

Office of Personnel Management

§ 894.101

894.704 What happens if I retire and then come back to work for the Federal Government?

Subpart H—Benefits in Underserved Areas

894.801 Will benefits be available in underserved areas?

AUTHORITY: 5 U.S.C. 8962; 5 U.S.C. 8992; subpart C also issued under sec. 1 of Pub. L. 110-279, 122 Stat. 2604.

SOURCE: 73 FR 50184, Aug. 26, 2008, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 894.101 Definitions.

This part is written as if the reader were an applicant or enrollee. Accordingly, the terms “you,” “your,” etc., refer, as appropriate, to the applicant or enrollee.

Acquiring an eligible child means one of the following:

- (1) Birth of a child;
- (2) Adoption of a child;
- (3) Acquisition of a foster child as described in § 890.101(a)(8) of this chapter;
- (4) Acquisition of a stepchild who lives with the enrollee in a regular parent-child relationship;
- (5) Establishment of a recognized natural child;
- (6) Residence change of the enrollee’s stepchild or recognized natural child who moves in with the enrollee; and
- (7) An otherwise eligible child becoming unmarried due to divorce or annulment of marriage, or death.

Administrator means the entity with which the Office of Personnel Management contracts to manage the enrollment and premium payment process for the Federal Employees Dental and Vision Insurance Program (FEDVIP).

Annuitant means an individual defined at 5 U.S.C. 8901(3). Generally, the term means a former employee who is entitled to an immediate annuity or a disability annuity under a retirement system established for employees. The term also generally includes those receiving a survivor annuity due to the death of a Federal employee or annuitant (survivor annuitants) and those receiving compensation from the Office of Workers’ Compensation Programs (compensationers). The term does not include former employees who retire

with a deferred annuity under 5 U.S.C. 8413, or former spouses of annuitants.

Carrier means a company with which the Office of Personnel Management contracts to provide dental and/or vision benefits.

Child means one of the following:

- (1)(i) A child born within marriage;
 - (ii) An adopted child;
 - (iii) A stepchild or foster child who lives with the enrollee in a regular parent-child relationship; or
 - (iv) A recognized natural child.
- (2) This definition does not include a grandchild (unless the grandchild meets all the requirements of a foster child as stated in § 890.101(a)(8) of this chapter).

(3) The child must be unmarried and under age 22. A child age 22 or over is eligible if the child is incapable of self-support because of a physical or mental disability that existed before the child reached age 22.

Compensation has the same meaning as found under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

Compensation means an individual who is receiving compensation and who the Department of Labor determines is unable to return to duty.

Covered position means a position in which an employee is not excluded from FEDVIP eligibility by law or regulation.

Days means calendar days.

Dependent means an unmarried child who is living with or receiving regular and substantial support from the enrollee.

Domestic partner means a person in a domestic partnership with an employee or annuitant.

Domestic partnership means a committed relationship between two adults of the same sex, in which the partners—

- (1) Are each other’s sole domestic partner and intend to remain so indefinitely;
- (2) Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);

(3) Are at least 18 years of age and mentally competent to consent to a contract;

(4) Share responsibility for a significant measure of each other's financial obligations;

(5) Are not married or joined in a civil union to anyone else;

(6) Are not a domestic partner of anyone else;

(7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the U.S. jurisdiction in which the domestic partnership was formed;

(8) Provide documentation demonstrating fulfillment of the requirements of paragraphs (1) through (7) of this definition as prescribed by OPM; and

(9) Certify that they understand that willful falsification of the documentation described in paragraph (8) of this definition may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation under 18 U.S.C. 1001.

(10) Certify that they would marry but for the failure of their state of residence to permit same-sex marriage.

(11) Termination of Domestic Partnership. An enrollee or his or her domestic partner must notify the employing office within thirty calendar days in the event that any of the conditions listed in paragraphs (1) through (7) of this definition are no longer met, in which case a domestic partnership will be deemed terminated.

Employee means an individual defined in 5 U.S.C. 8901. For the purposes of this subpart, the term employee additionally means an employee of the United States Postal Service and an employee of the District of Columbia courts.

Enrollment reconsideration means the Administrator's review of its initial enrollment decision to determine if it followed the law and regulations correctly in making the initial decision concerning FEDVIP eligibility.

Family member means a spouse (including a spouse under a valid common law marriage) and/or unmarried dependent child(ren).

OPM means the Office of Personnel Management.

OWCP means the Office of Workers' Compensation Programs, U.S. Department of Labor.

Premium conversion means the payment of FEDVIP premiums using pre-tax dollars. See § 892.102 of this chapter for a discussion of how premium conversion works.

QLE means a qualifying life event.

Recognized natural child means a biological child born outside of marriage. A recognized natural child is an eligible family member if the child lives with the enrollee or receives financial support from the enrollee.

Regular parent-child relationship means that the enrollee is exercising parental authority, responsibility, and control over the child; is caring for, supporting the child; and is making the decisions about the child's education and medical care.

Stepchild means:

(1) Except as provided in paragraph (2) of this definition, the child of an enrollee's spouse or domestic partner and shall continue to refer to such child after the enrollee's divorce from the spouse, termination of the domestic partnership, or death of the spouse or domestic partner, so long as the child continues to live with the enrollee in a regular parent-child relationship.

(2) The child of an enrollee and a domestic partner who otherwise meet the requirements of paragraphs (1) through (8), set forth in the definition of Domestic Partnership, but live in a state that has authorized marriage by same-sex couples prior to the first day of Open Season, shall not be considered a stepchild who is the child of a domestic partner in the following plan year. The determination of whether a state's marriage laws render a child ineligible for coverage as a stepchild who is the child of a domestic partner shall be made once annually, based on the law of the state where the same-sex couple lives on the last day before Open Season begins for enrollment for the following year. A child's eligibility for coverage as a stepchild who is the child of a domestic partner in a particular plan year shall not be affected by a mid-year change to a state's marriage law or by the couple's relocation to a different state. For midyear enrollment changes involving the addition of

a new stepchild, as defined by this regulation, outside of Open Season, the determination of whether a state's marriage laws render the child ineligible for coverage shall be made at the time the employee notifies the employing office of his or her desire to cover the child.

Type of enrollment means one of the following:

- (1) Self only;
- (2) Self plus one; or
- (3) Self and family.

[73 FR 50184, Aug. 26, 2008, as amended at 78 FR 64879, Oct. 30, 2013]

§ 894.102 If I have a pre-existing dental or vision condition, may I join FEDVIP?

Yes. Pre-existing conditions do not exclude you from coverage under FEDVIP. The *Administrator* may not deny an individual the right to enroll solely because of a preexisting dental or vision condition.

§ 894.103 How do I enroll?

You may enroll through an *Administrator* contracted by OPM to facilitate the enrollment process. Your Federal agency, retirement system, or *OWCP* office will advise you of the enrollment process available to you.

§ 894.104 Who makes enrollment decisions and reconsiderations?

The *Administrator* makes enrollment decisions and the *Administrator* reviews requests for reconsideration of an enrollment decision. The *Administrator's* initial enrollment decision denying enrollment or an opportunity to change coverage must be in writing and must inform you about your right to reconsideration.

§ 894.105 Who may correct an error in my enrollment?

(a) The *Administrator* may correct administrative errors about the processing of your enrollment or changes in enrollment.

(b) OPM may order correction of an administrative error if it receives evidence that it would be against equity (fairness) and good conscience not to order the correction. This decision is made at the discretion of OPM and is not subject to review.

(c) If the correction gives you retroactive coverage, you must pay the premiums for all periods of the retroactive coverage. These premiums will not be on a pre-tax basis (they are not subject to premium conversion).

Subpart B—Coverage and Types of Enrollment

§ 894.201 What types of enrollments are available under FEDVIP?

FEDVIP has three *types of enrollment*:

- (a) Self only, which covers only the enrolled *employee* or *annuitant*;
- (b) Self plus one, which covers the enrolled *employee* or *annuitant* plus one eligible family member; and
- (c) Self and family, which covers the enrolled *employee* or *annuitant* and all eligible *family members*.

§ 894.202 If I enroll for self plus one, may I decide which family member to cover?

Yes, if you enroll for self plus one, you must state at the time you enroll which eligible *family member* you want to cover under your enrollment.

§ 894.203 If I have a self plus one enrollment, when may I change which family member I want to cover or change to self only?

You may change your covered *family member* under a self plus one enrollment or change to self only coverage in the following situations:

- (a) During the annual open season;
- (b) If your covered *family member* dies during the year; or
- (c) If your covered *family member* loses eligibility during the year.

§ 894.204 May I be enrolled in more than one dental or vision plan at a time?

You may be enrolled in a FEDVIP dental plan and a separate FEDVIP vision plan at the same time. But no one may enroll or be covered as a family member in a FEDVIP dental or vision plan if he or she is covered under another person's FEDVIP dental or vision self plus one or self and family enrollment, except as provided under § 890.302 (a)(2) through (4) of this chapter, with respect to dual enrollments.