approved under section 8909 are merged, the assets and
10 liabilities of the plans sponsored or underwritten by the
11 merged organizations shall be transferred at the beginning
12 of the contract term next following the date of the merger
13 to the plan sponsored or underwritten by the successor
14 organization. Each employee, annuitant, former spouse, or
15 person having continued coverage under section 8911a af-
16 fected by a merger shall be transferred to the plan spon-
17 sored or underwritten by the successor organization unless
18 he enrolls in another supplementary plan under this chap-
19 ter.

20 **“§8915. Debarment and other sanctions against pro-**
21 **viders**

22 “(a)(1) For the purpose of this section, an individual
23 or entity shall be considered to have been convicted of a
24 criminal offense if—

1 “(A) a judgment of conviction for such offense
2 has been entered against the individual or entity by
3 a Federal, State, or local court;

4 “(B) there has been a finding of guilt against
5 the individual or entity by a Federal, State, or local
6 court with respect to such offense;

7 “(C) a plea of guilty or nolo contendere by the
8 individual or entity has been accepted by a Federal,
9 State, or local court with respect to such offense; or

10 “(D) in the case of an individual, the individual
11 has entered a first offender or other program pursu-
12 ant to which a judgment of conviction for such of-
13 fense has been withheld;

14 without regard to the pendency or outcome of any appeal
15 (other than a judgment of acquittal based on innocence)
16 or request for relief on behalf of the individual or entity.

17 “(2)(A) Notwithstanding any other provision of this
18 chapter, if a provider is barred under subsection (b) or
19 (c) from participating in the program under this chapter,
20 no payment may be made by any basic or supplementary
21 plan under this chapter (to such provider or by reimburse-
22 ment) for any service or supply furnished by such provider
23 during the period of the debarment.

1 “(B) Each contract under this chapter shall contain
2 such provisions as may be necessary to carry out subpara-
3 graph (A) and the other provisions of this section.

4 “(b) The Office of Personnel Management may bar
5 the following providers of health care services or supplies
6 from participating in the program under this chapter:

7 “(1) Any provider that has been convicted,
8 under Federal or State law, of a criminal offense re-
9 lating to fraud, corruption, breach of fiduciary re-
10 sponsibility, or other financial misconduct in connec-
11 tion with the delivery of a health care service or sup-
12 ply.

13 “(2) Any provider that has been convicted,
14 under Federal or State law, of a criminal offense re-
15 lating to neglect or abuse of patients in connection
16 with the delivery of a health care service or supply.

17 “(3) Any provider that has been convicted,
18 under Federal or State law, in connection with the
19 interference with or obstruction of an investigation
20 or prosecution of a criminal offense described in
21 paragraph (1) or (2).

22 “(4) Any provider that has been convicted,
23 under Federal or State law, of a criminal offense re-
24 lating to the unlawful manufacture, distribution,
25 prescription, or dispensing of a controlled substance.

1 “(5) Any provider—

2 “(A) whose license to provide health care
3 services or supplies has been revoked, sus-
4 pended, restricted, or not renewed, by a State
5 licensing authority for reasons relating to the
6 provider’s professional competence, professional
7 performance, or financial integrity; or

8 “(B) that surrendered such a license while
9 a formal disciplinary proceeding was pending
10 before such an authority, if the proceeding con-
11 cerned the provider’s professional competence,
12 professional performance, or financial integrity.

13 “(c) Whenever the Office determines—

14 “(1) in connection with a claim presented under
15 this chapter, that a provider of health care services
16 or supplies—

17 “(A) has charged for health care services
18 or supplies that the provider knows or should
19 have known were not provided as claimed; or

20 “(B) has charged for health care services
21 or supplies in an amount substantially in excess
22 of such provider’s customary charges for such
23 services or supplies, or charged for health care
24 services or supplies which are substantially in
25 excess of the needs of the covered individual or

1 which are of a quality that fails to meet profes-
2 sionally recognized standards for such services
3 or supplies;

4 “(2) that a provider of health care services or
5 supplies has knowingly made, or caused to be made,
6 any false statement or misrepresentation of a mate-
7 rial fact which is reflected in a claim presented
8 under this chapter; or

9 “(3) that a provider of health care services or
10 supplies has knowingly failed to provide any infor-
11 mation required by the Office, a carrier, or other
12 person administering a plan under this chapter to
13 determine whether a payment or reimbursement is
14 payable under this chapter or the amount of any
15 such payment or reimbursement;

16 the Office may, in addition to any other penalties that may
17 be prescribed by law, and after consultation with the At-
18 torney General, impose a civil monetary penalty of not
19 more than \$10,000 for any item or service involved. In
20 addition, such a provider shall be subject to an assessment
21 of not more than twice the amount claimed for each such
22 item or service. In addition, the Office may make a deter-
23 mination in the same proceeding to bar such provider from
24 participating in the program under this chapter.

25 “(d) The Office—

1 “(1) may not initiate any debarment proceeding
2 against a provider, based on such provider’s having
3 been convicted of a criminal offense, later than 6
4 years after the date on which such provider is so
5 convicted; and

6 “(2) may not initiate any action relating to a
7 civil penalty, assessment, or debarment under this
8 section, in connection with any claim, later than 6
9 years after the date the claim is presented, as deter-
10 mined under regulations prescribed by the Office.

11 “(e) In making a determination relating to the appro-
12 priateness of imposing or the period of any debarment
13 under this section, or the appropriateness of imposing or
14 the amount of any civil penalty or assessment under this
15 section, the Office shall take into account—

16 “(1) the nature of any claims involved and the
17 circumstances under which they were presented;

18 “(2) the degree of culpability, history of prior
19 offenses or improper conduct of the provider in-
20 volved; and

21 “(3) such other matters as justice may require.

22 “(f)(1) The debarment of a provider under subsection
23 (b) or (c) shall be effective at such time and upon such
24 reasonable notice to such provider, covered individuals,

1 carriers, and other persons as may be specified in regula-
2 tions prescribed by the Office.

3 “(2)(A) Except as provided in subparagraph (B), a
4 debarment shall be effective with respect to any health
5 care services or supplies furnished by a provider on or
6 after the effective date of such provider’s debarment.

7 “(B) A debarment shall not apply with respect to in-
8 patient institutional services furnished to an individual
9 who was admitted to the institution before the date the
10 debarment would otherwise become effective until the pas-
11 sage of 30 days after such date, unless the Office deter-
12 mines that the health or safety of the individual receiving
13 those services warrants that a shorter period, or that no
14 such period, be afforded.

15 “(3) Any notice referred to in paragraph (1) shall
16 specify the date as of which debarment becomes effective
17 and the minimum period of time for which such debarment
18 is to remain effective.

19 “(4)(A) A provider barred from participating in the
20 program under this chapter may, after the expiration of
21 the minimum period of debarment referred to in para-
22 graph (3), apply to the Office, in such manner as the Of-
23 fice may by regulation prescribe, for termination of the
24 debarment.

25 “(B) The Office may—

1 “(i) terminate the debarment of a provider,
2 pursuant to an application filed by such provider
3 after the end of the minimum debarment period, if
4 the Office determines, based on the conduct of the
5 applicant, that—

6 “(I) there is no basis under subsection (b)
7 or (c) for continuing the debarment; and

8 “(II) there are reasonable assurances that
9 the types of actions which formed the basis for
10 the original debarment have not recurred and
11 will not recur; or

12 “(ii) notwithstanding any provision of subpara-
13 graph (A), terminate the debarment of a provider,
14 pursuant to an application filed by such provider be-
15 fore the end of the minimum debarment period, if
16 the Office determines that—

17 “(I) based on the conduct of the applicant,
18 the requirements of subclauses (I) and (II) of
19 clause (i) have been met; and

20 “(II) early termination under this clause is
21 warranted based on the fact that the provider
22 is the sole community provider or the sole
23 source of essential specialized services in a com-
24 munity, or other similar circumstances.

25 “(5) The Office shall—

1 “(A) promptly notify the appropriate State or
2 local agency or authority having responsibility for
3 the licensing or certification of a provider barred
4 from participation in the program under this chapter
5 of the fact of the debarment, as well as the rea-
6 sons for such debarment;

7 “(B) request that appropriate investigations be
8 made and sanctions invoked in accordance with ap-
9 plicable law and policy; and

10 “(C) request that the State or local agency or
11 authority keep the Office fully and currently in-
12 formed with respect to any actions taken in re-
13 sponse to the request.

14 “(6) The Office shall, upon written request and pay-
15 ment of a reasonable charge to defray the cost of comply-
16 ing with such request, furnish a current list of any provid-
17 ers barred from participating in the program under this
18 chapter, including the minimum period of time remaining
19 under the terms of each provider’s debarment.

20 “(g)(1) The Office may not make a determination
21 under subsection (b) or (c) adverse to a provider of health
22 care services or supplies until such provider has been given
23 written notice and an opportunity for a hearing on the
24 record. A provider is entitled to be represented by counsel,

1 to present witnesses, and to cross-examine witnesses
2 against the provider in any such hearing.

3 “(2) Notwithstanding section 8918 any person ad-
4 versely affected by a final decision under paragraph (1)
5 may obtain review of such decision in the United States
6 Court of Appeals for the Federal Circuit. A written peti-
7 tion requesting that the decision be modified or set aside
8 must be filed within 60 days after the date on which
9 such person is notified of such decision.

10 “(3) Matters that were raised or that could have been
11 raised in a hearing under paragraph (1) or an appeal
12 under paragraph (2) may not be raised as a defense to
13 a civil action by the United States to collect a penalty or
14 assessment imposed under this section.

15 “(h) A civil action to recover civil monetary penalties
16 or assessments under subsection (c) shall be brought by
17 the Attorney General in the name of the United States,
18 and may be brought in the United States district court
19 for the district where the claim involved was presented or
20 where the person subject to the penalty resides. Amounts
21 recovered under this section shall be paid to the Office
22 for deposit into the Fund.

23 “(i) The Office shall prescribe regulations under
24 which, with respect to services or supplies furnished by
25 a debarred provider to a covered individual during the pe-

1 rioid of such provider’s debarment, payment or reimburse-
2 ment under this chapter may be made, notwithstanding
3 the fact of such debarment, if such individual did not know
4 or could not reasonably be expected to have known of the
5 debarment. In any such instance, the carrier or other ad-
6 ministrative entity involved shall take appropriate meas-
7 ures to ensure that the individual is informed of the debar-
8 ment and the minimum period of time remaining under
9 the terms of the debarment.

10 **“§8916. Open enrollment periods; informational re-**
11 **quirements**

12 “(a)(1) Under regulations which it shall prescribe,
13 the Office of Personnel Management shall, before the start
14 of each administrative year, provide a period of not less
15 than 3 weeks during which—

16 “(A) any eligible individual may elect to become
17 enrolled in a basic or supplementary plan under this
18 chapter, or begin participating in the flexible spend-
19 ing plan under section 8912;

20 “(B) an individual enrolled in a basic or supple-
21 mentary plan under this chapter may elect to termi-
22 nate the enrollment, transfer to another such plan,
23 or make any other change in the terms or conditions
24 of such individual’s enrollment which is allowable;
25 and

1 “(C) any individual participating in the flexible
2 spending plan under section 8912 may elect to cease
3 participating in such plan or make any other change
4 allowable with respect to such plan.

5 “(2) In addition to any opportunity afforded under
6 paragraph (1), an individual enrolled in a basic plan under
7 this chapter shall be permitted to transfer such individ-
8 ual’s enrollment to another such plan, cancel such enroll-
9 ment, or make any other election allowable under this
10 chapter at such other times and subject to such conditions
11 as the Office may by regulation prescribe.

12 “(b)(1) The Office shall make available to each indi-
13 vidual eligible to enroll in a basic plan under this chapter
14 such information, in a form acceptable to the Office (after
15 consultation with the carrier, if any), as may be necessary
16 to enable the individual to make an informed choice with
17 respect to such plans and supplementary plans under this
18 chapter.

19 “(2) Each enrollee in a basic or supplementary health
20 benefits plan shall be issued an appropriate document set-
21 ting forth or summarizing—

22 “(A) the services or benefits, including maxi-
23 mums, limitations, and exclusions, to which the en-
24 rollee or the enrollee and any covered family mem-
25 bers are entitled thereunder;

1 “(B) the procedure for obtaining benefits; and

2 “(C) the principal provisions of the plan affect-
3 ing the enrollee and any eligible family members.

4 “(3)(A) In addition to any informational require-
5 ments otherwise provided for under this subsection, regu-
6 lations prescribed by the Office shall include provisions to
7 ensure that each employee eligible to enroll in a basic plan
8 under this chapter (whether actually enrolled or not) is
9 notified in writing as to the rights afforded under section
10 8911a.

11 “(B) Notification under this paragraph shall be pro-
12 vided by employing agencies at an appropriate point in
13 time before each period under subsection (b)(1), so that
14 employees may be aware of their rights under section
15 8911a when making enrollment decisions during such
16 period.

17 **“§ 8917. Studies, reports, and audits**

18 “(a) The Office of Personnel Management shall make
19 a continuing study of the operation and administration of
20 this chapter, including surveys and reports on basic and
21 supplementary health benefits plans available to employees
22 and on the experience of the plans.

23 “(b) In carrying out this section, the Office shall, on
24 an annual basis, compile statistics and submit to the
25 Board a written report describing—

1 “(1) the degree to which the basic and supple-
2 mentary health benefits plans are utilized during the
3 period covered by the report; and

4 “(2) the overall cost to the Government associ-
5 ated with providing each of those types of benefits
6 during that period.

7 “(c) Each contract entered into under this chapter
8 with a carrier shall contain provisions requiring such car-
9 rier to—

10 “(1) furnish such reasonable reports as the Of-
11 fice determines to be necessary to enable it to carry
12 out its functions under this chapter; and

13 “(2) permit the Office and representatives of
14 the General Accounting Office to examine records of
15 the carrier as may be necessary to carry out the pur-
16 poses of this chapter.

17 “(d) Each Government agency shall keep such
18 records, make such certifications, and furnish the Office
19 with such information and reports as may be necessary
20 to enable the Office to carry out its functions under this
21 chapter.

22 **“§ 8918. Jurisdiction of courts**

23 “The district courts of the United States have origi-
24 nal jurisdiction, concurrent with the United States Claims

1 Court, of a civil action or claim against the United States
2 founded on this chapter.

3 **“§ 8919. Regulations**

4 “(a) The Office of Personnel Management may pre-
5 scribe regulations necessary to carry out this chapter, ex-
6 cept to the extent that regulatory authority is specifically
7 assigned to another agency.

8 “(b) The regulations of the Office may prescribe the
9 time at which and the manner and conditions under which
10 an employee is eligible to enroll in a basic or supple-
11 mentary plan under this chapter. The regulations may ex-
12 clude an employee on the basis of the nature and type
13 of his employment or conditions pertaining to it, such as
14 short-term appointment, seasonal or intermittent employ-
15 ment, and employment of like nature. The Office may not
16 exclude—

17 “(1) an employee or group of employees solely
18 on the basis of the hazardous nature of employment;

19 “(2) a teacher in the employ of the Board of
20 Education of the District of Columbia, whose pay is
21 fixed by section 1501 of title 31, District of Colum-
22 bia Code, on the basis of the fact that the teacher
23 is serving under a temporary appointment if the
24 teacher has been so employed by the Board for a pe-

1 riod or periods totaling not less than two school
2 years;

3 “(3) an employee who is occupying a position
4 on a part-time career employment basis (as defined
5 in section 3401(2)); or

6 “(4) an employee who is employed on a tem-
7 porary basis and is eligible under section 8911b(b).

8 “(c) The regulations of the Office shall provide for
9 the beginning and ending dates of coverage (including for
10 family members) under basic and supplementary health
11 benefit plans. The regulations may permit the coverage to
12 continue, exclusive of the temporary extension of coverage
13 under section 8907(b)(3) or 8910(c)(2) and any nongroup
14 coverage, until the end of the pay period in which an em-
15 ployee is separated from the service, or until the end of
16 the month in which an annuitant or former spouse ceases
17 to be entitled to annuity, and in case of the death of an
18 employee or annuitant, may permit a temporary extension
19 of the coverage of members of his family for not to exceed
20 90 days.

21 “(d) The Secretary of Agriculture shall prescribe reg-
22 ulations to effect the application and operation of this
23 chapter to an individual named by section 8901(1)(F).

24 “(e) The regulations of the Office shall provide for
25 the establishment of—

1 “(1) smoking-cessation and weight-control pro-
2 grams;

3 “(2) high-blood-pressure and cancer-screening
4 programs; and

5 “(3) other ‘wellness programs’ for Federal em-
6 ployees.

7 “(f)(1) The Office shall prescribe such regulations as
8 may be necessary to ensure that, for any annuitant eligible
9 to receive benefits both under this chapter and under part
10 A or B of title XVIII of the Social Security Act,
11 deductibles and coinsurance or copayment amounts under
12 this chapter shall be waived to the same extent as occurred
13 immediately before the date of enactment of the Federal
14 Employees Health Benefits Reform Act of 1993.

15 “(2) When an individual is eligible for benefits under
16 this chapter which would be duplicative of benefits under
17 part A or B of title XVIII of the Social Security Act, the
18 primary payer shall be the same as would have been the
19 case in those same circumstances immediately before the
20 date referred to in paragraph (1).

21 **“§ 8920. Effect of other statutes**

22 “Any provision of law outside of this chapter which
23 provides coverage or any other benefit under this chapter
24 to any individuals who (based on their being employed by
25 an entity other than the Government) would not otherwise

1 be eligible for any such coverage or benefit shall not apply
2 with respect to any individual appointed, transferred, or
3 otherwise commencing that type of employment on or after
4 October 1, 1988.”.

5 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (a) The last sentence of section 1840(d)(1) of the So-
7 cial Security Act (42 U.S.C. 1395s(d)(1)) is amended—

8 (1) by striking “8903 or 8903a” and inserting
9 “paragraph (1) or (2) of section 8903”; and

10 (2) by striking “8906” and inserting “8905”.

11 (b) Section 613(c) of the Alaska Railroad Transfer
12 Act of 1982 (45 U.S.C. 1212(c)) is repealed.

13 (c)(1) Section 832 of the Foreign Service Act of 1980
14 (22 U.S.C. 4069c) and section 16 of the Central Intel-
15 ligence Agency Act of 1949 (50 U.S.C. 403p) are each
16 amended—

17 (A) by amending subparagraph (B) of sub-
18 section (b)(1) to read as follows:

19 “(B) arranges to pay currently into the Em-
20 ployees Health Benefits Fund under section 8914 of
21 title 5, United States Code, an amount equal to the
22 sum which would be required under section
23 8911a(d)(1)(A) of such title.”; and

24 (B) by amending subsection (e) to read as fol-
25 lows:

1 “(e) For purposes of this section, the term ‘health
2 benefits plan’ means a health benefits plan described in
3 paragraph (1) or (2) of section 8903 of title 5, United
4 States Code.”.

5 (2) Section 833 of the Foreign Service Act of 1980
6 (22 U.S.C. 4069c-1) is repealed.

7 (d) Section 104(e) of the Indian Self-Determination
8 and Education Assistance Act (25 U.S.C. 450i(e)) is
9 amended—

10 (1) in the matter before paragraph (1) by strik-
11 ing “8914” and inserting “8920”; and

12 (2) in paragraph (3) by striking “8909” and in-
13 serting “8914”.

14 **SEC. 4. EFFECTIVE DATE; SAVINGS PROVISIONS; COORDI-**
15 **NATION.**

16 (a) EFFECTIVE DATE.—

17 (1) IN GENERAL.—This Act and the amend-
18 ments made by this Act shall take effect at the be-
19 ginning of the first fiscal year beginning at least 12
20 months after the date of enactment of this Act.

21 (2) SPECIAL RULE.—In order to facilitate the
22 timely implementation of the health benefits pro-
23 gram provided for by this Act, members of the Fed-
24 eral Employees Health Benefits Board may be ap-
25 pointed at any time on or after the first day of the

1 ninth month preceding the effective date under para-
2 graph (1), and, once constituted, the Board may ex-
3 ercise any authority which would be available to it
4 if the amendments made by this Act were then in
5 effect.

6 (b) SAVINGS PROVISIONS.—

7 (1) CLAIMS.—For purposes of determining the
8 rights of any individual covered by a health benefits
9 plan immediately before the effective date of this
10 Act, and the obligations of the carrier offering such
11 plan, the provisions of chapter 89 of title 5, United
12 States Code, and any contract thereunder, as in ef-
13 fect immediately before such effective date, shall
14 continue to apply in the same way as if an election
15 to transfer coverage to another such plan had been
16 made by or with respect to such individual during
17 the period last afforded before such effective date
18 under section 8905(f)(1) of such title (as then in
19 effect).

20 (2) DEBARMENTS.—

21 (A) ORDERS.—Any debarment order is-
22 sued under section 8902a of title 5, United
23 States Code, before this Act takes effect shall
24 continue in effect, according to its terms, unless
25 modified, terminated, or superseded in accord-

1 ance with applicable succeeding provisions of
2 law.

3 (B) PROCEEDINGS.—Nothing in this Act
4 shall affect any administrative proceeding pend-
5 ing under such section 8902a at the time this
6 Act takes effect. Orders shall be issued in such
7 proceedings and appeals shall be taken there-
8 from as if this Act had not been enacted.

9 (c) COORDINATION.—The Office of Personnel Man-
10 agement shall prescribe regulations to ensure that, after
11 the effective date of this Act, any class of individuals who
12 would then otherwise have been entitled to any coverage,
13 rights, or benefits under chapter 89 of title 5, United
14 States Code, but who (because of this Act) would cease
15 to be so entitled, shall be allowed to participate in the pro-
16 gram established by this Act.

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