

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 894

RIN 3206-AN91

#### **FEDVIP: Extension of Eligibility to Certain Employees on Temporary Appointments and Certain Employees on Seasonal and Intermittent Schedules; Enrollment Clarifications and Qualifying Life Events**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a proposed rule to expand eligibility for enrollment in the Federal Employees Dental and Vision Insurance Program (FEDVIP) to additional categories of Federal employees. This proposed rule expands eligibility for FEDVIP to certain Federal employees on temporary appointments and certain employees on seasonal and intermittent schedules that became eligible for Federal Employees Health Benefits (FEHB) enrollment beginning in 2015. This rule also expands access to FEDVIP benefits to certain firefighters on temporary appointments and intermittent emergency response personnel who became eligible for FEHB coverage in 2012. This proposed rule also updates the provisions on enrollment for active duty service members who become eligible for FEDVIP as uniformed service retirees pursuant to the National Defense Authorization Act of 2017 (FY17 NDAA). In addition, this rule proposes to add qualifying life events (QLEs) for enrollees who may become eligible for and enroll in dental and/or vision services from the Department of Veterans Affairs (VA). Lastly, the rule also proposes technical corrections and clarifications to the part.

**DATES:** OPM must receive comments on or before December 20, 2021.

**ADDRESSES:** You may submit comments, identified by docket number and/or

Regulatory Information Number (RIN) and title, by the following method:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Julia Elam, Program Analyst, at [julia.elam@opm.gov](mailto:julia.elam@opm.gov) or (202) 606-2128.

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority for This Rulemaking**

FEDVIP was created as a result of the passage of the Federal Employee Dental and Vision Benefits Enhancement Act of 2004, Public Law 108-496. This Act required OPM to make stand-alone dental and vision insurance available to Federal employees, retirees, and their dependents. As of August 3, 2021, FEDVIP has 5.4 million enrollees with approximately 7.3 million covered individuals. FEDVIP is available to eligible Federal civilian and U.S. Postal Service (USPS) employees, retirees (annuitants), survivor annuitants, compensationers, and their eligible family members (dependents); and certain TRICARE-eligible individuals (TEIs) who are authorized under Section 715 of Public Law 114-328, on an enrollee-pay-all basis; there is no government contribution toward premiums.

The program is administered by OPM in accordance with 5 U.S.C. chapters 89A and 89B and implementing regulations (5 CFR part 894). The authority to extend FEDVIP eligibility to additional groups of employees falls under OPM's regulatory authority at 5 U.S.C. 8962 and 5 U.S.C. 8992 to determine eligibility of employees based on the nature and type of employment.

##### **Discussion of the Proposed Changes**

###### *Addition of Newly Eligible Groups*

This rule will allow newly eligible individuals to enroll themselves and their family members in FEDVIP. Under current FEDVIP regulations at 5 CFR 894.302, Federal employees in certain

positions are not eligible to enroll in FEDVIP. This rule proposes to extend eligibility to enroll in FEDVIP to certain temporary Federal employees, and certain Federal employees on seasonal and intermittent schedules who are eligible for the FEHB. Consistent with Internal Revenue Code section 4980H, OPM expanded eligibility to enroll in the FEHB Program to these categories of Federal employees who are expected to work 130 hours per month, for at least 90 days, at 79 FR 62325 (October 17, 2014). This proposed rule expands eligibility to enroll in FEDVIP to this same group of employees under 5 CFR part 894 and allows them to enroll in FEDVIP.

In addition, the rule would allow certain temporary employees of the United States Postal Service (USPS) as well as certain USPS employees on seasonal and intermittent schedules expected to work 130 hours per month, for at least 90 days, to enroll for FEDVIP coverage as USPS does not offer separate dental and vision plans for this group.

Current FEDVIP regulations do not allow certain firefighters on temporary appointments and intermittent emergency response personnel for wildland fire protection to enroll. These employees are distinct from the categories described above because they might not meet the requirement of being expected to work 130 hours per calendar month for 90 days or more. In 2012, upon request by an employing agency, eligibility to enroll in the FEHB Program was extended to employees in positions that provide emergency response services for wildland fire protection, and to employees performing similar types of emergency response services if approved by OPM. This proposed rule similarly provides these employees eligibility to enroll in FEDVIP.

OPM seeks comments on how this expanded group of certain employees on temporary appointments and employees on seasonal and intermittent schedules, as well as certain firefighters and intermittent emergency response personnel, should first be offered an enrollment opportunity upon issuance of the final rule. We have proposed that enrollments for newly eligible employees would be accepted during a 60-day period from the date of issuance of the final rule, after the employing

office notifies employees of their eligibility to enroll in a FEDVIP plan. If an employee in this group is expected to work or does work 130 hours per calendar month for 90 days or more, then he or she is eligible to enroll upon notification by his or her employing office. If an employee is a firefighter or intermittent emergency response personnel, he or she is eligible upon notification of his or her employing office. Coverage will become effective for these newly eligible groups pursuant to 5 CFR 894.504. Employing offices must determine eligibility of new and current employees and upon determining eligibility, promptly offer employees made eligible by this rule an opportunity to enroll in FEDVIP so that coverage becomes effective upon issuance of the final rule.

#### *Enrollment of Active Duty Service Members Who Experience a Status Change to Uniformed Services Retirees*

This proposed rule clarifies when active duty service members who become uniformed services retirees may enroll in FEDVIP outside of open season. A sponsor on active duty becomes eligible for FEDVIP as a TEI, pursuant to Public Law 108–496, when the individual becomes a uniformed services retiree. Under current regulations at § 894.501(b), an individual may enroll within 60 days of becoming eligible. Under 5 CFR 894.504, the individual's enrollment is effective the first day of the pay period following the one in which the Administrator receives the enrollment. A sponsor who is on active duty that retires and becomes a TEI could experience a 30-day break in coverage if that individual enrolls when becoming eligible as a uniformed services retiree. OPM is adding a new paragraph, 5 CFR 894.501(e) to allow these active duty service members who will experience a status change to a uniformed services retiree to enroll in FEDVIP beginning 31 days before the service member loses other dental or vision coverage to 60 days after becoming eligible to enroll. We are also amending 5 CFR 894.504(d) to make the effective date for these individuals enrolling outside of open season to be no earlier than the date the active duty service member lost other coverage.

#### *Addition of New QLEs and Technical Corrections*

OPM is proposing to amend certain provisions in 5 CFR part 894 to add qualifying life events for enrollees to cancel a FEDVIP enrollment and decrease an enrollment type. During the 2018 Open Season and the period for

belated enrollments, OPM became aware of circumstances where enrollees who are both TRICARE-eligible and a Federal employee, wanted to cancel coverage because the enrollee or a dependent became eligible for VA dental or vision services. OPM is proposing a new QLE for an enrollee to cancel FEDVIP enrollment when the enrollee becomes eligible for such services and for a decrease in enrollment type when a family member who has been covered under an enrollment becomes eligible for VA dental and or vision services.

In 5 CFR 894.511, OPM proposes to add a new paragraph (c) that adds a QLE allowing a TEI sponsor to decrease an enrollment if a TEI family member who is enrolled becomes deployed to active military duty. Currently, this QLE in 5 CFR 894.511(b) only applies to Federal employees, annuitants or compensationers. In addition, the rule proposes to add a new paragraph (d) that adds a new QLE for an enrollee to decrease an enrollment type if a covered family member becomes eligible for dental or vision benefits from the VA.

In 5 CFR 894.601, OPM proposes a new paragraph (i) that addresses when FEDVIP coverage stops if a sponsor becomes eligible to cancel an enrollment outside of open season and elects to do so. If the sponsor cancels a self plus one or self and family enrollment, the sponsor must notify family members of changes in the enrollment. In 5 CFR 894.602, OPM proposes to add a qualifying life event for an enrollee to cancel their FEDVIP enrollment if the enrollee is determined to be eligible for and enrolls in dental or vision benefits through the VA. If the enrollee is a sponsor and cancels a self plus one or self and family enrollment in a FEDVIP dental plan, the sponsor meets one of the conditions in 5 CFR 894.309(a)(3)(iii), and must notify eligible family members about the change in enrollment. Then, an eligible family member would have to reenroll in a FEDVIP dental plan and cover all eligible family members, pursuant to 5 CFR 894.815(b) and 5 CFR 894.806.

In addition, this proposed rule includes technical corrections. These technical corrections include the following: Capitalization and italicization of certain defined terms throughout 5 CFR part 894; proposal to clarify that premium conversion applies to Federal employees and to update the definition of stepchild in 5 CFR 894.101; proposal to amend the reference to 5 CFR 890.102(c) in 5 CFR 894.302 so that it refers instead to 5 CFR 890.102(c)(1) through (8); a proposal to amend 5 CFR 894.201 to use the more

inclusive terminology of “enrollee” instead of the terms “employee” and “annuitant” since TEIs are also enrollees; and a proposal to remove 5 CFR 894.203 since the situations for changing a family member under a self plus one enrollment or changing to a self only enrollment are covered in 5 CFR 894.510 and 5 CFR 894.511. This rule also incorporates italicization of defined terms in 5 CFR 894.502.

#### **Expected Impact of Proposed Changes**

While this rule expands the number of individuals who are potentially eligible for FEDVIP, OPM does not believe this regulation will have a large impact on the broader dental and vision insurance markets. FEDVIP generally constitutes a smaller percentage of dental and vision insurance carrier's overall books of business. OPM has contracted with twelve dental carriers and five vision carriers to offer plans under FEDVIP. There are currently twenty-three dental plan options available across FEDVIP from these twelve dental carriers. Within the five vision carriers, there are currently ten vision plan options that are nationwide and internationally available to all potential enrollees.

OPM estimates that as of June 2021 there are approximately 86,000 Federal employees in the impacted categories that are eligible for FEHB that would also be eligible for FEDVIP under this proposed rule. However, using FEHB Program eligibility as a proxy for FEDVIP eligibility is limited since OPM cannot estimate the uptake of the eligible population to enroll in FEDVIP. Since OPM does not have extensive data on and cannot estimate the potential uptake of newly eligible individuals to determine the impact of this regulation, we are seeking comments on the following:

1. How will the regulation impact changes to enrollment in FEDVIP?
2. How will the allowance of new categories of employees impact FEDVIP?

#### **Regulatory Impact Analysis**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. A regulatory impact analysis must be prepared for major rules with

economically significant effects of \$100 million or more in any one year. While this rule does not reach the economic effect of \$100 million or more under Executive Order 12866, this rule has been designated as a “significant regulatory action,” under Executive Order 12866.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

### Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA for the FEDVIP Enrollment System, known as BENEFEDS, OMB Number: 3206–0272 but does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act. The systems of record notice for this collection is: <https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf>.

### List of Subjects in 5 CFR Part 894

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM proposes to amend 5 CFR part 894 as follows:

### PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

- 1. The authority citation for part 894 continues to read as follows:

**Authority:** 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604 (2 U.S.C. 2051); and Sec. 894.601(b) also issued under Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8956 note).

### Subpart A—Administration and General Provisions

- 2. Amend § 894.101 by revising the definitions of “Premium conversion” and “Stepchild” to read as follows:

#### § 894.101 Definitions.

\* \* \* \* \*

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

\* \* \* \* \*

*Stepchild* means your spouse’s child born within or outside marriage or his or her adopted child. The child of your spouse shall continue to be considered your stepchild after your divorce from your spouse or the death of your spouse so long as the child continues to live with you in a regular parent-child relationship.

\* \* \* \* \*

- 3. Amend § 894.105 by revising paragraphs (b) and (c) to read as follows:

#### § 894.105 Who may correct an error in my enrollment?

\* \* \* \* \*

(b) OPM may order correction of an administrative error or other noncompliance with FEDVIP rules in this part if it receives evidence that it would be against equity (fairness) and good conscience not to order the correction. Corrections are made at the discretion of OPM and are not subject to review.

(c) If the correction gives you or a *family member* retroactive coverage, you

must pay the premiums for all periods of the retroactive coverage. Retroactive premiums will not be on a pre-tax basis (they are not subject to premium conversion).

### Subpart B—Coverage and Types of Enrollment

- 4. Revise § 894.201 to read as follows:

#### § 894.201 What types of enrollments are available under FEDVIP?

FEDVIP has three *types of enrollment*:

- (a) Self only, which covers only the *enrollee*;
- (b) Self plus one, which covers the *enrollee* plus one *family member*; and
- (c) Self and family, which covers the *enrollee* and all *family members*.

- 5. Amend § 894.202 by revising the section heading to read as follows:

#### § 894.202 I am an enrollee; if I enroll for self plus one, may I decide which family member to cover?

\* \* \* \* \*

#### § 894.203 [Removed]

- 6. Remove § 894.203.

#### § 894.204 [Redesignated as § 894.203]

- 7. Redesignate § 894.204 as § 894.203.

- 8. Revise newly redesignated § 894.203 to read as follows:

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

You may be enrolled or be covered 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. If two parents of a TEI child are entitled to be a sponsor, they must choose one parent to be the child’s sponsor. Dual enrollments of TEIs are permitted as provided under § 890.302(a)(2) of this chapter as applicable to TEI family members.

### Subpart C—Eligibility

- 9. Amend § 894.301 by:

- a. Revising the section heading.
- b. In paragraph (b), removing the word “or” at the end of the paragraph.
- c. In paragraph (c)(2), removing the period of the end of the paragraph and adding “; or” in its place.
- d. Adding paragraph (d).

The revision and addition read as follows:

**§ 894.301 Am I eligible to enroll in FEDVIP as an employee?**

\* \* \* \* \*

(d) You are an *employee* in a position identified by OPM that provides emergency response services for wildland fire protection pursuant to 5 CFR 890.102(h); or you are an *employee* whose employing agency performs similar types of emergency response services pursuant to 5 CFR 890.102(i). OPM may limit the coverage of intermittent *employees* to the periods of time during which they are in a pay status pursuant to 5 CFR 890.102(i).

## ■ 10. Amend § 894.302 by:

■ a. Revising the introductory text.

■ b. Removing the undesignated paragraph following the introductory text.

■ c. In paragraph (e)(3):

■ i. Removing “§ 316.401 and § 316.403” and adding “§§ 316.401 and 316.403” in its place.

■ ii. Removing the word “or” at the end of the sentence.

■ d. In paragraph (e)(4), removing the period at the end of the sentence and adding “; or” in its place.

■ e. Adding paragraph (e)(5).

■ f. Revising paragraphs (f) and (g).

■ g. Adding paragraphs (l) and (m).

The revisions and additions read as follows:

**§ 894.302 What is an excluded position?**

Excluded positions are described in 5 U.S.C. 8901(1)(i), (ii), (iii), and (iv) and 5 CFR 890.102(c)(1) through (8). You are in an excluded position if you are:

\* \* \* \* \*

(e) \* \* \*

(5) You are an *employee* working on a temporary appointment and if you meet the conditions in 5 CFR 890.102(j), you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(f) Expected to work fewer than six months in each year. *Exceptions:* You are eligible if:

(1) You receive an appointment of at least one year’s duration as an Intern under 5 CFR 213.3402(a). To qualify, you must be expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

(2) You are an *employee* working on a seasonal schedule of less than 6 months in a year, and if you meet the conditions in 5 CFR 890.102(j), you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(g) An intermittent *employee* (a non-full-time *employee* without a prearranged regular tour of duty). *Exception:* If you are an *employee*

working on an intermittent schedule and if you meet the conditions in 5 CFR 890.102(j), you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

\* \* \* \* \*

(l) For purposes of this subpart, “qualifying leave without pay hours” means hours of leave without pay for purposes of taking leave under the Family and Medical Leave Act for performance of duty in the Uniformed Services under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*, for receiving medical treatment under Executive Order 5396 (July 7, 1930), and for periods during which workers compensation is received under the Federal Employees Compensation Act, 5 U.S.C. chapter 81. (m) Once an *employee* is properly enrolled under paragraphs (e) through (g) of this section and meets the conditions in 5 CFR 890.102(j), enrollment will not be terminated, regardless of his or her actual work schedule or employer expectations in subsequent years, unless the *employee* separates from service, receives a new appointment (in which case eligibility will be determined by the rules in this part applicable to the new appointment), or otherwise meets one of the circumstances for termination or cancellation of coverage in §§ 894.601 and 894.602.

**Subpart D—Cost of Coverage**

■ 11. Amend § 894.403 by revising paragraphs (b)(3) and (4) to read as follows:

**§ 894.403 Are FEDVIP premiums paid on a pre-tax basis?**

\* \* \* \* \*

(b) \* \* \*

(3) Your enrollment change was made effective retroactively which resulted in additional premium withholdings, unless it is as a result of birth or adoption of a *child*;

(4) You have been approved to pay premiums directly to the *Administrator*;

\* \* \* \* \*

**Subpart E—Enrollment and Changing Enrollment**

■ 12. Revise § 894.501 to read as follows:

**§ 894.501 When may I enroll?**

You may enroll:

(a) During the annual open season;

(b) Within 60 *days* after you first

become eligible as:

(1) A new *employee*;

(2) A previously ineligible *employee* who transfers to a covered position;

(3) A new survivor *annuitant*, if not already covered under FEDVIP;

(4) A Federal *employee* or USPS *employee* working on a temporary appointment as stated in § 894.302(e)(5); a Federal *employee* or USPS *employee* working on a seasonal schedule as stated in § 894.302(f); or a Federal *employee* or USPS *employee* working on an intermittent schedule as stated in § 894.302(g);

(5) An *employee* in a position identified by OPM that provides emergency response services for wildland fire protection pursuant to 5 CFR 890.102(h); or an *employee* whose employing agency performs similar types of emergency response services pursuant to 5 CFR 890.102(i);

(6) A *TEI certifying family member*, but only if, on your first date of eligibility to enroll, your *sponsor* is not a *TEI* or is deceased, or for FEDVIP dental coverage, if your *sponsor* is defined at 5 CFR 890.309(a)(3)(iii); or

(7) A *TEI former spouse*;

(c) Within 60 days of when you return to Federal employment following a break in service of at least 30 days;

(d) From 31 days before you or an eligible family member loses other dental or vision coverage to 60 days after a QLE that allows you to enroll;

(e) For a *sponsor* who becomes eligible as a *TEI*, from 31 days before you lose other dental or vision coverage as an active duty service member to 60 days after you become eligible to enroll as a uniformed services retiree who is a *TEI*;

(f) From 31 days before you get married to 60 days after;

(g) Within 60 days after returning to Federal employment after being on leave without pay if you did not have Federal dental or vision coverage prior to going on leave without pay, or your coverage was terminated or canceled during your period of leave without pay;

(h) Within 60 days of your *annuity* or *compensation* being restored after having been terminated; or

(i) For a *TEI*, within 60 days of your uniformed services pay or uniformed services retirement pay being restored after having been reduced, forfeited, or terminated.

■ 13. Amend § 894.502 by revising paragraphs (b) through (d) to read as follows:

**§ 894.502 What are the Qualifying Life Events (QLEs) that allow me to enroll or become covered in FEDVIP outside of open season?**

\* \* \* \* \*

(b) Your *annuity* or *compensation* is restored after having been terminated;

(c) You return to pay status as an *employee* after being on leave without pay due to deployment to active military duty;

(d) You are an *employee* and you get married;

\* \* \* \* \*

■ 14. Amend § 894.504 by:

■ a. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f).

■ b. Adding new paragraph (d).

■ c. Revising newly redesignated paragraphs (e) and (f).

The addition and revisions read as follows:

**§ 894.504 When is my enrollment effective?**

\* \* \* \* \*

(d) Outside of open season, if you are an active duty service member who becomes a uniformed services retiree (*TEI*) and enroll or are enrolled 31 days before you lose other dental or vision coverage, your enrollment is effective no earlier than the date you lost other coverage.

(e) A *QLE* enrollment or change is effective the 1st day of the pay period following the date of your *QLE*.

(f)(1) A belated open season enrollment or change is effective retroactive to the date it would have been effective if you had made a timely enrollment or request for a change.

(2) Any belated enrollment or change outside of open season that goes beyond the allowable 60-day enrollment timeframe is effective retroactive to the 1st day of the pay period following the one in which you became newly eligible or the date of your *QLE*.

(3) You must pay any retroactive premiums due to a belated enrollment or request for a change.

■ 15. Amend § 894.511 by adding paragraphs (c) and (d) to read as follows:

**§ 894.511 What are the QLEs that are consistent with decreasing my type of enrollment?**

\* \* \* \* \*

(c) You are a *sponsor* and your *TEI* spouse deploys to active military duty.

(d) You are an *enrollee* and your *family member* or *TEI family member* becomes eligible for dental or vision benefits from the Department of Veterans Affairs.

■ 16. Revise § 894.512 to read as follows:

**§ 894.512 What happens if I leave Federal employment and then return?**

(a) Your FEDVIP coverage terminates at the end of the pay period in which you separate from Government employment. *Exception:* If you separate

for retirement or while in receipt of workers' *compensation* as defined in § 894.701, your FEDVIP coverage continues.

(b)(1) If you return to Federal employment after a break in employment of fewer than 30 *days*, and you were not previously enrolled in FEDVIP, you may not enroll until the next open season or unless you have a *QLE* that allows you to enroll.

(2) If you return to Federal employment after a break in service of fewer than 30 *days*, and you were previously enrolled in FEDVIP, you may reenroll in the same plan(s) and plan option and with the same *type of enrollment* you had before you separated. *Exceptions:*

(i) If you were enrolled in a dental or vision plan with a restricted geographic service area, and you have since moved out of the plan's service area, you may change to a different dental or vision plan that serves that area.

(ii) If you have since gained or lost an eligible *family member*, you may change your *type of enrollment* consistent with the change in the number of eligible *family members*.

(3) If you return to Federal employment as a new hire after a break in service of 30 *days* or more, you may enroll if you were not previously enrolled, change your dental or vision plan, or change your *type of enrollment*.

**Subpart F—Termination or Cancellation of Coverage**

■ 17. Amend § 894.601 by adding paragraph (i) to read as follows:

**§ 894.601 When does my FEDVIP coverage stop?**

\* \* \* \* \*

(i) If you are a *sponsor* and during the course of your enrollment, you become eligible for dental or vision benefits from the Department of Veterans Affairs, you may cancel your enrollment. Your cancellation will become effective at the end of the pay period that you submit your request pursuant to § 894.602(c). If you cancel a self plus one or self and family enrollment, as *sponsor*, pursuant to § 894.815, you must notify your *family members* of changes in your enrollment. You will still be the *sponsor* but no longer the *enrollee*, and pursuant to § 894.806, your family members would only be eligible for dental coverage, and a *TEI certifying family member* would have to reenroll in and cover all *TEI family members* for dental coverage only.

■ 18. Revise § 894.602 to read as follows:

**§ 894.602 May I cancel my enrollment at any time?**

Generally, an *enrollee* may only cancel an enrollment during an open season. *Exceptions:* You may cancel your dental and/or vision enrollment if:

(a) You are an *employee* and transfer to an eligible position with a Federal agency that provides dental or vision coverage with 50 percent or more employer-paid premiums and the *employee* enrolls in that program.

(b) You are an *employee* and you or your spouse deploy to active military duty.

(c) You are an *enrollee* and during the course of your enrollment, you become eligible for and enroll in Department of Veterans Affairs (VA) dental or vision benefits. If you are an *enrollee* who is a *sponsor*, you must notify your *family members* of changes in your enrollment pursuant to § 894.815. Your family members will only be eligible for FEDVIP dental coverage since you are a *TEI-D* who is not enrolled in FEDVIP and receives VA dental services and meets one of the conditions in § 894.309(a)(3)(iii). See §§ 894.806 and 894.815(b). Upon cancellation of the enrollment, you will still be the *sponsor* but no longer the *enrollee*, and a *TEI certifying family member* must reenroll in and cover all *TEI family members* for FEDVIP dental coverage only and upon reenrollment may change from one dental plan to another.

(d) Cancellations under paragraphs (a) and (b) of this section will become effective at the end of the pay period that you submit your request, and cancellations under paragraph (c) of this section will become effective at the end of the pay period that your cancellation was approved.

**Subpart G—Annuitants and Compensationers**

■ 19. Amend § 894.704 by revising the section heading to read as follows:

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

\* \* \* \* \*

§§ 894.101, 894.301, 894.302, 894.308, 894.403, 894.404, 894.405, 894.406, 894.510, 894.601, 894.704, and 894.901 [Amended]

■ 20. In addition to the amendments above to 5 CFR part 894, in the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Section	Remove	Add
Section 894.101 introductory text	enrollee	enrollee.
Section 894.101, definition of "Acquiring an eligible child", paragraph (4)	enrollee	enrollee.
Section 894.101, definition of "Acquiring an eligible child", paragraph (6)	enrollee's	enrollee's.
Section 894.101, definition of "Acquiring an eligible child", paragraph (6)	enrollee	enrollee.
Section 894.101, definition of "Annuitant"	employee	employee.
Section 894.101, definition of "Annuitant"	employees	employees.
Section 894.101, definition of "Child", paragraph (1)(iii)	enrollee	enrollee.
Section 894.101, definition of "Covered position"	employee	employee.
Section 894.101, definition of "Dependent"	enrollee	enrollee.
Section 894.101, definition of "Employee"	employee additionally	employee additionally.
Section 894.101, definition of "Employee"	employee of the District	employee of the District.
Section 894.101, definition of "Enrollment reconsideration"	Administrator's	Administrator's.
Section 894.101, definition of "Recognized natural child"	enrollee	enrollee.
Section 894.101, definition of "Regular parent-child relationship"	enrollee	enrollee.
Section 894.301(c)(1)	employee	employee.
Section 894.302(d)	employees	employees.
Section 894.302(k)(1) and (2)	employee	employee.
Section 894.308(a) and (b) introductory text	enrollee	enrollee.
Section 894.308(b)(2)	enrollee's	enrollee's.
Section 894.308(b)(3)	enrollee	enrollee.
Section 894.403(a)	employee	employee.
Section 894.404	employees	employees.
Section 894.405(a)	Administrator	Administrator.
Section 894.405(c)	enrollee	enrollee.
Section 894.406(c)	enrollee	enrollee.
Section 894.510(a) introductory text	type of enrollment	type of enrollment:
Section 894.510(c)(1)	type of enrollment	type of enrollment.
Section 894.601(b)	enrollee	enrollee.
Section 894.704(c)	employee	employee.
Section 894.901(a) and (b)	enrollees	enrollees.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2021-0249; FRL-8724-03-R9]

#### Rescission of Clean Data Determination and Call for Attainment Plan Revision for the Yuma, AZ 1987 PM<sub>10</sub> Moderate Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; availability of supplemental information and re-opening of comment period.

**SUMMARY:** On June 1, 2021, the Environmental Protection Agency (EPA) published in the *Federal Register* a proposal to rescind our previously issued clean data determination for the Yuma, Arizona "Moderate" nonattainment area for the 1987 24-hour national ambient air quality standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). We also proposed to find that the Arizona State Implementation Plan (SIP) is substantially inadequate to attain or maintain the PM<sub>10</sub> standard and to

therefore issue a "SIP call" requiring Arizona to revise the SIP to address this inadequacy. Due to an administrative oversight, the contents of the rulemaking docket were not available for the full 30-day comment period. Therefore, the EPA is re-opening the comment period for the proposed rule for an additional 30 days. Furthermore, in response to a letter received during the initial comment period, we are also specifically seeking comment regarding the appropriate attainment date for the Yuma PM<sub>10</sub> nonattainment area.

**DATES:** The comment period for the proposed rule published at 86 FR 29219 on June 1, 2021, is reopened. Comments must be received on or before November 18, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2021-0249 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** John J. Kelly, Air Planning Office (AIR-2), EPA Region IX, (415) 947-4151, [kelly.johnj@epa.gov](mailto:kelly.johnj@epa.gov). **SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our," refer to the EPA.

On June 1, 2021, the EPA published in the *Federal Register* a proposal to rescind our previously issued clean data determination for the Yuma PM<sub>10</sub> nonattainment area.<sup>1</sup> We also proposed

<sup>1</sup> 86 FR 29219.