

# 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 890

[Docket ID: OPM–2024–0002]

RIN 3206–AO59

### Postal Service Health Benefits Program: Additional Requirements and Clarifications

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a notice of proposed rulemaking to clarify and establish additional requirements regarding the Postal Service Health Benefits (PSHB) Program, which was established pursuant to the Postal Service Reform Act of 2022. This proposed rule expands on previous regulations concerning the PSHB Program and is intended to provide greater detail and clarity necessary to properly implement PSHB in 2025 and beyond. In particular, this proposed rule includes details on: reconsideration of PSHB eligibility decisions, various applications of the Medicare Part B enrollment requirement, allocation of reserve credits, calendar year alignment of Government contribution requirements, financial reporting and actuarial calculations, premium payment prioritization from the Postal Service Retiree Health Benefits Fund, and Medicare Part D integration.

**DATES:** Comments must be received on or before June 24, 2024.

**ADDRESSES:** You may submit comments, identified by docket number or Regulation Identifier Number (RIN) and title, by the following method:

■ *Federal eRulemaking Portal:* <https://www.regulations.gov>.

Follow the instructions for submitting comments. All comments received must include the agency name and docket number or RIN for this document. The general policy for comments from members of the public is to make them

available for public viewing at <https://www.regulations.gov> without change, including any personal identifiers or contact information. However, OPM retains discretion to redact personal or sensitive information from comments before they are posted.

**FOR FURTHER INFORMATION CONTACT:**

Cameron Stokes, Senior Policy Analyst, at (202) 936–2847 or [Cameron.Stokes@opm.gov](mailto:Cameron.Stokes@opm.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 101 of the Postal Service Reform Act of 2022 (PSRA), Public Law 117–108, added new section 8903c to 5 U.S.C. chapter 89 and directs OPM to establish the PSHB Program within the Federal Employees Health Benefits (FEHB) Program for Postal Service employees, Postal Service annuitants, and their eligible family members. OPM will administer the PSHB Program in accordance with 5 U.S.C. chapter 89 and implementing regulations (5 CFR parts 890 and 892, and 48 CFR chapter 16), including any amendments resulting from this rulemaking. Under 5 U.S.C. 8903c(c)(3), except as otherwise set forth in 5 U.S.C. 8903c, the provisions of chapter 89 “applicable to health benefits plans offered by carriers under section 8903 or 8903a shall apply to plans offered under” the PSHB Program.

On April 6, 2023, OPM issued an interim final rule (88 FR 20383) to establish the PSHB Program. The interim final rule became effective on June 5, 2023. On May 6, 2024, OPM published a final rule (89 FR 37061) that made minor changes to the regulations in response to public comments. (This notice of proposed rulemaking refers to the interim final rule and the final rule collectively as the “initial rulemaking.”) However, as program development and interagency coordination continued after publication of the interim final rule, OPM determined a need to provide additional specification on several topics that were beyond the scope of that initial rulemaking. While that initial rulemaking established the Program, this proposed rule further explains and expands on the implementation of the PSHB Program to provide clarity for PSHB Carriers, other agencies, and Postal Service employees and Postal Service annuitants before the program begins enrollment for 2025. In particular, OPM is proposing to provide

implementation details on several additional topics: reconsideration of initial decisions concerning PSHB eligibility; application of the Medicare Part B enrollment requirement and associated exceptions in specific scenarios; allocation of reserve credits; calendar year alignment of government contribution requirements; financial reporting and actuarial calculations; premium payment prioritization from the Postal Service Retiree Health Benefits Fund; and Medicare Part D integration.

#### Discussion of the Proposed Changes

##### *Initial Decision and Reconsideration of PSHB Program Eligibility and Enrollment*

The interim final rule at 5 CFR 890.1606(d) provided that standards for requesting reconsideration of an initial decision affecting enrollment in the PSHB Program will be the same as current FEHB standards at 5 CFR 890.104. However, on page 20401 of the preamble to that rule at 88 FR 20383 (April 6, 2023) noted that OPM was considering establishing PSHB-specific processes. With the establishment of a new enrollment system for the PSHB Program, OPM had to reevaluate how to process, address, and even adjudicate reconsideration requests, particularly how to distinguish between reconsideration requests concerning enrollment decisions versus eligibility decisions. Therefore, OPM is proposing a series of changes to incorporate existing FEHB reconsiderations standards and processes into the PSHB Program while also taking into account aspects of the PSHB Program that are unique from FEHB. These aspects include OPM’s responsibility to administer the enrollment system and receive information from source agencies regarding Medicare Part B exceptions.

OPM proposes to amend § 890.1602(c) by adding a definition of “Reconsideration” that parallels the definition at § 890.101 with respect to PSHB reconsiderations. The definition notes that reconsideration means the final level of administrative review of an initial decision by an employing office or OPM. Under existing regulations at § 890.1602, for purposes of this part, the United States Postal Service is the employing office for Postal Service employees, and the Retirement Services

office within OPM is the employing office for Postal Service annuitants. These changes reflect that OPM will retain authority under this Part to reconsider certain initial decisions and issue final agency decisions regarding enrollments and coverage of family members with respect to Postal Service employees and Postal Service annuitants in the PSHB Program. In making a final agency decision in response to a reconsideration request, OPM will consider facts submitted by an individual, including proof of family member eligibility, facts from a source agency pursuant to a data exchange and the opportunity for an individual to contest the data, and certain Medicare Part B exceptions, as discussed below.

OPM also proposes to define “source agency.” The definition notes that source agency means an agency that routinely provides information or data to OPM pursuant to an agreement under 5 CFR 890.1612 (regarding information sharing for Medicare Part B enrollment requirements and exceptions) or 5 U.S.C. 8903c(e)(3)(C) (regarding identification of individuals who reside abroad). As indicated in proposed § 890.1612(c), a source agency may also refer to other agencies routinely providing information as required by OPM.

OPM proposes to amend § 890.1606(d) to reflect that initial decisions and reconsiderations of PSHB eligibility or enrollment, as applicable, will be made pursuant to proposed § 890.1607, as discussed below in the preamble. Currently, there is a cross-reference to § 890.104, which will no longer be applicable to PSHB.

OPM proposes to add new § 890.1607 governing initial decisions and reconsiderations of PSHB eligibility or enrollment, as applicable. Proposed § 890.1607 would replace § 890.104 with respect to the PSHB Program. These changes reflect that in the PSHB Program, OPM may issue an initial decision regarding an individual’s eligibility for PSHB where that eligibility is conditioned on a source agency’s data or information that it sends to OPM pursuant to a data exchange, under § 890.1612, discussed below in this section of the preamble. Before OPM will issue such an initial decision under § 890.1607, OPM will provide notice, as described under § 890.1612(f), that information or data OPM has received from a source agency may render the individual ineligible for PSHB enrollment or coverage and will provide instructions on how the individual may contest that information or data with the source agency before OPM issues a decision. Under proposed

§ 890.1612(f), OPM would notify an individual that they may be ineligible for PSHB enrollment or coverage based on information provided to OPM by a source agency. In that notice, OPM would provide the individual with the source agency’s contact information on how the individual may contest the accuracy of the information used to determine PSHB eligibility. Paragraph (f) would also provide an explanation of the associated processes and timeframes to contest the provided evidence and to demonstrate that the individual is so engaged in such a contest with the source agency. Proposed § 890.1612(g) provides an individual who would be disenrolled or removed from the PSHB Program based on information from a source agency with information on their reconsideration rights. Section 890.1607 cross references § 890.1612, which accounts for provision of such notice and establishes a process under which an individual may dispute data OPM relies on from a source agency, over which OPM does not maintain authority and cannot independently verify.

Proposed § 890.1607 would include standards and processes for reconsideration requests concerning PSHB eligibility. First, in paragraph (a), OPM proposes that reconsiderations will be the responsibility of the employing agency (the Postal Service or retirement system) or OPM whereas only the employing agency or retirement system are responsible for reconsiderations in § 890.104(a). Second, in paragraph (b), OPM proposes to delineate which initial decisions are made by employing offices (see paragraph (b)(1)) rather than by OPM as the administrator of the PSHB Program (see paragraph (b)(2)), and that OPM will make an initial decision when it is based on information that OPM receives from a source agency only after the notice process is complete, as described in § 890.1612 and discussed below (see paragraph (b)(3)). OPM invites comment on the delineation of responsibilities for initial decisions.

Third, paragraph (c) gives an individual a right to reconsideration.

Fourth, paragraph (d) explains the time limits for requesting reconsideration, and the circumstances under which the time limit may be extended, similar to § 890.104(d).

Fifth, in paragraph (e), OPM proposes that after reconsideration, the employing agency (the Postal Service or retirement system) or OPM will issue a final decision.

OPM proposes to amend § 890.1608 regarding PSHB disenrollment and removal from coverage by adding new paragraphs (b)(5)(iii) and (b)(6) through

(b)(9), which would allow for reconsideration after OPM’s disenrollment of a Postal Service Medicare covered annuitant or removal of a Medicare covered family member from the PSHB, as applicable. Reconsideration in such circumstances is modeled after § 890.308(f)(4)–(6). OPM invites comment on this proposed approach.

OPM proposes to amend the information sharing provisions at § 890.1612 by adding paragraphs (f) and (g). Proposed paragraph (f) details the information that OPM would provide in a written notice before issuing an initial decision on eligibility for PSHB enrollment or coverage when OPM receives data from a source agency through an information sharing agreement which establishes a basis that the individual may be ineligible for PSHB enrollment or coverage. The notice would include the specific data impacting the individual’s PSHB enrollment or coverage, PSHB enrollment requirements, the source agency’s contact information to dispute the data, and the process and timeframe for providing OPM with evidence that the individual is engaged in a dispute with the source agency. The notice would also provide that the individual will remain enrolled while engaging in the dispute, but that OPM may issue an initial decision to disenroll or remove the individual from PSHB within 60 days if the individual does not provide OPM with sufficient evidence of engagement in the dispute with the source agency, or if the source agency’s data does not establish a basis for the individual’s PSHB eligibility, notwithstanding evidence of a dispute with the source agency. OPM invites comments on the approach set forth in proposed paragraph (f), which details the notice process that OPM will follow prior to issuing an initial decision on eligibility for PSHB enrollment or coverage based on data received from a source agency which establishes a basis that the individual may be ineligible for PSHB enrollment or coverage.

Proposed paragraph (g) of § 890.1612 would provide that if OPM issues an initial decision to remove or disenroll the individual based on the information or data from the source agency, the individual will have reconsideration rights pursuant to § 890.1607 and that such reconsideration is limited to the source agency’s data that was before OPM at the time it made the initial decision.

#### *Correction of Errors*

OPM proposes to amend § 890.1614(a) about correction of errors. These

changes are proposed to reflect OPM's central role in administering the PSHB enrollment process. Currently, § 890.1614(a) cross-references § 890.103. Corrections will be made pursuant to § 890.1614, and not according to § 890.103. Proposed § 890.1614(a) would expand the role of OPM in making correction of errors. Specifically, proposed § 890.1614(a)(1) would clarify that OPM may also make prospective or retroactive corrections of administrative errors at any time, whereas § 890.103(a) only allows employing offices to make such corrections. Similarly, proposed § 890.1614(a)(2) would allow OPM to make, in addition to ordering an employing office to make, a correction of an administrative error for purposes of equity and good conscience as is the case under § 890.103(b). Proposed § 890.1614(a)(3) would allow OPM to make retroactive corrections of enrollee enrollment code errors instead of the employing office. Proposed § 890.1614(a)(4) would adopt the same standards in § 890.103(d) and add a reference to PSHB. Proposed § 890.1614(a)(5) would note that retroactive corrections are subject to withholdings and contributions under the provisions of both §§ 890.502 and 890.1613, whereas § 890.103(c) cross-references only § 890.502. OPM invites comments on the proposed changes to § 890.1614(a), which states that a correction of error under the PSHB will be made pursuant to 890.1614 and not 890.103, expands OPM's role in the correction of errors, and would clarify that OPM may also make prospective or retroactive corrections of administrative errors at any time and allow OPM to make a correction of an administrative error for purposes of equity and good conscience.

#### *Court Review*

OPM proposes to add a new paragraph (f) to § 890.107. Proposed paragraph (f) would establish that PSHB enrollment-related lawsuits concerning Postal Service annuitants and their family members, where OPM's decision was based on data it received under agreements with source agencies, but with respect to which OPM lacks authority or means to attain independent verification, may not be brought later than December 31 of the 3rd year after the year in which the enrollment action was effectuated. For example, if the enrollment action at issue is effectuated for the 2025 plan year, a lawsuit may not be brought after December 31, 2028. This timeline is consistent with existing § 890.107(d) and (e), which state that an action to

recover on a claim for health benefits and suits seeking equitable relief, respectively, may not be brought later than December 31 of the 3rd year after the year in which the care or service was provided.

This paragraph would also limit the review of OPM's final decision, based on data obtained by OPM under such agreements, to the administrative record before OPM when OPM effectuated the enrollment action. Limiting review to this record is consistent with current § 890.107(d)(3) regarding actions to recover on a claim for health benefits under § 890.107(c). OPM invites comments on this approach, including the time limit that is modeled after § 890.107(d) and (e).

#### *Disenrollment and Removal Due to Non-Enrollment in Medicare Part B After Notice of Mandatory Enrollment*

OPM proposes to amend § 890.1608(b) by adding language to reflect that where a Postal Service Medicare covered annuitant or Medicare covered family member is enrolled or covered in a PSHB plan but is not enrolled in Medicare Part B and does not qualify for an exception to the Part B enrollment requirement, that individual will be permitted to stay enrolled in or covered by PSHB if they enroll in Medicare Part B within a limited period.

In the proposed regulatory text, OPM has proposed specifying that the period would end at the end of the individual's next Medicare enrollment period, which may be the next Medicare General Enrollment Period. (See 42 CFR part 407.) Under this approach, OPM would require an individual to enroll at their earliest opportunity, including any Special Enrollment Periods for which they are eligible. OPM could require an individual to attest to their earliest enrollment opportunity. OPM would also consider, in a final rule, adopting another method of establishing this limited period. For example, OPM could establish a fixed deadline such as March 31, which is the end of the Medicare General Enrollment Period. One potential challenge of this approach would be determining the deadline when an individual is eligible for two different enrollment periods at the same time. For example, a person's Initial Enrollment Period could run concurrently with and extend beyond Medicare's General Enrollment Period. Another option would be to establish the deadline as 30 days after the end of an applicable enrollment period for coverage to become effective. OPM is interested in providing some flexibility to allow individuals to transition to Medicare Part B, given that it is a new

requirement, but also recognizes that individuals who are eligible for Medicare Part B must be enrolled in Part B to remain eligible for coverage under PSHB. Furthermore, the PSHB program will realize cost savings with prompt enrollment in Medicare Part B. Conversely, OPM recognizes that disenrollment from retirement health benefits under the PSHB program is a permanent loss of eligibility. OPM solicits comments on how these proposals, or other suggested options, would impact the program, enrollees, and carriers. (See also the discussion in "Medicare Part B Exception for Postal Service Annuitants, their Family Members, and Survivor Annuitants Who Reside Outside the United States" regarding the time period for enrollment for individuals returning to the U.S. from living abroad.)

The proposed rule clarifies that this opportunity to remain in a PSHB plan by enrolling in Medicare Part B at the next enrollment opportunity is a one-time privilege. OPM also proposes to amend § 890.1608(b) to provide that if the Postal Service Medicare covered annuitant or eligible Medicare covered family member does not enroll in Medicare Part B during the next enrollment period, they will be disenrolled or removed from their PSHB plan and, in the case of a Postal Service annuitant, will have no further opportunity to re-enroll in a PSHB plan. Disenrollment of a Postal Service annuitant will also result in the removal of covered family members from PSHB coverage. OPM proposes to move the concept of allowing an individual to enroll in Medicare Part B at the next opportunity in order to retain PSHB coverage from § 890.1608(b)(2) with respect to Postal Service annuitants into § 890.1608(b) in order to give this one-time opportunity to any individual who may not be enrolled in, or who disenrolls from, Medicare Part B, but is required to be so enrolled in order to maintain PSHB enrollment or coverage. Individuals who successfully enroll in Medicare Part B during their next Medicare enrollment opportunity to maintain their PSHB coverage will be responsible for any Medicare Part B late enrollment penalty, if applicable.

OPM proposes in § 890.1608(b)(5) that in any case where a Postal Service Medicare covered annuitant is disenrolled from a PSHB plan for non-enrollment in Medicare Part B, except in the case of fraud or intentional misrepresentation of material fact, OPM will treat this removal as a termination. A termination, in contrast with a cancellation, is prospective and confers rights to a 31-day temporary extension

of coverage and rights to conversion for the enrollee and covered family members. In a case of fraud or intentional misrepresentation of material fact, the individual's coverage will be terminated retroactively, as applicable, and rights associated with termination will not be available.

In § 890.1608(b)(6), OPM proposes that a disenrollment or removal from coverage under PSHB is effective as of the date that OPM becomes aware of the Medicare Part B non-enrollment, subject to a 31-day temporary extension of coverage.

OPM proposes in § 890.1608(b)(8) that a family member may be reinstated after removal from PSHB enrollment after failing to enroll or non-enrollment in Medicare Part B, so long as the Postal Service annuitant's enrollment under which they are covered is still effective, and proof of the family member's Medicare Part B enrollment is provided to OPM. In § 890.1608(b)(9), OPM proposes the timeframes for reinstatement when a family member gains coverage under Medicare Part B, which aligns with OPM's qualifying life event rules (see paragraph (b)(9)(i)). Proposed § 890.1608(b)(9) would specify that the reinstatement may be prospective or, if the family member can show uninterrupted enrollment in Medicare Part B from the time of their removal from PSHB enrollment, retroactive, at the option of the Postal Service annuitant who may cover the family member, when the requirements under the paragraph are met. OPM invites comment on the proposed changes to § 890.1608(b), which clarifies the opportunities to remain in a PSHB by enrolling in Medicare Part B at their next enrollment opportunity, provides that disenrollment from PSHB will be treated as a termination in certain circumstances, and provides reinstatement opportunities for family members.

#### *Survivor Annuitants and the Requirement To Enroll in Medicare Part B*

Under §§ 890.1603 and 890.1604, the eligibility of survivor annuitants for enrollment or continued enrollment in the PSHB Program will generally follow the current eligibility requirements for enrollment or continued enrollment in the FEHB Program but will include, as applicable, the requirement to enroll in Medicare Part B. Under certain circumstances, however, requiring a survivor annuitant to enroll in Medicare Part B in order to enroll or continue enrollment in the PSHB Program would be inequitable if the survivor annuitant had relied upon the Part B enrollment

exception of the Postal Service annuitant while they were a covered family member to establish their own exception to Part B enrollment while the Postal Service annuitant was alive. Inequities may be presented upon the Postal Service annuitant's death, unless the survivor annuitant could establish their own exception to the Part B enrollment requirement (such as enrollment in Veterans Affairs (VA) health care benefits). The covered Medicare individual survivor annuitant could be required to enroll in Part B, perhaps years after their initial enrollment opportunity and may be required to pay a Part B late enrollment penalty reflecting years of non-enrollment in Part B.

OPM proposes to amend § 890.1604 to provide that a survivor annuitant under 5 U.S.C. 8901(3)(B) of a Postal Service annuitant may continue enrollment in a PSHB plan without enrolling in Part B if, at the time of the Postal Service annuitant's death, the Postal Service annuitant had not been required to enroll in Part B because of an exception under § 890.1604.

Individuals who may continue enrollment as survivor annuitants may also have their own exception to the Part B enrollment requirement if they qualify for one (reside outside the United States, are enrolled in VA health care benefits, or are eligible for health services provided by the Indian Health Service) under § 890.1604(c).

The following examples are provided to illustrate when the amended provision may apply to a survivor annuitant:

*Example 1.* A spouse is married to a Postal Service annuitant who is not required to enroll in Part B as a condition of eligibility to enroll in a PSHB plan under § 890.1604(c)(1)(i) (as of January 1, 2025, the Postal Service annuitant was not both entitled to Part A<sup>1</sup> and enrolled in Part B). The spouse, who is eligible for Medicare, is also not required to enroll in Part B as their Postal Service annuitant spouse has an exception to Part B enrollment. If the Postal Service annuitant dies and the surviving spouse becomes a survivor annuitant, the surviving spouse will not be required to enroll in Part B to continue enrollment in a PSHB plan.

*Example 2.* A spouse is married to a Postal Service annuitant who is not required to enroll in Part B as a

condition of eligibility to enroll in a PSHB plan under § 890.1604(c)(1)(iv) (enrolled in VA health care benefits). The spouse is not eligible for Medicare because they are not yet 65. If the Postal Service annuitant dies before the surviving spouse becomes eligible for Medicare and the surviving spouse becomes a survivor annuitant, the surviving spouse will not be required to enroll in Part B to continue enrollment in a PSHB plan when becoming eligible for Medicare.

#### *Medicare Part B Exception for Postal Service Annuitants, Their Family Members, and Survivor Annuitants Who Reside Outside the United States*

For Postal Service Medicare covered annuitants, Medicare covered family members, and survivor annuitants who demonstrate residency outside of the United States, the Medicare Part B exception under § 890.1604 applies with respect to the PSHB plan year, prospectively, commencing the first day of the month coinciding with or following the month in which they reside outside the United States. As a result, an individual who demonstrates residency outside the United States any time during the period January 1 through December 31 is not required to be enrolled in Medicare Part B for the remainder of that PSHB plan year (through December 31 of that year). If an individual who resides outside of the United States subsequently resides in the United States at any time before the following PSHB plan year and continues to reside in the United States in that following year, they must be enrolled in Medicare Part B by the end of the General Enrollment Period of that following year.

For example, an individual who is covered under PSHB, entitled to Medicare Part A and eligible for Medicare Part B but not enrolled in Part B, and resides outside of the United States on February 1, 2025 through September 30, 2025, is not required to be enrolled in Part B starting on February 1, 2025 (which coincides with commencement of residing outside the United States) in order to continue their PSHB coverage for the remainder of the 2025 PSHB plan year. If the individual subsequently resides in the United States on October 1, 2025, through December 31, 2025, and still resides in the United States on January 1, 2026, they are excepted from the Part B enrollment requirement for the remainder of the 2025 PSHB plan year. In order to remain covered for the 2026 PSHB plan year, however, they must enroll in Part B by the end of their next enrollment opportunity which may be

<sup>1</sup> Under 5 U.S.C. 8903c(a)(1), as adopted by reference in 5 CFR 890.1602(b), the definition of a Medicare covered individual excludes those eligible to enroll pursuant to sections 1818 and 1818A of the Social Security Act. All references to Medicare Part A should be read to exclude those enrolled under these sections.

the 2026 Medicare General Enrollment Period, from January 1 through March 31, 2026. Failure to enroll in Part B may result in termination of PSHB coverage as described in § 890.1608. Because 5 U.S.C. 8903c(e)(3)(iii) provides that the exception from Medicare Part B for individuals residing abroad remains valid for the remainder of the PSHB contract year, OPM is proposing that individuals moving back to the U.S. must enroll in Medicare Part B not later than the end of the Medicare General Enrollment Period beginning January 1 of the following calendar year. (Compare with discussion in Disenrollment and Removal Due to Non-enrollment in Medicare Part B After Notice of Mandatory Enrollment.)

#### *Methodology for Crediting PSHB Program Plan Reserves*

OPM administers the contingency reserve as described in § 890.503. The contingency reserve will be administered the same under the PSHB Program. OPM is proposing to add § 890.1615, titled “Crediting separate reserves for PSHB,” to establish a formula for the one-time allocation of reserves from 2024 FEHB plans with Postal Service employee and Postal Service annuitant enrollees (collectively Postal Service enrollees) to 2025 PSHB plans.

In the interim final rule, OPM implemented the statutory requirement at 5 U.S.C. 8903c(j)(1)(A) that OPM maintain separate reserves, including a separate contingency reserve, for each PSHB Plan. OPM codified this requirement at § 890.1610(a)(4).

The law further requires at 5 U.S.C. 8903c(j)(1)(D) that each PSHB plan “shall be credited with a proportionate amount of the funds in the reserves for health benefits plans offered by the carrier.” As soon as practicable on or after January 1, 2025, OPM proposes to credit each PSHB reserve with the proportionate Reserve Credit. The methodology that OPM proposes to use to credit reserves from FEHB plans to PSHB plans will be based on the 2024 premium income attributable to the Postal Service enrollee population as a percentage of the 2024 FEHB premium income. In general, the requirement to credit reserves will apply to all 2024 FEHB carriers.

Because FEHB enrollees pay premiums based on the plan option of the health benefits plan in which they are enrolled, OPM proposes to apply its Reserve Credit methodology on an Option level. First, OPM would determine a Postal Service Percentage, which refers to the 2024 premium attributable to Postal Service enrollees

divided by the 2024 premium attributable to both Postal Service and non-Postal Service enrollees, for each 2024 FEHB Option. OPM would apply that percentage to the amounts available in the 2024 FEHB Option’s reserves (generally, amounts not needed for payment of Runout claims and expenses incurred but not paid, described below) for each 2024 FEHB Option as of December 31, 2024. OPM would credit the resulting reserve amount to the PSHB plans for 2025.

OPM proposes to define the term Corresponding PSHB Option as the PSHB Option into which Reserve Credits will flow from a 2024 FEHB Option that had Postal Service enrollees. Corresponding PSHB Option means a 2025 PSHB Option that is in the same geographic area and has equivalent benefits and cost-sharing as a 2025 FEHB Option, and that 2025 FEHB Option was also offered in 2024.

Under OPM’s proposal, the amount of the Reserve Credits to be allocated to PSHB options is not based on an enrollee’s enrollment action, or any automatic enrollments that may occur during the transitional open season under § 890.1605(b). OPM proposes to allocate 2025 PSHB Option Reserve Credits into the PSHB Contingency Reserve and PSHB Letter of Credit Account, as applicable to experience-rated and community-rated PSHB Options, as follows:

i. If a Carrier offers an FEHB Plan with one, two, or three Options in 2024 and offers the same number of Corresponding PSHB Options in 2025, the Reserve Credits for those Options will be allocated to the Corresponding PSHB Options’ reserves.

ii. If a Carrier offers an FEHB Plan with two or three Options in 2024 and offers only one Corresponding PSHB Option in 2025, the Reserve Credits attributable to all the 2024 FEHB Plan’s Options will be allocated to that Corresponding PSHB Option’s reserve.

iii. If a Carrier offers an FEHB Plan with three Options in 2024 and offers only two Corresponding PSHB Options in 2025, the Reserve Credits attributable to the two FEHB Options that have Corresponding PSHB Options will be allocated to those two Corresponding PSHB Options’ reserves. The Reserve Credit from the third FEHB Option (that does not have a Corresponding PSHB Option) will be allocated to one of the two Corresponding PSHB Plan Options that has the lowest self only premium and is not a High Deductible Health Plan (HDHP).

iv. If a Carrier offers an FEHB Plan in 2024 and offers no FEHB Plan in 2025, but offers at least one 2025 PSHB

Option with similar benefits and cost sharing and in the same geographic area as the Carrier’s 2024 FEHB plan, as determined by OPM, the Reserve Credit(s) attributable to that FEHB Plan will be credited to the reserves of the Carrier’s 2025 PSHB Options as described in (i) through (iii) as if the 2025 PSHB Option(s) were a Corresponding PSHB Option.

v. If a Carrier offers an FEHB Plan in 2024, and offers that FEHB Plan in 2025, but offers no Corresponding PSHB Options for that 2025 FEHB Plan, the Reserve Credit(s) attributable to that FEHB Plan will be credited to the reserves of the PSHB Options offered in 2025, proportionately, consistent with 5 U.S.C. 8903c(j)(2) where the subscription charges paid are the 2024 Postal Service Premium.

vi. If a Carrier offers a 2025 PSHB Option for which no 2024 Postal Service Premium is attributable, then that 2025 PSHB Option will receive no Reserve Credit.

OPM seeks comment on this proposed Methodology for Crediting PSHB Program Plan Reserves, and also seeks comment on any situation that would not be covered under scenarios i. through vi.

Under 5 U.S.C. 8903c(c)(2), a carrier’s 2025 PSHB plan must have equivalent benefits and cost sharing to the carrier’s 2025 FEHB plan; however, the law does not require a 2025 FEHB plan to have equivalent benefits and cost sharing to the 2024 FEHB plans, so OPM proposes to credit the Reserve Credit(s) attributable to that FEHB Plan to the reserves of the carrier’s 2025 PSHB Options as if the 2025 PSHB Option(s) were a Corresponding PSHB Option. Therefore, generally, where a carrier offers a 2024 FEHB plan and offers that plan in FEHB in 2025 along with an equivalent 2025 PSHB plan, the Reserve Credits will be allocated to the 2025 PSHB plan options in accordance with § 890.1615(c)(5)(i) through (iii).

The “Coverage with Equivalent Benefits and Cost-Sharing” requirement in 5 U.S.C. 8903c(c)(2) does not apply where a carrier offers a 2024 FEHB plan and offers a 2025 PSHB plan but does not offer a 2025 FEHB plan. OPM proposes to ensure that a carrier’s 2025 PSHB plan receives an equitable proportion of reserves attributable to that carrier’s 2024 FEHB plan, and that the expectation of the carriers and enrollees that a PSHB plan reserves will be funded, and to closely follow Congress’ intent under the PSRA. OPM further intends for the PSHB Program to have continuity within the FEHB Program. Therefore, OPM has determined that the reserves from a

2024 FEHB plan where the carrier does not offer a 2025 FEHB plan will be allocated to the carrier's 2025 PSHB plan where OPM has determined, in its discretion, that the benefits and cost sharing are similar between the 2025 PSHB plan and that carrier's 2024 FEHB plan. Under this rulemaking, generally, for 2024 FEHB plans covering mostly Postal Service enrollees where the carrier chooses to not offer a 2025 FEHB plan, and offers only a PSHB plan in 2025, then § 890.1615(c)(5)(iv) will apply.

For 2024 FEHB Carriers that do not offer a PSHB plan in 2025, any Reserve Credits attributable to the carrier's 2024 Postal Service premium will be distributed proportionately into the Contingency Reserves for each PSHB Option offered in 2025, consistent with 5 U.S.C. 8903c(j)(2). Distributing FEHB Reserve Credits to the PSHB Program in this way is consistent with OPM's distribution of the reserves of an FEHB plan that is discontinuing as described under 5 U.S.C. 8909(e), as described in § 890.1615(c)(5)(v).

Where a carrier offers a 2025 PSHB plan that has no 2025 FEHB plan with equivalent benefits and cost sharing, and there is no 2024 FEHB plan with similar benefits and cost sharing, as determined by OPM, no reserves will be allocated to the carrier's 2025 PSHB plan as described in § 890.1615(c)(5)(vi).

Runout refers to the estimated amount, as of December 31, 2024, needed to pay claims and expenses incurred but not paid for periods on or before December 31, 2024, for an FEHB experience-rated Option, considering any income attributable to periods on or before, but not yet received by, December 31, 2024. OPM will estimate the Runout amount.

Each experience-rated 2024 FEHB Option will have a separate Runout account. This Runout account will be credited with the Runout amount, will be available to pay Postal Service and non-Postal Service claims and expenses incurred but not paid prior to January 1, 2025, and will receive any income attributable to periods on or before, but not yet received by, December 31, 2024.

Any remaining funds in an FEHB Option's Runout account after all pre-2025 claims and expenses are paid will be allocated to the FEHB Option and PSHB Options' reserves by applying the Reserve Credit methodology described in this rulemaking. If an FEHB Option's Runout account becomes depleted before all pre-2025 claims and expenses are paid, a reallocation of funds from the applicable FEHB and PSHB reserves to the Runout account will be necessary. In such circumstance, OPM will

estimate the amount of additional funding needed in the Runout account to pay all remaining pre-2025 claims and expenses. OPM will determine the estimated amount of additional funding to be credited to the Runout account by applying the Reserve Credit methodology set forth in this rule to determine the proportion of additional funds that come from the applicable FEHB and PSHB options.

Each experience-rated FEHB Option will continue to maintain its separate FEHB Letter of Credit Account to pay non-Postal Service claims and expenses incurred on or after January 1, 2025 and to receive any income attributable to periods on or after January 1, 2025. Each experience-rated PSHB Option will have a separate PSHB Letter of Credit Account to pay Postal Service claims and expenses incurred on or after January 1, 2025 and to receive any income attributable to periods on or after January 1, 2025.

Any funds OPM receives under 5 U.S.C. 8909(b) for premiums attributable to periods on or before, but not yet received by, December 31, 2024, will be credited to PSHB Options' and FEHB Options' Contingency Reserves using the Reserve Credit methodology set forth in this rulemaking. OPM annually distributes end-of-year Contingency Reserve adjustments, including earned interest and distribution of FEHB discontinued Plan funds, to Contingency Reserves in the Spring of the following year. For the initial PSHB contract year, these end-of-year 2024 adjustments will be allocated between FEHB Options and PSHB Options using the Reserve Credit methodology set forth in this rule.

#### *Clarification of One-Year Application of Automatic Enrollment*

OPM is proposing to amend § 890.1605 "Enrollment in the initial contract year" to clearly delineate the process in which individuals will be automatically enrolled into a PSHB plan if they do not select a plan during the transitional Open Season. OPM is clarifying that the standards and processes are specific to the transition into PSHB plans in 2025, from FEHB plans in 2024. These proposed amendments identify the FEHB plan on December 31, 2024 as the plan from which individuals will be automatically enrolled into a PSHB plan. The PSHB plan and option into which individuals will be automatically enrolled will generally be offered by the same carrier and have equivalent benefits and cost sharing, however there are exceptions, and the proposed regulatory text addresses the potential scenarios. OPM

invites comment on this process. OPM also invites comment on whether the proposed regulatory text clearly specifies the PSHB plan and option into which an individual will be automatically enrolled.

#### *Aligning the Government Contribution Requirements With the January 1–December 31 Plan Year*

Under § 890.1610(a)(5), PSHB Carriers are required to begin coverage on January 1 of each year. The PSHB plan year is from January 1 through December 31 each year starting in 2025. Section 890.1606(e) provides that PSHB enrollments, changes of enrollment, or reenrollments made during Open Season take effect on January 1 of the next year. A PSHB plan year is different from a FEHB plan year in that under an enrollment in an FEHB plan, coverage under a plan elected during Open Season begins on the first day of the first pay period that starts on or after January 1.

For PSHB plans, however, coverage begins on January 1st of each year regardless of whether the individual continues enrollment or coverage in that PSHB plan or whether the PSHB plan was selected during Open Season, including when the individual is automatically enrolled in the PSHB plan during the transitional Open Season.

For most years, January 1st is not the first day of the first pay period of the year, which means that in the PSHB Program the new premium for the new plan year will become effective during a pay period that overlaps calendar years. Under 5 U.S.C. 8906(b)(1), for an employee, the Government contribution for the new plan year's premiums begins on the first day of the employee's first pay period of each year. If section 8906(b)(1) applied to Postal Service employees enrolled in the PSHB Program, the employee would be responsible for the difference between the total premium for the new plan year less the Government share of premium for the prior plan year for the period of time between January 1st and the beginning of the first full pay period in the new plan year. In other words, by being responsible for that difference, Postal Service employees would end up paying a higher portion of premium in the overlapping pay period than would be paid pursuant to the statutory formula for all other pay periods in the plan year.

Therefore, for Postal Service employees, as defined in 5 U.S.C. 8903c(a)(9), OPM is proposing in § 890.1606(e) that the Government contribution for Postal Service employees starts on January 1st of each

year. This ensures that the Government contribution is calculated in a manner that is consistent with the intent of the statute, accounting for the premiums for the employee's plan and plan type that is effective for the entire plan year, here under PSHB, from January 1st through December 31st of each year. As a result, when January 1 is not the first day of the first pay period of the year, employee premiums and the Government's share of premiums for that pay period will be calculated to account for the number of days in the pay period that occur in the prior plan year, and the number of days in the pay period that occur in the new plan year in which the change is effective, to account for the different premiums respectively.

To ensure that Government contributions for PSHB plan premiums are adjusted and applied starting on January 1 of each year, OPM is proposing to amend § 890.1613(a) to clarify how 5 U.S.C. 8906(b)(1), which governs the Government contribution adjustment, applies to Postal Service employees under the PSHB Program.

#### *Financial Reporting and Actuarial Calculations*

Section 102 of the PSRA ("The USPS Fairness Act"), makes changes to how OPM will calculate payments to the Postal Service Retiree Health Benefits Fund (PSRHBF) trust fund, as well as changes to how OPM will perform calculations for purposes of financial reporting. OPM is proposing to amend § 890.1613 "Contributions and Withholdings" to clarify the elements of the statutory financial reporting calculations that OPM is required to complete yearly under the PSRA.

Under 39 U.S.C. 3654(b), the Postal Service is required to file a report with the Postal Regulatory Commission, indicating the funded status of the Postal Service's pension obligations under the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) and its post-retirement health obligations under the FEHB Program. OPM is responsible for computing the amounts. The pension obligations of the Postal Service are governed by 5 U.S.C. chapters 83 and 84, while its post-retirement health obligations are governed by 5 U.S.C. 8909a. Section 102 of the PSRA adds section 8909a(e), which provides that these figures must be based on economic and actuarial methods and assumptions consistent with the methods and assumptions associated with determining the Postal Service surplus and supplemental liability.

Section 8909a(e) states that "any computation" required under 39 U.S.C.

3654(b) is to be based on "the net present value of the future net claims costs" of current Postal Service annuitants and active Postal Service employees who would be eligible to retire under 5 U.S.C. 8901(3)(A)(i) or (ii). In accordance with OPM's actuarial funding methods applied under 5 U.S.C. 8348(h), that population includes current and future Postal Service annuitants as of the end of the fiscal year ending on September 30 of the relevant reporting year. In this proposed amendment, OPM further clarifies the population on which the calculations under 39 U.S.C. 3654(b) are based. OPM is also proposing to remove the word "future" from before "net claim costs" in § 890.1613(e)(1) to clarify the equivalence in terms is between "net claims costs" and "estimated net claims costs."

#### *Prioritizing Premium Payments From the Postal Service Retiree Health Benefits Fund*

The interim final rule explained that the Postal Service will pay any applicable Medicare Part B late enrollment penalty for Postal Service Medicare covered annuitants and their Medicare covered family members who enroll during the 6-month Special Enrollment Period in 2024 established by section 1837(o) of the Social Security Act (42 U.S.C. 1395p). The Postal Service may direct OPM to pay these late enrollment penalties out of the PSRHBF established under 5 U.S.C. 8909a until those funds are depleted. If at any time the PSRHBF is depleted, 5 U.S.C. 8903c(i)(4) states that USPS shall pay late enrollment penalties out of its funds established under 39 U.S.C. 2003. OPM proposes, under its administrative responsibilities granted in 5 U.S.C. 8909a(a), to prioritize the payment of health benefit premiums for individuals described in 5 U.S.C. 8906(g)(2)(A) from the PSRHBF, over payment of the late enrollment penalties as proposed in § 890.1613(c). The prioritization of premium payments from the PSRHBF will not impact the Postal Service's ability to pay late enrollment penalties for those that enroll during the SEP.

#### *Medicare Part D Enrollment for Postal Service Annuitants and Family Members Who Are Eligible for Part D*

Section 8903c(h) of 5 U.S.C. mandates that OPM require PSHB plans to provide Medicare Part D prescription drug benefits to Postal Service annuitants and family members who are eligible to enroll in Part D, as defined in section 1860D-1(a)(3)(A) of the Act, and receive coverage offered under for Medicare Part D through employment-based

retiree health coverage through a prescription drug plan as defined in section 1860D-41(a)(14) of [the] Act) or "contracts between such a [PSHB] plan and PDP sponsor, as defined in section 1860D-41(a)(13) of [the] Act, of such a prescription drug plan." Individuals who are not eligible to enroll in Part D, will receive prescription drug benefits through their PSHB plan coverage.

Under chapter 89, carriers are required to offer plan options with uniform benefits and premium rates. See 5 U.S.C. 8902 and 8903; 5 CFR 890.201 (a)(6). This means that two individuals enrolled in a particular plan option and enrollment type (self only, self plus one, or self and family) will receive the same benefit package at the same premium rate. Under the PSHB Program within chapter 89, an individual who is eligible to receive benefits under a Medicare Part D plan will receive the same benefits under a Part D plan option as an individual who is not eligible to enroll in a Part D plan who is enrolled in the same option and enrollment type. As such, OPM is proposing at § 890.1616 that a PSHB Carrier must, to the extent necessary to integrate the Medicare Part D prescription drug benefits coverage required under 5 U.S.C. 8903c, ensure that the prescription drug benefit offered under its Medicare Part D EGWP is equal to or better than the PSHB plan's prescription drug benefit. OPM will retain the authority to determine what is necessary for the carrier to effectuate Medicare Part D integration.

OPM's proposals in this rulemaking regarding Medicare Part D EGWPs provided under the PSHB Program should not be construed to affect an individual's ability to enroll in a Medicare Part D plan outside of health benefits plans offered under chapter 89. This means an individual may purchase a Medicare Part D plan, at their own expense, outside of their PSHB plan. An individually purchased Medicare Part D plan will not provide EGWP benefits.

OPM invites comment on these proposals concerning integration of Medicare Part D prescription drug benefits into the PSHB Program.

#### *Group Enrollment of Eligible Individuals Into Part D EGWPs*

An employer has the option to enroll individuals who are covered under the employer's group health plan, as described in section 1860D-22(c)(3)(A) of the Social Security Act, and who are eligible to receive benefits under Medicare Part D, into a Part D EGWP. This process is called "group enrollment." Group enrollment avoids requiring each individual to submit

enrollment forms in order to enroll in the Part D EGWP offered by their employer-based plan. Recognizing that prescription drug benefits are a fundamental component of an employment-based retiree group health plan, and that most individuals enrolled in such a plan want to receive prescription drug benefits through that plan, group enrollment provides administrative simplicity and ensures that all retirees have access to prescription drug benefits that meet their needs.

OPM, as the administrator of the PSHB Program, can require PSHB Carriers to automatically group enroll individuals eligible to enroll in Part D, and OPM is planning to operationalize Part D enrollment through group enrollment to support a seamless Part D EGWP enrollment process for eligible Postal Service annuitants and family members. Group enrollment provides a simplified process for enrollment into Medicare Part D and limits the potential for error on the part of an individual who might otherwise fail to enroll in Medicare Part D. It is also consistent with the experience of individuals who were previously covered by an FEHB plan where a single enrollment afforded both medical and prescription drug coverage.

An individual cannot enroll in more than one Medicare Part D plan at a time. As a result, the group enrollment process, which enrolls all individuals regardless of whether or not they have obtained or are seeking coverage elsewhere, may create an additional burden for some individuals. For example, an individual may prefer to maintain or receive Part D coverage under a Part D plan outside of the PSHB plan, through a standalone Part D plan, or as a covered family member receiving prescription drug coverage under the employment-based retiree group health plan of a spouse. If that retiree does not want prescription drug benefits under their own employer-based plan's Part D EGWP, they may "opt out" of group enrollment. For this reason, this rule proposes in § 890.1616(d) to require PSHB Carriers to group enroll eligible individuals into the Medicare Part D EGWP provided by their PSHB plan carrier by default but allow them to opt out of group enrollment if they choose.

OPM proposes in § 890.1616(e) that an individual who opts out of group enrollment into their PSHB plan's EGWP or declines the Part D EGWP coverage under the PSHB plan, will no longer be group enrolled into the Part D EGWP for each next consecutive plan year under that PSHB plan but may request enrollment into a PSHB plan's

Part D EGWP at the individual's next enrollment opportunity described under § 890.1606. While remaining in an opt-out status, the individual will not be automatically group enrolled into a PSHB plan's Part D EGWP so long as they remain in the PSHB plan. Should they choose a different plan during a later enrollment opportunity, they will be group enrolled into that plan's Part D EGWP unless they request to opt out. In this way, the decision to opt out of the Part D EGWP does not follow the individual when they change plans, and they must elect to opt out anew.

#### *Individual Impact of Non-Enrollment in Part D EGWP*

Section 8903c(h) of title 5 U.S.C. requires that PSHB Carriers provide Medicare Part D coverage to Part D eligible individuals within the PSHB program. Under this proposed rule, Medicare Part D eligible individuals are not required to be enrolled in Medicare Part D as a condition of enrollment in a PSHB plan. Instead, this rule would allow Postal Service annuitants and their family members to decline Medicare Part D coverage provided under their PSHB plan, by either opting out of group enrollment into the Part D plan under the PSHB plan or disenrolling from Part D under the PSHB plan. Declining to enroll in a PDP EGWP or MAPD EGWP offered through the PSHB plan would eliminate coverage of prescription drug benefits for the individual under the PSHB plan but would not result in a reduction of premium. The individual would continue to pay the same premium for the PSHB plan charged to all similarly situated enrollees in that option and enrollment tier. Postal Service annuitants and their family members would retain all of the other benefits under their PSHB plan. Should the individual wish to reenroll in the Part D EGWP at a later date, they may be subject to a Medicare Part D late enrollment penalty.

OPM is proposing this approach because it views it as most consistent with the PSRA statutory language. The PSRA did not establish an express requirement for Postal Service annuitants and their family members to enroll in Medicare Part D. This proposal provides Postal Service annuitants and their family members with flexibility for enrollment in Medicare Part D while creating incentives to be enrolled in the Medicare Part D EGWP offered by their carrier, which is expected to lead to cost savings for the PSHB program. This proposal is also consistent with the voluntary nature of the Medicare Part D program.

This approach would permit Postal Service annuitants and their family members with a higher income who are subject to an Income Related Monthly Adjustment Amount (IRMAA) (which would require these individuals to pay an extra amount for Medicare Part D) to decline Part D and forgo prescription drug coverage under the PSHB plan. Permitting individuals to decline Part D may present a risk that individuals may fail to enroll in, or inadvertently disenroll from the Part D EGWP (which includes either a PDP EGWP or MAPD EGWP, if offered), which would result in loss of access to prescription drug benefits under the PSHB plan while paying the full premium. This approach, however, would not prevent an individual from enrolling in a stand-alone Medicare Part D plan outside the PSHB Program, at the individual's own expense. This approach also does not prevent an individual from suspending PSHB coverage while enrolled in a Medicare Advantage plan. Affirmatively declining enrollment in the Medicare Part D EGWP provided by the PSHB plan would result in an individual's loss of prescription drug benefits under a PSHB plan until the next PSHB enrollment opportunity, as described in § 890.1606, which could be the next open season. We seek comment on how best to mitigate the risk of inadvertent disenrollment and educate Part D-eligible individuals about the PSHB Program requirements.

OPM recognizes that the mandatory integration of Medicare Part D benefits into PSHB plans under the PSRA is a significant shift from requirements for FEHB carriers, which offer plans with prescription drug benefits and are not required to provide Medicare Part D EGWPs. Annuitants who are not Postal Service annuitants and who are enrolled in FEHB plans receive comprehensive, creditable drug coverage if they elect an FEHB plan that does not offer Medicare Part D benefits. It is possible for a Postal Service annuitant or the Postal Service annuitant's family member to fail to recognize that declining to enroll in or disenrolling from the Part D prescription drug benefits under their PSHB plan will result in the loss of prescription drug benefits under the PSHB plan. Moreover, it is possible individuals may not understand that declining Part D coverage will not result in a lower PSHB premium, as their PSHB premiums include the cost to the plan of prescription drugs covered under the Part D EGWP and that portion of the premium is not severable.

Carriers must ensure a seamless, customer-friendly approach for affected enrollees and their family members to

opt out of group enrollment into the Medicare Part D EGWP portion of the PSHB plan. Carriers may not complicate the opt-out process by requiring enrollees or their family members to take actions such as including a wet signature or sending a physical copy of opt-out documents through the mail. Carriers must comply with all requirements for group enrollment contained within Centers for Medicare & Medicaid Services (CMS) guidance including the Medicare Prescription Drug Benefit Manual and the PDP Enrollment and Disenrollment Guidance. OPM is also clarifying that a carrier must follow all CMS requirements with regard to individuals who disenroll from an MAPD EGWP under its PSHB plan.

OPM expects very few PSHB enrollees and family members to opt out of or decline coverage from their PSHB plan's Part D EGWP, as (1) the vast majority of individuals eligible for Part D will be better off retaining their PSHB drug coverage, (2) there will be seamless coordination between the PSHB plan and Medicare, and (3) the cost of the Part D EGWP will be included in their PSHB premium either way. Those who choose to opt out of group enrollment into the PSHB plan's EGWP or decline enrollment once effectuated will be doing so after receiving notice regarding the loss of prescription drug coverage under the PSHB plan.

A retiree's enrollment in an employment-based retiree health plan that includes a Medicare Part D EGWP ensures that the prescription drug benefits will be coordinated by the plan. When a Part D eligible individual covered under a PSHB plan elects to opt out of group enrollment in the PSHB plan's Part D EGWP, or if the individual disenrolls at any time from the EGWP, the individual loses all prescription drug benefits under the PSHB plan, which includes coordination of care that would have been afforded between the prescription drug benefits of the Part D EGWP and the PSHB plan.

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

#### *Statement of Need*

This proposed rulemaking follows an initial rulemaking implementing sections 101 and 102 of the PSRA, which directed OPM to establish the PSHB Program for Postal Service employees, Postal Service annuitants, and their eligible family members. The PSHB Program is contained within 5 U.S.C. chapter 89, which governs the FEHB Program generally.

While developing and implementing the regulatory provisions found in the

initial rulemaking, OPM determined that a number of topics associated with the PSHB Program needed further refinement, development, or clarification. For example, in the initial rulemaking, OPM enacted procedures for handling requests for reconsideration of initial decisions affecting enrollment in the PSHB Program. After further consideration, OPM determined that specific changes were needed to distinguish the different relationship between employing offices and OPM as it relates to the PSHB Program versus the FEHB Program. Similarly, several regulatory changes to the PSHB Medicare Part B requirement are necessary to make the transition from FEHB, where there is no Medicare Part B requirement, to PSHB as consumer friendly as possible and to provide policies for certain scenarios that were not contemplated when the interim final rule was initially developed. As an example, public comments received on the interim final rule concerning survivor annuitants as it relates to the Medicare Part B requirement indicated a need to provide clear regulation of the treatment of this group and informed the proposal in this rulemaking.

In addition, some issues required more development time and were not able to be included in the initial rulemaking. Those issues include reconsiderations of PSHB eligibility decisions, various applications of the Medicare Part B enrollment requirement, allocation of reserves credits, calendar year alignment of Government contribution requirements, financial reporting and actuarial calculations, premium payment prioritization from the Postal Service Retiree Health Benefits Fund, and Medicare Part D integration.

Because the PSRA included a statutory deadline for OPM to publish regulations for the program, OPM reserved for this rulemaking those more complex issues that required more time than the interim final rule timeframe allowed. For example, determining a methodology for allocation of reserve credits required more development time. This rulemaking provides an additional vehicle for a more comprehensive regulatory scheme before the PSHB Program begins operation in 2025.

OPM's proposals regarding reconsideration in this rulemaking would ensure that policies and procedures related to eligibility decisions in the PSHB Program properly account for aspects that are unique to the PSHB Program. Without these clarifications, there would be confusion

among agencies as to their responsibilities when faced with a PSHB reconsideration request. These PSHB-specific reconsiderations regulations also account for the use of a centralized enrollment system, which is not used for enrollment in FEHB plans.

OPM is further clarifying Medicare Part B requirements and exceptions in this rulemaking. The Medicare Part B exceptions included in this rulemaking are specific scenarios that OPM either received questions about during the development of the PSHB Program or were raised internally during the that process. While the most common Part B exception scenarios are provided in the PSRA and largely clarified in detail through OPM's initial rulemaking, the scenarios addressed in this proposed rulemaking were beyond the scope of the initial rulemaking. Confusion or inequitable treatment among current or future Postal Service annuitants and their family members could result if OPM does not address these scenarios before PSHB enrollment begins.

Several of the proposals found in this rulemaking are necessary to properly operationalize financial aspects of the PSHB Program before it begins in 2025. The inclusion of the methodology for the allocation of reserve credits from 2024 FEHB plans, with Postal Service employee and Postal Service annuitant enrollees, to 2025 PSHB plans is necessary to implement the calculations of this one-time allocation that is required in order create the reserves for PSHB plans. Implementing requirements that align the government contribution adjustment for Postal Service employees with the calendar year is necessary to ensure the adjustment aligns with the PSHB plan year, which is also on a calendar-year basis. Regulations regarding financial reporting and actuarial calculations are necessary to align PSRA financial requirements of both OPM and USPS with current actuarial methods. Finally, the proposed rules regarding payment prioritizing premium payments from the Postal Service Retiree Health Benefit Fund and thereafter Medicare Part B late enrollment penalty payments establishes an order of priority for funds. Without this section, it would be unclear how OPM prioritizes payments statutorily allowed from the PSRHBF at times when the fund may be depleted.

Finally, the integration of Medicare Part D benefits into the PSHB Program, which is a significant aspect of the PSRA, requires further regulation, particularly as it relates to group enrollment into the Part D EGWP as well as how an individual may decline

Part D coverage and the consequences of doing so. This clarification is necessary to fully implement the Part D integration sections of the PSRA in compliance with Medicare regulations and requirements. In the absence of this rulemaking, carriers' plans are required to provide prescription drug benefits to any Postal Service annuitant and member of family of such annuitant who is a part D eligible individual (as defined in section 1860D-1(a)(3)(A) of the Social Security Act) through employment-based retiree health coverage (as defined in section 1860D-22(c)(1) of such Act) through (A) a prescription drug plan (as defined in section 1860D-41(a)(14) of such Act); or (B) contracts between such a Program plan and PDP sponsor, as defined in section 1860D-41(a)(13) of such Act, of such a prescription drug plan. Alternatively, in the absence of this rulemaking, OPM could provide unenforceable guidance interpreting this provision. OPM agrees that the default for this issue is unclear based on the initial rulemaking, which is why this rulemaking is vital.

#### *Impact*

This rulemaking proposes additional requirements and clarifications for the operations and management of the PSHB Program. Based on OPM's estimates, OPM does not believe that this proposed regulation will have a large impact on the broader health insurance market. In 2022, Postal premiums accounted for about 22% of the total FEHB premiums, meaning that Postal Service employees, Postal Service annuitants, and their family members make up about one fifth of health insurance carriers' overall FEHB books of business. OPM seeks general comments on the impact of this proposed rule.

As with the interim final rule, this proposed rule is intended to help promote the financial stability and long-term viability of the Postal Service by implementing the PSHB Program as effectively as possible. The largest potential impact from this rule is found in the regulatory proposals addressing reserves. OPM estimates that \$4.7 billion of the estimated \$22 billion in total FEHB reserves is attributable to the Postal population. In addition, OPM estimates that the vast majority of PSHB enrollees will remain with the same carrier during the move from FEHB to PSHB. In this scenario, the move of funds from FEHB to PSHB reserves will have no economic impact—the money will remain with the same carrier, still overseen by OPM. Based on 2023 enrollment and expected carrier

participation in the PSHB, OPM estimates that the total reserves that will be transferred between carriers will not exceed \$100 million.

The other changes in the proposed rule are not expected to be economically significant. The reconsideration process largely mirrors that in the FEHB Program, except to the extent the PSHB Program requires incorporation of verification of the requirement to enroll in Medicare Part B. Discussions of the application of various Part B exceptions are clarifications rather than deviations from the status quo. To the extent there are impacts from the various proposals, they are discussed below.

#### A. Impacts on PSHB Carriers

The reserves policies addressed in this proposed rule will result in a shift of funds from FEHB plan reserves to PSHB plan reserves based on the proportion of enrollment attributable to PSHB between 2024 and 2025. However, in large part we expect these funds to shift between plans within the same carrier, as we expect many PSHB enrollees to remain with their current FEHB carrier to the extent possible.

#### B. Impacts on PSHB Enrollees

The proposed rule provides clarification on several situations concerning Medicare Part B enrollment requirements and exceptions under the PSHB Program. Because each enrollee's circumstances are unique, it is not possible to expressly regulate every scenario that could arise under the program. However, the rule does clarify treatment of survivor annuitants and Postal Service annuitants and family members returning to the U.S. after living abroad and qualifying for that PSHB Program exception regarding Medicare Part B enrollment. These clarifications benefit affected enrollees and family members by providing greater certainty relating to an affected individual's rights or responsibilities concerning Part B enrollment as they remain enrolled in the PSHB Program. They also allow affected enrollees and family members to plan ahead when making Medicare enrollment decisions upon reaching Medicare eligibility.

This proposed rule also reiterates the policy first included in the interim final rule at 88 FR 20387 and codified at 5 CFR 890.1608(b)(2) that individuals who are required under the PSRA to enroll in Medicare Part B in order to enroll in the PSHB program will be given the opportunity to correct a non-enrollment in Part B if OPM discovers the discrepancy after the individual is enrolled in the PSHB program. This policy is intended only to allow for

good-faith corrections of mistakenly missing Part B coverage and should apply to a very small number of individuals. This proposed rule clarifies that this opportunity is a one-time benefit, and any subsequent instances where the individual lacks required Medicare Part B enrollment will result in PSHB termination. OPM expects the number of individuals who face two good-faith instances of missing Medicare Part B enrollment to be negligible, so the impact will be very small.

The right to request reconsideration of PSHB Program eligibility and enrollment decisions is important to enrollees and family members. The FEHB Program has a robust reconsideration process, and the PSHB Program incorporates FEHB Program rights and processes where appropriate. However, this rulemaking is necessary to clarify differences due to several unique aspects of the PSHB Program. Without these clarifying regulations, enrollees could face confusion over which agency should receive their reconsideration request and how they may challenge an adverse PSHB determination that is not covered by the reconsideration process related to FEHB plan eligibility and enrollment. Most notably, the PSHB Program contains a Medicare Part B enrollment requirement for many Postal Service annuitants, which does not exist for annuitants eligible for enrollment in FEHB plans. OPM will receive information from various source agencies that have the ability to verify certain information about an individual upon which OPM can determine PSHB eligibility and compliance with Medicare Part B requirements.

#### C. Impacts on Employing Agencies

Under this proposed rule, employing agencies (USPS for Postal Service employees or OPM, as the agency with the authority to approve payment of annuity, etc., for Postal Service annuitants) will have similar responsibilities when addressing reconsideration requests for the PSHB Program as they do for the FEHB Program. With the Medicare Part B requirement for most Postal Service annuitants and eligible family members in order to be covered under the PSHB Program, there will be additional verification for affected Postal Service annuitants and family members. In addition to performing verification checks where appropriate, an adverse outcome for enrollees may increase the number of eligibility reconsideration requests made by individuals seeking coverage.

This proposed rule would also ensure that the government contribution adjustment for PSHB premiums aligns with the January 1 to December 31 PSHB plan year already set out in the initial rulemaking. Changing the effective date for the government contribution adjustment to align with the PSHB plan year will have a slight impact on employing agencies, that are responsible for ensuring that funds are correct, and that may need to adapt procedures for timing the adjustment. Because the changes to the plan year and government contribution adjustment date only apply to the PSHB Program, the overall impact is limited to USPS and OPM.

OPM's proposed policy of prioritizing PSHB premium payments over Medicare Part B late enrollment penalties payments from the PSRHBF will not result in increased costs for USPS, regardless of the extent to which Postal Service annuitants take advantage of the PSRA Medicare Part B Special Enrollment Period. Should the PSRHBF be depleted at any time and OPM is unable to pay Part B late enrollment penalties out of the fund, the Part B late enrollment penalties will be paid directly by USPS' general operating fund, as described in the PSRA. The status of the PSRHBF will not jeopardize USPS' ability to pay these penalties on behalf of their Postal Service annuitants.

Finally, the proposed policy relating to Medicare Part D benefit integration, which allows Part D eligible individuals to opt out of a PSHB Part D EGWP, will likely have little impact on the program overall. Very few individuals are expected to opt out given that they will lose PSHB prescription drug coverage and will see no reduction in monthly premiums. Carriers will account for the small number of expected opt-outs in calculating overall premiums, although the effect of opt-outs on premiums is expected to be insignificant. The impact for enrollees who retain their Part D coverage through the PSHB plan will likewise be negligible. However, the impact for any Part D eligible individual who opts out will be large. They will pay an identical premium but receive no prescription drug benefit through PSHB. In the event that they opt out erroneously or due to not understanding the negative implications of doing so, the financial penalty could be severe. Out-of-pocket drug costs can be very high, particularly for name brand drugs, and should an individual later choose to opt back into the Part D EGWP, they may be faced with a Part D late enrollment penalty from Medicare. In an effort to ensure that all PSHB enrollees

understand the consequences of opting out of Medicare Part D under the PSHB plan, OPM and USPS will provide education regarding the consequences of opting out of Part D benefits and what effect that will have on their prescription drug benefits. This education will be provided in addition to a detailed notice that all PSHB enrollees will receive, as required by CMS regulations. OPM is seeking to ensure education about Part D and that the implications of opting out are as clear as possible and is looking to ensure that any individual who opts out is doing so under full information. OPM invites comment on ways to most effectively mitigate these concerns.

#### *Costs*

OPM does not anticipate that this regulatory action will result in any significant or quantifiable economic costs. The proposals related to reserves are strictly distributional and are not expected to result in any costs. Discussions of the application of the various PSHB program Medicare Part B exceptions are clarifications of the requirements established in the interim final rule. Thus, while costs may be incurred as a result of specific, individual scenarios, these costs were addressed in the interim final rule and will not be significantly impacted by the clarifications provided by this proposed rule.

In particular, this proposed rule would clarify the interim final rule provision related to PSHB enrollees who are belatedly discovered to be ineligible based on their non-enrollment in Part B by limiting the exception to a one-time privilege, thus minimizing the potential costs to agencies. To the extent that these scenarios result in additional costs, OPM anticipates that these would be negligible, given the number of eligibility checks, and would be impossible to quantify. Because enrollees who use this one-time privilege may be responsible for a Part B late enrollment penalty, there remains a financial incentive to enroll in Part B when first eligible. Because this privilege is only available once, the number of enrollees who utilize the exception will likely be limited.

#### *Benefits*

OPM does not expect this proposed rule to result in any significant economic benefits. As with the interim final rule, this proposed rule is intended to promote the financial stability and long-term viability of the Postal Service by implementing the PSHB Program as effectively as possible. The resulting societal benefits associated with these

outcomes were appropriately discussed in the interim final rule and are not expected to be significantly impacted by the clarifications proposed.

#### *Distributional Effects*

OPM estimates that \$4.7 billion of the projected \$22 billion in 2024 FEHB reserves will be attributable to PSHB enrollees, based on 2023 enrollment, and will therefore be reallocated to PSHB plans in 2025. Despite the size of funds being reallocated, OPM does not expect these transactions to result in an economically significant transfer, as defined in OMB Circular A-4, for several reasons.

First, although allocated to individual plans, unobligated reserves ultimately belong to the FEHB and PSHB programs upon the carrier's exit. Payments or transfers from the contingency reserves are regulated, as outlined in 5 CFR 890.503 and in 48 CFR chapter 16, the Federal Employees Health Benefits Program Acquisition Regulation (FEHBAR) at 48 CFR 1632.770, and balances are closely monitored by OPM to ensure compliance with minimum balance standards. Further, if an existing plan is discontinued or elects not to participate in the FEHB program, the reserve balances credited to that plan are redistributed to the remaining plans and carriers.

Second, OPM estimates that more than 97% of the fund transfers will be attributed to FEHB carriers that plan to offer PSHB plans. In these cases, reserve funds will remain with the carrier and will be reallocated from FEHB plans to the PSHB plans, as outlined in the proposed methodology (scenarios a-c). Thus, to the degree that reserve funds afford any monetary benefit, the aggregated benefit afforded to the carrier, across the entire portfolio of plans offered, would remain the same.

Third, OPM estimates that less than 3% of the funds transferred will be attributed to FEHB carriers that *do not* plan to offer PSHB plans. In these cases, a portion of the reserve funds for each FEHB plan will be redistributed across the PSHB Options based on the percentage of 2024 premiums attributable to Postal enrollees, as described in the proposed methodology (scenario d). To the degree that reserve funds afford any monetary benefit, these transfers would result in a net change in the aggregated benefit afforded to each carrier. Based on 2023 enrollments and anticipated carrier participation in the PSHB program, OPM estimates that the total amount of these between-carrier transfers will not exceed \$100M, well below the \$200M threshold for economic significance.

### Alternatives

This proposed rule provides that individuals eligible for Medicare Part D may opt out of group enrollment or disenroll from the Part D EGWP associated with their PSHB plan. As a result of opting out or disenrolling from their PSHB plan's Part D EGWP, the individual will not receive prescription drug benefits under the Part D EGWP or under the PSHB plan. OPM considered this policy and several alternatives extensively and ultimately decided on the policy as written considering enrollee and family member interests, cost saving intent of the PSRA and OPM's obligations under Medicare regulations, and the text of the PSRA itself.

One alternative approach would have been to prohibit Part D eligible individuals from opting out of the Part D EGWP associated with their PSHB plan. Construing Medicare Part D as an eligibility requirement would promote the goals of the PSRA by promoting enrollment in Part D which OPM views Congress intended to promote access to high quality drug coverage and result in savings to the PSHB Program. Enrollment in Part D as an eligibility requirement for PSHB would result in maximum enrollment of Part D eligible individuals ensuring maximum access to prescription drug coverage and result in maximum cost saving as intended by Congress. This approach combined with the group enrollment feature of Medicare EGWPs would limit inadvertent failure to enroll or inadvertent disenrollment from Medicare Part D and provide administrative simplicity for OPM and carriers. Requiring Medicare Part D as an eligibility requirement, however, would create a burden for those who may have an alternative Part D plan or for those who cannot access Part D benefits, such as individuals living abroad. It would require a host of exceptions to a Part D enrollment requirement. This approach would also require carriers to communicate with OPM and Postal Service annuitants and family members to ensure that they are aware that disenrolling or failing to enroll in Part D would result in loss of not only access to prescription drug coverage but also result in loss of PSHB coverage. For Postal Service annuitants, PSHB coverage in retirement cannot be reinstated once it is terminated. As established in the PSRA, the requirement to provide Medicare Part D through a PDP EGWP rests with the carrier. There is no equivalent requirement placed on a Postal Service annuitant or their family member to

enroll in Medicare Part D, which is a voluntary program. The PSRA does not expressly require Postal Service annuitants to enroll in Part D. While OPM identified several benefits of this approach, OPM has declined to require enrollment in Part D as an eligibility requirement as it is not the most intuitive interpretation of the statute.

Another alternative OPM considered was to allow Part D eligible individuals to opt out of the Part D EGWP and receive prescription drug benefits through their PSHB plan. This approach is consistent with the current requirement in the FEHB program, which does not require carriers to offer Medicare Part D EGWPs. Annuitants who are not Postal Service annuitants and who are enrolled in FEHB plans receive comprehensive drug coverage through their FEHB plan without a need to enroll in a Medicare Part D plan. However, OPM finds this approach inconsistent with the PSRA. Congress expressly mandated the integration of Medicare Part D in the PSHB Program to coordinate benefits between PSHB plans and Medicare Part D prescription drug coverage. Congress intended to achieve cost savings to USPS through this coordination, while providing prescription drug coverage to Postal Service annuitants and their family members. OPM finds that any alternative approach that would provide individuals with the ability to opt out of or otherwise decline Part D coverage under the PSHB plan and then receive PSHB prescription drug benefits would be counter to these cost-savings goals.

As a result, OPM considers the policy included in this proposed rulemaking the most consistent with the PSRA statutory language and Congressional intent. This proposal provides Postal Service annuitants and their family members with flexibility for enrollment in Medicare Part D while creating incentives to enroll in the Medicare Part D EGWP offered by their carrier, which are expected to lead to cost savings for the program. This proposal is also consistent with the voluntary nature of the Medicare Part D program. OPM views this approach to be the most customer centric because it avoids the potential for loss of PSHB eligibility for failing to enroll in Medicare Part D. This approach strikes a balance between Congress' intent to save costs under the PSHB Program and the prescription drug coverage needs of Postal Service annuitants and their family members.

Treatment of survivor annuitants under the Program as it relates to the requirement for Medicare Part B enrollment is another area where OPM considered alternatives approaches.

OPM considered whether a Medicare eligible family member of a Postal Service annuitant could lose their exception to the Part B requirement upon the death of that Postal Service annuitant in a case where the family member does not have their own Part B exception. The rationale for this approach is that the family member's exception is derived from the Postal Service annuitant's status, and with the Postal Service annuitant no longer on the enrollment there is no Part B exception to apply to the family member. However, this alternative approach was deemed inequitable for the family member who relied on their Postal Service annuitant's exception in making decisions on their own Medicare enrollment options. To provide the most consumer-friendly approach, OPM decided to propose the policy in this rulemaking that a family member of a Postal Service annuitant will receive that Postal Service annuitant's Part B exception permanently, so that if they become a survivor annuitant who was entitled to a Part B exception due to the status of their former Postal Service annuitant, that exception remains with them going forward.

### Administrative Procedure Act

OPM is adopting a 30-day comment period to balance the need for public input with operational considerations for carriers and Postal Service employees, Postal Service annuitants, and their eligible family members affected by this rulemaking. OPM is already working with carriers on their plan benefit proposals, and individuals who will be enrolled in the PSHB Program as of January 1, 2025, have begun receiving information regarding the transition. In addition, OPM previously published an interim final rule that established the PSHB Program and a final rule that considered comments received on the interim final rule. This rulemaking provides further clarification on issues related to implementation of the Program and is based, in part, on issues commenters raised in the prior rulemaking. In addition, this rulemaking considers feedback received during the initial implementation and administration of the Program. Accordingly, this proposed rule is narrow in scope. OPM believes that a 30-day comment period provides sufficient time for public comments on this proposed rule and facilitates the issuance of a final rule before Open Season begins on November 11, 2024.

These proposed provisions are also time-sensitive, as they will address the remaining issues needed to finalize the

Program. For example, with respect to the Medicare Part B enrollment requirement for Medicare eligible Postal Service annuitants and covered family members, OPM needs to provide regulatory certainty to Postal Service employees, Postal Service annuitants, and eligible family members regarding coverage before they select their health benefits plans in November 2024 during the transitional Open Season. Similarly, Postal Service employees, Postal Service annuitants, and eligible family members need to have complete information regarding PSHB plan coordination with Medicare Part D. In particular, Postal Service Medicare covered annuitants need information about their rights so that they can make informed decisions about prescription medication coverage during the transitional open season. For each of these issues, the statute and OPM's initial rulemaking provided a framework, but OPM needs to codify the specifics of how these provisions will impact individuals in different circumstances.

As with the individuals eligible for coverage under the PSHB Program, carriers also need information about the interactions between the PSHB Program and Medicare Parts B and D. Similarly, carriers need final details about how insurance reserves will be allocated in the transition from FEHB plans to PSHB plans. OPM must transfer these funds as soon as practicable on or after January 1, 2025.

Recognizing that the majority of the PSHB Program has been addressed through a prior rulemaking, OPM has determined that a 30-day comment period will provide the public with a meaningful opportunity to comment on the few, discrete topics presented in this proposed rule. OPM believes that the trade-off of a longer comment period is outweighed by the value to affected parties of having complete information to make informed decisions. OPM aims to review public comments on this proposed rule and make any necessary modifications expeditiously to provide as much advance notice to the affected parties as possible.

For the forgoing reasons, OPM plans to make the final rule effective upon publication. See 5 U.S.C. 553(d)(3). Generally, the delay in the effective date of a final rule provides regulated parties with some time to make adjustments to come into compliance with the new regulation. For this rule, the requirements are all prospective in the sense that the PSHB Program will not be fully operational until January 1, 2025. Nonetheless, carriers have long been developing their proposals and plans for coverage and will benefit from this rule

being finalized as early as possible. Similarly, the individuals eligible for coverage under the PSHB Program will not need to take action in response to the finalization of the rule but will benefit from the rule becoming final as early as possible.

#### Severability

OPM proposes that, if any of the provisions of this proposed rule as finalized is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, it shall be severable from the remaining sections and shall not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other dissimilar circumstances. For example, if a court were to invalidate any portions of this proposed rule as finalized regarding non-enrollment in Medicare Part B, the other portions of the rule—including the provisions regarding non-enrollment in Medicare Part D—would independently remain workable and valuable. Similarly, the portions of this proposed rule providing procedures for challenging enrollment decisions can and would function independently of any of the other portions of this proposed rule.

#### Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 13563, 12866, and 14094, which 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, distributive impacts, and equity). The Office of Management and Budget (OMB) has designated this rulemaking as a “significant regulatory action” under section 3(f) of Executive Order 12866, as supplemented by Executive Orders 13563 and 14094.

#### Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

#### Federalism

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

#### Civil Justice Reform

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

#### Unfunded Mandates Reform Act of 1995

This rulemaking 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 OMB Control Number.

The information collection for form SF-2809 (OMB Control Number 3206-0160) is currently approved with an estimated public burden of 9,000 hours. OPM notes that there is a corresponding health benefits election form for retirees, OPM-2809. The information collection request (OMB control number 3206-0141) associated with that information collection is currently approved with an estimated public burden of 11,667 hours. A list of routine uses associated with these forms can be found in the Privacy Act System of Records Notice (SORN), OPM/CENTRAL 1 Civil Service Retirement and Insurance, available at <https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf>.

On May 6, 2024, OPM published “Submission for Review: Revision and Consolidation of Two Existing Information Collections Related to Health Benefits Election Forms” (89 FR 37269). This publication provides a 60-day notice for an extension of this information collection and proposes categorizing the SF-2809 as a “common form.” OPM is proposing changes to the SF-2809 and the OPM-2809 for clarity, ease of use, and implementation of the PSHB Program. OPM has provided copies of the revised drafts of the SF-2809 and OPM-2809 forms for public review in the docket at <https://www.regulations.gov/docket/OPM-2024-0011/document>. While OPM is not currently proposing to consolidate the

SF–2809 and the OPM–2809 into a single form, we are proposing to combine the two information collections and manage the two forms under a single information collection, OMB Control No. 3206–0160, going forward. The comment period on this notice ends on July 5, 2024.

**List of Subjects in 5 CFR Part 890**

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Postal Service employees, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

**Kayyonne Marston,**  
*Federal Register Liaison.*

Accordingly, OPM proposes to amend 5 CFR part 890 as follows:

**PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM**

■ 1. The authority citation for part 890 continues to read as follows:

**Authority:** 5 U.S.C. 8913; Sec. 890.102 also issued under sections 11202(f), 11232(e), and 11246 (b) of Pub. L. 105–33, 111 Stat. 251; Sec. 890.111 also issued under 36 U.S.C. 5522; Sec. 890.112 also issued under 2 U.S.C. 2051; Sec. 890.113 also issued under section 1110 of Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8702 note); Sec. 890.301 also issued under 26 U.S.C. 9801; Sec. 890.302(b) also issued under 42 U.S.C. 300gg–14; Sec. 890.803 also issued under 50 U.S.C. 3516 (formerly 50 U.S.C. 403p) and 22 U.S.C. 4069c and 4069c–1; subpart L also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064 (5 U.S.C. 5561 note); subpart M also issued under 10 U.S.C. 1108 and 25 U.S.C. 1647b; and subpart P issued under 5 U.S.C. 8903c.

**Subpart A—Administration and General Provisions**

■ 2. Amend § 890.107 by adding paragraph (f) to read as follows:

**§ 890.107 Court review.**

\* \* \* \* \*

(f) A suit to compel enrollment or for equitable relief, from an adverse enrollment action founded on 5 U.S.C. chapter 89, that is based on information received by OPM pursuant to an agreement with a source agency as defined at § 890.1602, to determine whether Postal Service annuitants or family members of such annuitants satisfy the enrollment requirements set forth in 5 U.S.C. 8903c, may not be brought later than December 31 of the 3rd year after the year in which the enrollment action was effectuated, and will be limited to the record that was

before OPM when it effectuated the enrollment action.

**Subpart P—Postal Service Health Benefits Program**

■ 3. Amend § 890.1602 by adding in alphabetical order the definitions “Reconsideration” and “Source agency” to paragraph (c) to read as follows:

**§ 890.1602 Definitions and deemed references.**

\* \* \* \* \*

(c) \* \* \*

*Reconsideration* means the final level of administrative review of an initial decision by an employing office or OPM, as applicable.

*Source agency* means an agency that periodically provides information or data to OPM pursuant to an agreement under § 890.1612.

\* \* \* \* \*

■ 4. Amend § 890.1604, as amended May 6, 2024, at 89 FR 37061, effective July 5, 2024, by adding paragraphs (c) and (d)(3) and revising (f) to read as follows:

**§ 890.1604 Medicare enrollment requirement for certain Postal Service annuitants and eligible family members.**

\* \* \* \* \*

(c) *Survivor annuitant.* (1) A Postal Service annuitant’s member of family who is an annuitant as defined in 5 U.S.C. 8901(3)(B) and who is entitled to Medicare Part A, must be enrolled in Medicare Part B to continue enrollment in a health benefits plan under this subpart, except as otherwise provided by paragraph (d)(3) of this section;

(2) A Postal Service employee’s member of family who is an annuitant as defined in 5 U.S.C. 8901(3)(B) and who is entitled to Medicare Part A, must be enrolled in Medicare Part B to continue enrollment in a health benefits plan under this subpart, except as provided in paragraphs (d)(3)(i) through (iv) of this section.

\* \* \* \* \*

(d) \* \* \*

(3) To a survivor annuitant, as described in paragraph (c) of this section, who:

(i) At the time of becoming a survivor annuitant the Postal Service annuitant was subject to an exception under (d)(1) of this section;

(ii) Resides outside the United States (which includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands), provided that the individual demonstrates such residency;

(iii) Is enrolled in health care benefits provided by the Department of Veterans

Affairs (VA) under 38 U.S.C. chapter 17, subchapter II, including individuals who are not required to enroll in the VA’s system of patient enrollment referred to in 38 U.S.C. 1705(a), subject to the documentation requirements in paragraph (e)(2) of this section; or (iv) Is eligible for health services from the Indian Health Service, subject to the documentation requirements in paragraph (e)(3) of this section.

\* \* \* \* \*

(f) *Notification of non-enrollment in Medicare Part B.* A Postal Service Medicare covered annuitant, a Medicare covered member of family, or a survivor annuitant, as described in paragraph (c) of this section, who is required to be enrolled in Medicare Part B must promptly notify OPM or the Postal Service, in writing, if they choose not to enroll in or to disenroll from Medicare Part B as described in § 890.1608(e).

■ 5. Amend § 890.1605 by revising paragraph (c) to read as follows:

**§ 890.1605 Enrollment in the initial contract year.**

\* \* \* \* \*

(c) *Automatic enrollment.* Each Postal Service employee or Postal Service annuitant who is enrolled in an FEHB plan on December 31, 2024, and does not make an enrollment action during the transitional open season under § 890.1605(b), will be automatically enrolled in the PSHB Program as follows:

(1) *Into same plan.* Individuals enrolled in a carrier’s 2024 FEHB plan where the carrier offers the same plan in 2025 in FEHB and offers a 2025 PSHB plan with at least one option that has equivalent benefits and cost sharing and in the same geographic area as the 2025 FEHB plan, will be enrolled in that 2025 PSHB plan and into an option as follows:

(i) *Equivalent option.* Individuals enrolled in a carrier’s 2024 FEHB option where the carrier offers that option in 2025 in FEHB and also offers a 2025 PSHB option with equivalent benefits and cost sharing as the 2025 FEHB option, as determined by OPM, will be automatically enrolled into that 2025 PSHB option; or

(ii) *No equivalent option.* Individuals enrolled in a carrier’s 2024 FEHB option where the carrier does not offer a 2025 PSHB option that meets the criteria in (1)(i), will be automatically enrolled into the lowest-cost option of the 2025 PSHB plan, that is not a High Deductible Health Plan (HDHP) and does not charge an association or membership fee, except that if the only option is an HDHP, then the individual will be enrolled in that HDHP option.

(2) *Into a 2025 PSHB plan where the carrier offers no 2025 FEHB plan.* Individuals enrolled in a carrier's 2024 FEHB plan where the carrier offers no 2025 FEHB plan and offers a 2025 PSHB plan with at least one option with similar benefits and cost sharing and in the same geographic area as the 2024 FEHB plan, as determined by OPM, will be enrolled in that 2025 PSHB plan and into an option as follows:

(i) *Similar option.* Individuals enrolled in a carrier's 2024 FEHB option where the carrier offers a 2025 PSHB option with similar benefits and cost sharing as the 2024 FEHB option, as determined by OPM, will be automatically enrolled into that 2025 PSHB option; or

(ii) *No similar option.* Individuals enrolled in a carrier's 2024 FEHB option where the carrier does not offer a 2025 PSHB option that meets the criteria in paragraph (c)(2)(i) of this section, will be automatically enrolled into the lowest-cost option of the 2025 PSHB plan, or in the case where the 2025 PSHB plan has two or more options, into the lowest-cost option that is not a High Deductible Health Plan (HDHP) and does not charge an association or membership fee.

(3) *Into different plan.* Individuals enrolled in a carrier's 2024 FEHB plan where paragraphs (c)(1) and (2) of this section do not apply will be enrolled in the lowest-cost nationwide PSHB option, consistent with § 890.301(n).

(4) *Same enrollment type.* Individuals automatically enrolled under this section will be automatically enrolled into the same enrollment type as the individual's 2024 enrollment type.

\* \* \* \* \*  
■ 6. Amend § 890.1606 by revising paragraphs (c) and (d) to read as follows:

**§ 890.1606 Opportunities to enroll, change enrollment, or reenroll; effective dates.**

\* \* \* \* \*

(c) Reinstatement of enrollment in accordance with § 890.305 is permitted in a PSHB plan.

(d) Initial decisions and reconsiderations of PSHB eligibility or enrollment will be made pursuant to § 890.1607.

\* \* \* \* \*

■ 7. Add § 890.1607 to read as follows:

**§ 890.1607 Initial decision and reconsideration.**

(a) *Who may file.* An individual may request the employing agency or OPM, as applicable, to reconsider the employing office's or OPM's initial decision denying eligibility for, or enrollment in, or coverage under, the PSHB Program. Individuals subject to

§ 890.1112 are not entitled to reconsideration as used in this subpart.

(b) *Initial decision.* An employing office's or OPM's initial decision must be in writing and state the right to an independent level of review (reconsideration).

(1) Except as otherwise provided in this subpart, employing offices are responsible for initial decisions concerning PSHB eligibility for Postal Service employees or Postal Service annuitants.

(2) OPM is responsible for initial decisions concerning:

(i) Verification that an individual is an eligible member of family under § 890.302;

(ii) Postal Service annuitants or their family members who are not required to enroll in VA's system of patient enrollment referred to in 38 U.S.C. 1705(a), and who must provide documentation from the VA under § 890.1604(d)(2) indicating they satisfy the requirements for an exception described in § 890.1604(c)(1)(iv) or (c)(2)(iii); and

(iii) Postal Service annuitants or their family members who must provide documentation from the Indian Health Service under § 890.1604(d)(3) indicating they satisfy the requirements for an exception described in § 890.1604(c)(1)(v) or (2)(iv).

(3) OPM is responsible for initial decisions regarding enrollment actions made based on information received from source agencies with which OPM has an information sharing agreement established pursuant to § 890.1612. An initial decision under this paragraph will be issued only after the notice process under § 890.1612 is completed.

(c) *Reconsideration.* (1) A request for reconsideration must be made in writing, must include the claimant's name, address, date of birth, Social Security number or other unique identifier, name of the carrier, reason(s) for the request, documentary evidence in support of the request, if any, and, if applicable, retirement claim number.

(2) The reconsideration review must be an independent review designated at or above the level at which the initial decision was rendered.

(d) *Time limit.* A request for reconsideration of an initial decision must be filed with the employing agency or OPM, as applicable, within 30 calendar days from the date of the written decision stating the right to a reconsideration. The time limit on filing may be extended, at the discretion of the employing office or OPM, when the individual shows that they were not notified of the time limit and were not otherwise aware of it, demonstrates a

good faith effort to obtain the documentation as described under paragraph (b)(2)(ii) or (iii) of this section, or that they were prevented by circumstances beyond their control from making the request within the time limit. The employing agency's or OPM's decision in response to a request for reconsideration of an employing office's initial decision is a final decision as described in paragraph (e) of this section.

(e) *Final decision.* After reconsideration, the employing agency or OPM, as applicable, must issue a final decision within 30 days of the request for reconsideration, which must be in writing and must fully set forth the findings and conclusions.

■ 8. Amend § 890.1608 by revising paragraphs (a), (b) introductory text, and (b)(2) and (5) and adding paragraphs (b)(6) through (9) to read as follows:

**§ 890.1608 Disenrollment, removal, termination, cancellation, and suspension.**

\* \* \* \* \*

(a) *Enrollment in FEHB plan terminates prior to the initial PSHB contract year.* For individuals who are eligible to enroll under this subpart pursuant to § 890.1603(a), enrollment in an FEHB plan and coverage of the enrollee and covered family members under that FEHB plan will terminate at the end of the contract year preceding the initial contract year.

(1) Coverage under a FEHB plan will remain available for an eligible family member who is or becomes covered as a member of family of a FEHB plan enrollee who is not eligible for a PSHB plan pursuant to § 890.1603(a)(1) or (2).

(2) Coverage as a family member under a FEHB plan will remain available for a Postal Service employee or Postal Service annuitant who is or becomes covered under their family member's FEHB enrollment. A Postal Service annuitant's or Postal Service employee's family member who meets the eligibility requirements for their own enrollment in an FEHB plan will remain eligible to enroll in an FEHB plan.

(3) Individuals whose coverage is terminated under this paragraph (a) are not eligible for temporary continuation of coverage under subpart K of this part pursuant to § 890.1103(b).

(b) *Disenrollment and removal from enrollment: Postal Service Medicare covered annuitants and Medicare covered members of family not enrolled in Medicare Part B.* An individual who is required to be enrolled in Medicare Part B and is not enrolled in Medicare Part B will not be disenrolled or removed from PSHB coverage

immediately and will be given one opportunity to remain enrolled in or covered by PSHB if they enroll or re-enroll in Medicare Part B during their next available Medicare enrollment period, which may be the next Medicare General Enrollment Period, except that an individual who was excepted from the Medicare Part B requirement pursuant to § 890.1604(d)(1)(iii) or (d)(2)(ii) must enroll not later than the end of the Medicare General Enrollment Period beginning January 1 of the following calendar year. Failure to enroll or re-enroll in Medicare Part B at the next enrollment period may result in disenrollment from PSHB or removal from coverage under a PSHB enrollment. If disenrolled, a Postal Service annuitant will not be permitted to re-enroll in PSHB, as described in paragraph (b)(5) of this section, and a family member who is removed from coverage under a PSHB enrollment, may have their PSHB coverage reinstated only as described in paragraph (b)(9) of this section.

\* \* \* \* \*

(2) A Postal Service Medicare covered annuitant will not be disenrolled from PSHB and a Medicare covered member of family will not be removed from PSHB coverage in a case where that individual was not informed of their obligation to enroll in Medicare Part B, or it would be against equity and good conscience to remove the individual.

\* \* \* \* \*

(5) Disenrollment of a Postal Service Medicare covered annuitant from a PSHB plan under this section shall be considered a termination with entitlement of the enrollee and their covered family members to a 31-day temporary extension of coverage and the right of conversion under § 890.401, except as provided at paragraph (b)(5)(i) of this section.

(i) A Postal Service annuitant will have no further opportunity to re-enroll in a PSHB plan. Disenrollment of a Postal Service annuitant will also result in the removal of covered family members from PSHB coverage.

(ii) Disenrollment or removal from coverage under an enrollment will be prospective in all cases except where fraud or intentional misrepresentation of material fact is found, in which case the individual's coverage will be terminated retroactively, as applicable, and no right to a 31-day temporary extension of coverage or to conversion under § 890.401 will be available.

(iii) Disenrollment or removal under this section will occur only after a notice process under § 890.1612, if applicable, is completed and an initial

decision to disenroll or remove, subject to reconsideration under § 890.1607(b), is issued.

(6) An individual who is disenrolled from Medicare Part B, where the individual is required to be enrolled in Medicare Part B and does not have an exception under this subpart, will be issued an initial decision disenrolling them from PSHB or removing from them coverage under a PSHB enrollment at the time OPM becomes aware of the Medicare disenrollment. Individuals disenrolled or removed from PSHB coverage will be entitled to a 31-day temporary extension of coverage and rights to conversion.

(7) Within 60 days of OPM's initial decision, a Postal Service Medicare covered annuitant or Medicare covered member of family, as applicable, may request reconsideration of OPM's initial decision to disenroll or remove the individual from PSHB coverage. OPM will notify the carrier when a request for reconsideration of the decision to disenroll or remove the individual from the enrollment is made. The time limit for filing may be extended as noted in § 890.1607.

(8) If the Postal Service Medicare covered annuitant provides acceptable proof of PSHB eligibility subsequent to disenrollment which renders the disenrollment inappropriate, the enrollment shall be reinstated retroactively so that there is no gap in enrollment, as appropriate. A Postal Service Medicare covered annuitant's PSHB enrollment cannot be reinstated after disenrollment from a PSHB plan based on failure to enroll in, disenrolling from, or being disenrolled from Medicare Part B, except that a one-time opportunity as set forth at § 890.1608(b) may be available if the Postal Service annuitants has not previously invoked and used it.

(9) If the Postal Service Medicare covered member of family, who is required to be enrolled in Medicare Part B and is removed from a Postal Service Medicare covered annuitant's PSHB enrollment because the family member failed to enroll in, disenrolls from, or is disenrolled from Medicare Part B, the family member's PSHB coverage may be reinstated. Reinstatement of the family member's PSHB coverage will be permitted only if the Postal Service Medicare covered annuitant's PSHB enrollment continues, and only if proof of the family member's Medicare Part B enrollment which renders the removal inappropriate, is provided by the Postal Service Medicare covered annuitant or Medicare covered member of family, as applicable. The family member's PSHB coverage will be reinstated upon request

by the Postal Service Medicare covered annuitant to reinstate the family member's PSHB coverage subsequent to removal, at the Postal Service Medicare covered annuitant's option, as follows:

(i) Prospectively, within 60 days of the Medicare covered family member gaining coverage under Medicare Part B, or

(ii) Retroactively to the date of termination of PSHB coverage, so that there is no gap in coverage, provided that the proof demonstrates the family member was continuously enrolled in Medicare Part B since that date and subsequent to removal, as appropriate.

\* \* \* \* \*

■ 9. Amend § 890.1612 by adding paragraphs (f) and (g) to read as follows:

**§ 890.1612 Information sharing.**

\* \* \* \* \*

(f) If a source agency has provided information or data, regarding a Postal Service Medicare covered annuitant or Medicare covered member of family, which establishes a basis that the individual may be ineligible for PSHB enrollment or coverage, OPM will provide the individual with written notice that will contain at a minimum:

(1) An explanation of the PSHB enrollment requirements and exceptions described in § 890.1604 and the specific information or data provided to OPM from the source agency that was the basis for the notice;

(2) The source agency's contact information where the individual may ask questions or contest the accuracy of the information or data on which OPM based the notice;

(3) An explanation of the required process and timeframe(s) for providing OPM with evidence that the individual is engaged in a dispute with the source agency identified in the notice for the purposes of seeking the source agency's correction of the information or data, affecting the individual's PSHB eligibility, provided to OPM pursuant to the agreements described in this section;

(4) That the individual will remain enrolled or covered under PSHB while the individual is engaged in disputing the information or data with the source agency, as described in paragraph (f)(2) of this section;

(5) That the individual will be disenrolled or removed from PSHB, as described in § 890.1608 and subject to reconsideration, within 60 days of the date of the notice if the individual does not provide sufficient evidence, in the discretion of OPM, as described in paragraph (f)(3) of this section; and

(6) That the individual will be disenrolled or removed from PSHB, as described in § 890.1608 and subject to

reconsideration, within 60 days of the notice, notwithstanding evidence of a dispute, if the information or data OPM receives from the source agency continues to provide no basis for OPM to establish that the individual satisfies PSHB enrollment requirements.

(g) OPM will issue an initial decision in accordance with § 890.1607(b)(3). If an individual will be disenrolled or removed from PSHB based on the information or data from the source agency, in paragraph (f) of this section, the individual will be notified in writing that the disenrollment or removal, as applicable, is subject to reconsideration pursuant to § 890.1607, and that such reconsideration is limited to a review of the source agency's data or information, received pursuant to an agreement under this section or 5 U.S.C. 8903c(e)(3)(C) that was before OPM at the time it effectuated the disenrollment or removal action.

■ 10. Amend § 890.1613 by revising the section heading and paragraphs (a), (c), and (e) to read as follows:

**§ 890.1613 Postal Service contract year beginning date, Medicare late enrollment penalty, calculations for the Postal Service Retiree Health Benefits Fund, and clarification of statutory terms.**

(a) *In general.* The calculations for contributions and withholdings for coverage under this subpart will be made in the same manner as 5 U.S.C. 8906 and subpart E of this part. For purposes of this subpart, the subscription charge and the Government contribution under 5 U.S.C. 8906(b) will begin on January 1 of each year for Postal Service employees and Postal Service annuitants.

\* \* \* \* \*

(c) *Medicare late enrollment penalty.* Upon request by the Postal Service, and only until the Postal Service Retiree Health Benefits Fund established under 5 U.S.C. 8909a is depleted, OPM will pay out of such Fund any late enrollment penalties required under section 1839(e)(1) of the Social Security Act for individuals who enrolled during the special enrollment period established under section 1837(o) of the Social Security Act (42 U.S.C. 1395p). If at any time the PSRHBF is depleted, USPS shall pay late enrollment penalties out of its funds established under 39 U.S.C. 2003. In making such late enrollment penalty payments, OPM, as administrator of the Fund under 5 U.S.C. 8909a(a), will prioritize the payment of health benefit premiums for individuals described in 5 U.S.C. 8906(g)(2)(A), over the late enrollment penalties.

\* \* \* \* \*

(e) *Clarification of statutory terms.* (1) OPM has determined that “net claims costs” in the calculation in 5 U.S.C. 8909a(e)(1) is equivalent to “estimated net claims costs” as defined in 5 U.S.C. 8909a(g).

(2) The computations for post-retirement health obligations computed under 39 U.S.C. 3654(b) shall be performed using an aggregate entry-age normal cost method described in 5 U.S.C. 8331(17) and in accordance with 8348(h).

(3) In accordance with 5 U.S.C. 8348(h), for purposes of computing the amounts described in 39 U.S.C. 3654(b), this includes:

(i) Current annuitants as described in 5 U.S.C. 8909a(e)(1)(A) means individuals who are Postal Service annuitants on September 30 of the relevant reporting year described in 5 U.S.C. 8909a(d); and

(ii) Current employees as described in 5 U.S.C. 8909a(e)(1)(B) means individuals who are Postal Service employees on September 30 of that year.

■ 11. Amend § 890.1614 by revising paragraph (a) to read as follows:

**§ 890.1614 Other administrative provisions.**

(a) *Correction of errors.* (1) Except as otherwise provided in this section, the employing office or OPM may make prospective or retroactive corrections of administrative errors at any time. Retroactive corrections may not apply retroactively beyond the initial contract year.

(2) OPM may order or make, as applicable, a correction of an administrative error upon a showing satisfactory to OPM that it would be against equity and good conscience not to do so.

(3) OPM may make retroactive correction of enrollee enrollment code errors if the enrollee reports the error by the end of the pay period following the one in which they received the first written documentation (*i.e.*, pay statement or enrollment change confirmation) indicating the error.

(4) OPM may order the termination of an enrollment in any comprehensive medical plan described in 5 U.S.C. 8903(4) and permit the individual to enroll in another PSHB plan for purposes of this subpart, upon a showing satisfactory to OPM that the furnishing of adequate medical care is jeopardized by a seriously impaired relationship between a patient and the comprehensive medical plan's affiliated health care providers.

(5) Retroactive corrections are subject to withholdings and contributions

under the provisions of §§ 890.502 and 890.1613.

■ 12. Add §§ 890.1615 and 890.1616 to read as follows:

**§ 890.1615 Crediting separate reserves for PSHB.**

(a) *Definitions.* For purposes of this section concerning crediting separate reserves from FEHB Options to PSHB Options, and for these purposes only, the following definitions apply:

*2024 FEHB Option premium* means, for a 2024 FEHB Option, the 2024 premium attributable to both Postal Service and non-Postal Service enrollees.

*2024 Postal Service premium* means, for a 2024 FEHB Option, the 2024 premium attributable to Postal Service employees and Postal Service annuitants as defined under 5 U.S.C. 8903c(a).

*Amounts available* means:

(1) With respect to experience-rated 2024 FEHB Options, the sum of the balances in the Option's Contingency Reserve Account and Letter of Credit Account less the Runout as of December 31, 2024; and

(2) With respect to community-rated 2024 FEHB Options, the Option's Contingency Reserve Account balance as of December 31, 2024.

*Corresponding PSHB option* means a 2025 PSHB Option that is in the same geographic area and has equivalent benefits and cost-sharing as a 2025 FEHB Option, and that 2025 FEHB Option was also offered in 2024 by the same carrier.

*Option* means a level of benefits offered by a carrier to self only, self plus one, and self and family enrollees in a specific geographic area, with a unique set of premiums.

*Plan* means all Options offered by a carrier within a defined geographic area under a single contract.

*Runout* means the amount estimated by OPM, as of December 31, 2024, needed to pay claims and expenses incurred but not paid for periods on or before December 31, 2024, for an experience-rated FEHB Option, considering any income attributable to periods on or before, but not yet received by, December 31, 2024.

(b) *Reserve credits.* As soon as practicable on or after January 1, 2025, OPM will credit each PSHB Option's reserves according to the method described in paragraph (c) of this section.

(c) *Reserve credit methodology.* OPM will determine the Reserve credit for each 2024 FEHB Option and allocate it to the PSHB.

(1) OPM will determine the 2024 Postal Service premium by multiplying

a 2024 FEHB Option's self only, self plus one, and self and family 2024 premiums by the number of Postal Service enrollments of that Option in each enrollment type and taking the sum of these three amounts.

(2) OPM will determine the 2024 FEHB Option premium by multiplying each 2024 FEHB Option's self only, self plus one, and self and family premiums by the number of total enrollments (inclusive of both Postal Service and non-Postal Service enrollments) in each enrollment type for that Option and taking the sum of these three amounts. OPM will use its March 2024 enrollment reports to determine the total enrollments.

(3) OPM will calculate the Postal Service Percentage for each 2024 FEHB Option by dividing the 2024 Postal Service Premium by 2024 FEHB Option Premium.

(4) OPM will calculate the Reserve Credit by multiplying the Postal Service Percentage for each 2024 FEHB Option by the Amounts Available for that Option.

(5) OPM will reallocate the Reserve Credit for each 2024 FEHB Option into a PSHB Contingency Reserves and Letter of Credit Account, as applicable, as follows:

(i) If a carrier offers an FEHB Plan with one, two, or three Options in 2024 and offers the same number of Corresponding PSHB Options in 2025, the Reserve Credits for those Options will be allocated to the Corresponding PSHB Options' reserves.

(ii) If a carrier offers an FEHB Plan with two or three Options in 2024 and offers only one Corresponding PSHB Option in 2025, the Reserve Credits attributable to all the 2024 FEHB Plan's Options will be allocated to that Corresponding PSHB Option's reserve.

(iii) If a carrier offers an FEHB Plan with three Options in 2024 and offers only two Corresponding PSHB Options in 2025, the Reserve Credits attributable to the two FEHB Options that have Corresponding PSHB Options will be allocated to those two Corresponding PSHB Options' reserves. The Reserve Credit from the third FEHB Option (that does not have a Corresponding PSHB Option) will be allocated to one of the two Corresponding PSHB Plan Options that has the lowest self only premium and is not a High Deductible Health Plan (HDHP).

(iv) If a carrier offers an FEHB Plan in 2024 and offers no FEHB Plan in 2025, but offers at least one 2025 PSHB Option with similar benefits and cost sharing and in the same geographic area as the carrier's 2024 FEHB Plan, as determined by OPM, the Reserve

Credit(s) attributable to that FEHB Plan will be credited to the reserves of the carrier's 2025 PSHB Options as described in paragraphs (c)(5)(i) through (iii) of this section as if the 2025 PSHB Option(s) were a Corresponding PSHB Option.

(v) If a carrier offers an FEHB Plan in 2024, and offers that FEHB Plan in 2025, but offers no Corresponding PSHB Options for that 2025 FEHB Plan, the Reserve Credit(s) attributable to that FEHB Plan will be credited to the reserves of the PSHB Options offered in 2025, proportionately, consistent with 5 U.S.C. 8903c(j)(2) where the subscription charges paid are the 2024 Postal Service Premium.

(vi) If a carrier offers a 2025 PSHB Option for which no 2024 Postal Service Premium is attributable, then that 2025 PSHB Option will receive no Reserve Credit.

#### **§ 890.1616 Medicare Part D.**

(a) *Carrier requirement to offer Medicare Part D prescription drug benefits.* (1) A carrier that offers a PSHB plan must provide prescription drug benefits to any Postal Service annuitant and member of family of such annuitant who is a Part D eligible individual (as defined in section 1860D–1(a)(3)(A) of the Social Security Act) through a Medicare Part D EGWP as described as employer-based retiree health coverage under 1860D–22(b), (c)(1), and (3)(A) of such Act.

(2) A carrier must provide Medicare Part D coverage through a prescription drug plan (PDP), as defined in section 1860D–41(a)(14) of such Act, or through contracts between the PSHB plan and a PDP sponsor, as defined in section 1860D–41(a)(13) of such Act, of such a prescription drug plan.

(3) A carrier may, in addition to offering a PDP required under (a)(2) and subject to OPM's approval, offer a Medicare Advantage plan with prescription drug coverage (MAPD), as defined in section 1860D–1(a)(3)(C) of such Act.

(b) *Prescription drug coverage under a PSHB plan through Medicare Part D.* A Postal Service annuitant and a member of family of such annuitant who is a Part D eligible individual must be enrolled in a PSHB plan's Part D EGWP in order to receive prescription drug coverage under the PSHB plan. Prescription drugs are not covered under a PSHB plan for a Part D eligible individual who is not enrolled in the PSHB plan's Part D EGWP.

(c) *PSHB plan enrollment or disenrollment and Medicare EGWPs.* Changes to enrollment during open season under § 890.301(f) or because of

a qualifying life event as defined in part 892 of this chapter apply with respect to changes to PSHB plans, that include a Medicare Part D EGWP.

(d) *Carrier requirements for group enrollment into Medicare EGWPs.* A carrier must comply with all applicable CMS requirements regarding Part D eligible individual group enrollment into Medicare EGWPs, including all applicable CMS notice requirements. Nothing in this section shall be construed as affecting an individual's ability to select a PSHB plan pursuant to § 890.1606.

(1) *PDP EGWP.* Annually at the conclusion of open season under § 890.301(f), or when an enrollee makes a change to their PSHB enrollment because of a qualifying life event under § 892.101 of this chapter, a carrier must automatically group enroll a Part D eligible individual, who is covered by the carrier's PSHB plan, into the PSHB plan's PDP EGWP, unless the individual:

(i) Elects to enroll or is enrolled in the PSHB plan's MAPD EGWP described in paragraph (d)(2) of this section; or

(ii) Has previously opted out of group enrollment in the PSHB plan's PDP EGWP or MAPD EGWP and has not subsequently requested to be reenrolled.

(2) *MAPD EGWP.* Annually, at the conclusion of open season under § 890.301(f), or when an enrollee makes a change to their PSHB enrollment because of a qualifying life event, a carrier must automatically enroll a Part D eligible individual who is covered by the carrier's PSHB plan into the carrier's PSHB plan's MAPD EGWP if the individual elects to enroll in the carrier's MAPD EGWP. During the transitional open season, a carrier must automatically enroll a Part D eligible individual into the carrier's 2025 PSHB plan's MAPD EGWP if the individual is covered by that carrier's 2024 FEHB plan's MAPD EGWP, and if the individual elects the carrier's 2025 PSHB plan or is automatically enrolled into the carrier's 2025 PSHB plan under § 890.1605.

(3) *Notice.* In addition to the CMS notice requirements, each year, not less than 30 calendar days prior to the start of open season under § 890.301(f), a carrier must send written notice to Part D eligible individuals who are enrolled in the carrier's PSHB plan that they will be group enrolled into the PDP EGWP offered under the carrier's PSHB plan. In addition, when an enrollee makes a change because of a qualifying life event, a carrier must send such written notice to the Part D eligible individuals covered under the enrollment. The notice shall state:

(j) The carrier intends to enroll the individual in the carrier's Medicare Part D PDP EGWP as described under paragraph (d)(1) of this section, or MAPD EGWP as described under paragraph (d)(2) of this section as applicable, during open season under § 890.301(f), or as a result of a qualifying life event, as applicable;

(ii) The individual may affirmatively opt out of group enrollment;

(iii) Opting out of group enrollment means that the individual is deciding not to be enrolled in the PSHB plan's PDP EGWP, or MAPD EGWP if applicable;

(iv) The date by which the individual must opt out of group enrollment, if the individual chooses to opt out;

(v) The procedure for how an individual affirmatively opts out of group enrollment;

(vi) The individual will not receive prescription drug coverage under the PSHB plan if the individual is not enrolled in the PSHB plan's PDP EGWP, or MAPD EGWP if applicable; and

(vii) That no adjustment will be made to the enrollee's share of the PSHB plan option premium.

(4) *Additional requirements for PSHB plans providing an MAPD EGWP.* If a PSHB plan offers an MAPD EGWP, the carrier must comply with all applicable Medicare requirements and the carrier must also provide the notices as described in (d)(3) of this section. In addition, such notice must state how the individual can enroll in the PSHB plan's PDP EGWP if the individual is opting out of group enrollment or disenrolling from a PSHB plan's MAPD EGWP during open season or as a result of a qualifying life event, the date by which the individual must enroll in the PDP EGWP, and must state that if the individual is required to be enrolled in Medicare Part B in order to maintain eligibility for PSHB plan coverage and does not qualify for an exception under § 890.1604, the individual must remain enrolled in Part B.

(5) *Notices to be shared with OPM.* A carrier must provide OPM with the notices under this section and the notices that CMS requires regarding PDP EGWP and MAPD EGWP group enrollment each year, at the time the carrier submits its benefit and rate proposal.

(e) *Effect of opting out of group enrollment into or disenrolling from a Medicare EGWP.* (1) By opting out of group enrollment in a PSHB plan's Medicare PDP EGWP or MAPD EGWP, as applicable, the individual will not receive prescription drug coverage under the PSHB plan unless, during the open season or pursuant to the

qualifying life event in which the individual opted out of group enrollment, the individual elects to enroll in a Part D EGWP under their PSHB plan.

(2) A Part D eligible individual may enroll in a PDP EGWP or, if eligible, an MAPD EGWP, under a PSHB plan, under the same conditions that govern enrollment in a PSHB plan during open season or pursuant to a qualifying life event.

(3) An individual may disenroll from their PSHB plan's Part D EGWP at any time during the plan year which means they will not receive prescription drug coverage under the PSHB plan.

(f) *EGWP prescription drug benefits.* A carrier must provide the same prescription drug benefits to Part D eligible individuals under a PSHB plan's PDP EGWP, and, if applicable, the plan's MAPD EGWP, as the prescription drug benefits provided to individuals covered under the PSHB plan who are not eligible for Part D and not enrolled in the PSHB plan's PDP EGWP, or, if applicable, MAPD EGWP, except to the extent necessary, as determined by OPM, to integrate the Medicare Part D prescription drug benefit coverage required under 5 U.S.C. 8903c and this section.

[FR Doc. 2024-11127 Filed 5-23-24; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2024-1475; Project Identifier MCAI-2024-00062-T]

RIN 2120-AA64

#### Airworthiness Directives; Airbus SAS Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A319-111, -112, -113, -114, -115, -131, -132, -133, -151N, and -153N airplanes; A320 series airplanes; and A321-211, -212, -213, -231, -232, -251N, -252N, -253N, -271N, -272N, -251NX, -252NX, -253NX, -271NX, and -272NX airplanes. This proposed AD was prompted by a determination that a damage-tolerance and fatigue reassessment of nose landing gear (NLG) repairs is necessary for certain parts

fitted on airplanes approved for operation in the Commonwealth of Independent States (CIS). This proposed AD would require repair and replacement of all affected parts, and introduces restrictions for the installation of affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by July 8, 2024.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*AD Docket:* You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-1475; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

*Material Incorporated by Reference:*

- For EASA material, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADS@easa.europa.eu](mailto:ADS@easa.europa.eu); website [easa.europa.eu](https://easa.europa.eu). You may find this material on the EASA website at [ad.easa.europa.eu](https://ad.easa.europa.eu). It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-1475.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

**FOR FURTHER INFORMATION CONTACT:**

Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206-231-3667; email [timothy.p.dowling@faa.gov](mailto:timothy.p.dowling@faa.gov).

**SUPPLEMENTARY INFORMATION:**