

**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:** Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this final rule 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 (PSRA). This final 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 final rule includes details on reconsideration of PSHB eligibility decisions, 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: This final rule is effective October 24, 2024.**FOR FURTHER INFORMATION CONTACT:** Cameron Stokes, Senior Policy Analyst, at (202) 936–2847 or *Cameron.Stokes@opm.gov*.**SUPPLEMENTARY INFORMATION:****Executive Summary**

On May 24, 2024, OPM issued a notice of proposed rulemaking (NPRM) “Postal Service Health Benefits Program: Additional Requirements and Clarifications” at 89 FR 45782, to clarify and establish additional requirements regarding the Postal Service Health Benefits (PSHB) Program, which was established pursuant to the PSRA. The NPRM followed OPM’s May 6, 2024, publication of a final rulemaking, “Postal Service Reform Act; Establishment of the Postal Service Health Benefits Program” at 89 FR 37061, that established the PSHB Program for Postal Service employees, Postal Service annuitants, and their eligible family members. The May 6, 2024, final rule adopted the provisions of OPM’s interim final rule, published

April 6, 2023, at 88 FR 20383, with minor clarifying changes.

Background

OPM, the United States Postal Service (USPS or Postal Service), and PSHB Carriers have been working to implement the provisions of the PSHB Program set out in the PSRA and previous rulemaking in anticipation of the 2024 Open Season. The provisions in this final rule are intended to complement and clarify various areas of the program that have been identified during its development. While OPM intends for this final rule, combined with the PSRA and the earlier interim final rule with request for comment and its subsequent final rule, and notice of proposed rulemaking, to create a comprehensive legal framework for the PSHB Program’s January 1, 2025 start date, the agency recognizes the operation of the program will inevitably give rise to further changes as the Program is implemented over time.

As with previous PSHB rulemakings, OPM consulted with partner agencies in the development of these regulations as consistent with 5 U.S.C. 8903c. OPM has worked closely with USPS and the Centers for Medicare & Medicaid Services (CMS), specifically, on the substance of this rulemaking, particularly as it relates to the impact of the Part D benefit integration on Postal Service annuitants and eligible family members.

The May 24, 2024, proposed rule had a 30-day comment period during which OPM received 22 comments, of which 15 comments were responsive, addressing the issues raised in the proposed rule. Five comments were from organizations consisting of employee unions, Federal Employees Health Benefits (FEHB) or potential PSHB Carriers, and trade groups, and 10 were from individuals or anonymous commenters with six nonresponsive or duplicative comments and one comment from an individual that is not publicly available due to the inclusion of personally identifiable information. The comment containing personally identifiable information expressed concerns about the personal impact of the Medicare integration provisions of the PSRA. The responsive comments are summarized and responded to below.

Court Review—5 CFR 890.107(f)

OPM proposed to add new paragraph (f) to 5 CFR 890.107 to establish that PSHB enrollment related lawsuits concerning Postal Service annuitants and their family members, involving data received under agreements with source agencies but where OPM lacks

authority or means to obtain independent verification, may not be brought later than December 31 of the third year after the year in which the enrollment action was effectuated. This proposal also limited the review of OPM final decisions based on data obtained under data exchange agreements with source agencies to the administrative record before OPM when OPM effectuated the enrollment action.

OPM did not receive any comments on this proposal. OPM is adopting this provision as proposed.

**Definitions and Deemed References—5
CFR 890.1602(c)**

OPM proposed to add new definitions for “Reconsideration” and “Source agency” for purposes of initial decisions and reconsiderations of eligibility determinations. Under existing regulations at § 890.1602, for purposes of this part, the USPS is the employing office for Postal Service employees, and the Retirement Services office within OPM is the employing office for Postal Service annuitants. These proposed changes reflect that OPM would 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.

Two commenters expressed support for OPM’s approach to determining eligibility for family members of USPS employees and annuitants. The commenters suggest that this approach, which streamlines eligibility determinations within OPM for these groups, will enhance consistency and accuracy of eligibility determinations.

OPM welcomes these comments in support of the proposed approach to determining eligibility for family members of USPS employees and annuitants. OPM agrees that this approach will result in efficiencies in the eligibility process and will promote accuracy in the process.

Another commenter requested clarification on what would make a Postal Service employee or annuitant ineligible for the PSHB Program. They asked whether there are pre-existing condition exclusions or any other eligibility limitations based on health status.

OPM appreciates this comment and request for clarification around PSHB eligibility. This comment is beyond the scope of this rulemaking as this rulemaking does not establish new eligibility criteria for PSHB Program participation. In response to the inquiry about the use of health status in

eligibility determinations, OPM is clarifying that the FEHB statute, at 5 U.S.C. 8902(f), prohibits the use of health status, including pre-existing conditions, in eligibility determinations in FEHB and PSHB. OPM and USPS have developed, and will continue to develop, educational resources that address questions such as those relating to eligibility. More information about the PSHB is available on OPM's website,¹ and USPS has additional resources including the USPS MyHR² PSHB page and [keepingposted.org](https://www.keepingposted.org).³ OPM and USPS encourage anyone with questions to review these resources. OPM is finalizing these definitions as proposed.

Medicare Enrollment Requirement for Certain Postal Service Annuitants and Eligible Family Members; Survivor Annuitants—5 CFR 890.1604(c), (d), and (f)

OPM proposed in § 890.1604(c) to clarify that a survivor annuitant who is entitled to Medicare Part A⁴ must be enrolled in Medicare Part B to continue enrollment in PSHB, unless the individual qualifies for an exception as set forth in § 890.1604(d)(3). In § 890.1604(d)(3), OPM proposed exceptions to the Medicare Part B enrollment requirement for those survivor annuitants who are entitled to Part A. Specifically, OPM proposed that a survivor annuitant would retain any exception that the Postal Service annuitant qualified for prior to the annuitant's death. A survivor annuitant would also individually qualify for a Part B enrollment exception in several additional circumstances: if the survivor annuitant resides outside of the United States and its territories, if the survivor annuitant is enrolled in health care benefits provided by the Department of Veterans Affairs (VA) (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)), or if the survivor annuitant is eligible for health services from the Indian Health Service. Survivor annuitants would be subject to all documentation requirements. In § 890.1604(f), OPM proposed to require all Medicare covered annuitants, Medicare covered family members, and survivor annuitants to provide OPM or the Postal Service with written notification if the individual chooses not to enroll in or disenroll from Medicare Part B. The following scenarios were included in the preamble of the NPRM and are being reproduced here to provide additional clarity:

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 annuitant was not both entitled to premium-free Medicare Part A 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.

Several commenters, including an association representing Federal employees and a labor organization, expressed support for the proposal to clarify an exception to the requirement to enroll in Medicare Part B for certain survivor annuitants who had relied on a Part B enrollment exception of a deceased annuitant while they were enrolled as a family member. The commenters generally supported this approach as consistent with the statute and noted that the failure to clarify this exception could result in inequities for some survivor annuitants and therefore supported finalizing as proposed. One commenter suggested this proposal would impact a limited number of

individuals and would have a negligible financial impact on the program.

OPM appreciates comments supporting this proposal and agrees that it will promote fairness and predictability for survivor annuitants who made decisions regarding Medicare Part B enrollment based on the expectation that the annuitant's Part B exception would continue to apply to them. As noted by commenters, this approach will also ensure the individuals who reasonably relied on the deceased annuitant's Part B exception do not later become subject to a Medicare Part B late enrollment penalty which could make coverage unaffordable or even result in the loss of coverage. Accordingly, OPM is finalizing as proposed.

Enrollment in the Initial Contract Year—5 CFR 890.1605(c)

Section 890.1605(c) implements the automatic enrollment requirements of the PSRA found at 5 U.S.C. 8903c(f)(2). As proposed, OPM would automatically enroll each Postal Service employee, annuitant, and their covered family members into a plan offered by their 2024 FEHB Carrier if the carrier offers a 2025 PSHB plan. If the carrier offers the corresponding plan in FEHB and PSHB in 2025, with at least one option that has equivalent benefits and cost sharing, the enrollees and their covered family would be enrolled into that carrier's plan and the equivalent option. If the carrier does not offer an equivalent option, the enrollees and their family members would be enrolled in the lowest cost option that is not a high deductible health plan (HDHP) and does not charge an association or membership fee, unless the only option is a HDHP. If the only option is a HDHP, individuals would be enrolled in that carrier's HDHP.

Individuals enrolled in a carrier's 2024 FEHB plan where the carrier does not offer a 2025 FEHB plan would be enrolled in the carrier's 2025 PSHB plan if the plan offers at least one option with similar benefits and cost sharing as the 2024 FEHB plan. Individuals would be enrolled into the similar option with similar benefits and cost sharing as the 2024 FEHB option. If there is no similar option, individuals would be enrolled in the lowest-cost option of the 2025 PSHB plan. If the plan has more than two options, the individuals would be enrolled the lowest cost option that is not a HDHP.

If an individual's 2024 FEHB Carrier's plan does not meet any of the other criteria, that individual would be enrolled in the lowest cost nationwide plan that is not a HDHP and does not

¹ OPM's PSHB Program information can be found at <https://www.opm.gov/healthcare-insurance/pshb/>.

² MyHR is the new USPS human resources website and is only accessible to USPS employees. The name and location of USPS human resources website is subject change with time.

³ Keeping Posted is a USPS-operated website providing benefits information targeted at Postal retirees. The PSHB resources page can be accessed at <https://www.keepingposted.org/postal-service-health-benefits.htm>. The name and location of the USPS website is subject change with time.

⁴ 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.

charge an association or membership fee. All determinations on equivalent or similar plans would be determined by OPM. All Postal Service annuitants and employees would be automatically enrolled into the same enrollment type (self, self plus one, or self and family), as their 2024 enrollment type. All automatic enrollment decisions would take into account the geographic region limitations of the plan offered.

Commenters were generally supportive of the approach in proposed § 890.1605(c). One carrier suggested that this approach would increase continuity of coverage and reduce administrative burdens during the transition from FEHB to PSHB. Another commenter supported the approach and stressed that the process for automatic enrollment should be made clear in educational information distributed to Postal Service employees and annuitants.

A carrier asked whether OPM intended to enroll as many enrollees as possible into a 2025 PSHB plan offered by the carrier of their 2024 FEHB enrollment and, in scenarios where this is not possible, to use the default plan as defined in § 890.1605.

Under 5 U.S.C. 8903c(f), OPM is required to automatically enroll Postal Service employees and annuitants who do not make an election to enroll in a PSHB plan during the transitional Open Season. OPM's intent is to minimize disruption for Postal Service employees and annuitants as they transition to the PSHB Program. Without a process for automatic enrollment, an individual transitioning to the PSHB Program for 2025 who takes no action during the transitional Open Season—either because they are not aware of the new program or do not understand they must make an affirmative selection in order to effectuate their enrollment—otherwise would lose their health insurance coverage for plan year 2025 (or lose eligibility for PSHB coverage altogether in the case of annuitants) unless they have a qualifying life event. The proposed automatic enrollment process would prevent such unintended loss of coverage for individuals transitioning from FEHB to PSHB. In addition, this proposal would ensure that individuals are enrolled into coverage that is equivalent or similar to their 2024 FEHB plan when available. Individuals will be enrolled into the default plan as required by the law only when enrollment with the same carrier is not available.

One commenter raised a concern about this approach as it relates to enrollees in certain U.S. territories. The commenter suggested the nationwide

plans are less competitive and more expensive than the regional plans would be. The commenter recommended altering § 890.1605 so that when an enrollee's FEHB Carrier is not participating in the PSHB Program within the enrollee's geographic area and the enrollee takes no action during transitional Open Season, the enrollee would be automatically enrolled in a comparable PSHB plan offered by an approved regional carrier.

OPM appreciates the concerns raised by the commenter. The proposed approach on automatic enrollment aligns with the statutory requirements under 5 U.S.C. 8903c(f)(2), which, in certain circumstances, includes automatically enrolling an individual in the lowest-cost nationwide plan option that is not a HDHP and does not charge a membership fee. For individuals in certain geographical areas, enrollees may have limited PSHB plan options. In some cases, certain carriers offering plans in geographic areas with fewer PSHB Carriers would not be included in the automatic enrollment hierarchy proposed in § 890.1605. OPM recognized that, in some instances, under the proposed automatic enrollment hierarchy, individuals may be enrolled into a plan that does not best meet their needs. However, the proposed approach is designed to meet the needs of the majority of Postal Service enrollees, while ensuring that all Postal Service enrollees have continuous coverage without requiring active plan selections. Therefore, OPM is finalizing § 890.1605 as proposed. This approach will ensure that the vast majority of PSHB enrollees who take no action during transitional Open Season will have the best outcome for 2025 coverage. OPM is adopting this approach to ensure that the majority of Postal Service enrollees who do not actively select a plan are not surprised with an unexpectedly high premium and ensures as robust of a network as possible across the United States, regardless of the enrollee's location.

In addition, pursuant to 5 CFR 890.301(n), which describes how OPM determines the lowest-cost nationwide plan option, OPM reserves the right to select an alternate plan for automatic enrollment if circumstances warrant it, as determined by OPM. Therefore, if, for example, OPM determines that the automatic fallback option for enrollees in a certain geographic area is not in the best interest of enrollees, OPM may designate an alternate plan option most suitable to the circumstances of those enrollees.

Enrollees are encouraged to review all available PSHB plans leading up to and

during the upcoming transitional Open Season to assist them in making the best selection for their personal circumstances. OPM's PSHB decision support tool is designed to provide enrollees with the information necessary to make an informed decision regarding PSHB coverage. The tool is scheduled to be available by Open Season at www.opm.gov/pshb.

OPM is finalizing its proposal with two minor technical changes. In § 890.1605(c), OPM is replacing the reference to “§ 890.1605(b)” with the term “paragraph (b) of this section” for consistency within the section. In § 890.1605(c)(1), OPM is replacing the term “same” with the term “corresponding” for consistency within the section. Otherwise, OPM is finalizing § 890.1605 as proposed.

Opportunities To Enroll, Change Enrollment, or Reenroll; Effective Dates—5 CFR 890.1606(c) and (d)

OPM proposed to amend 5 CFR 890.1606(c) related to automatic reinstatement of enrollment for individuals returning to civilian status after separation from the uniformed services, as described in 5 CFR 890.305. OPM identified that this proposal was included in the NPRM in error and is not finalizing this proposed amendment in this rule. 5 CFR 890.1606(c) remains unchanged.

OPM proposed to amend 5 CFR 890.1606(d) to reflect the initial decision and reconsideration process that would govern PSHB eligibility or enrollment decisions as proposed in § 890.1607. As proposed, this provision was also amended to remove the existing cross-references to the process set forth at § 890.104, which would no longer apply to PSHB. See the discussion below for additional details about the initial decision and reconsideration process under 5 CFR 890.1607. OPM did not receive any comments on the proposed amendments to § 890.1606. OPM is finalizing 5 CFR 890.1606(d) as proposed.

Initial Decision and Reconsideration—5 CFR 890.1607

OPM proposed a process for initial decisions and reconsideration to reflect OPM's new role in eligibility determinations. As proposed, individuals would file a request with the employing office or OPM, as applicable. OPM would be responsible for initial decisions concerning family member eligibility determination under § 890.302, as well as initial decisions concerning whether a Postal Service annuitant or their family member is not required to enroll in Medicare Part B

because the annuitant or family member is entitled to Department of Veterans Affairs (VA) benefits under 38 U.S.C. 1705(a), or whether a Postal Service annuitant or their family members is not required to enroll in Medicare Part B because they are eligible for health services from the Indian Health Service (IHS). OPM would also be responsible for initial decisions based on information OPM receives as the result of an information sharing agreement between OPM and a source agency. As proposed, a reconsideration must be an independent review at or above the level at which the initial decision was issued. Reconsiderations must be filed within 30 calendar days from the date of the decision stating the right to reconsideration. The employing agency or OPM can extend the time limit if the individual shows they were not informed, needed to obtain information from an outside source, or if they were prevented by circumstances beyond their control from complying with the time limit. The employing agency or OPM would issue a final decision within 30 days of the request for reconsideration.

OPM did not receive any comments on this proposal. OPM is finalizing as proposed with a minor technical correction in § 890.1607(d) to change a reference to the “employing office” to “employing agency” for consistency within the section. Otherwise, the provision is finalized without modification.

Disenrollment, Removal, Termination, Cancellation, and Suspension—5 CFR 890.1608(b)

As proposed, a Postal Service annuitant or family member who is required, as a condition of PSHB Program eligibility, to be enrolled in Medicare Part B but is not enrolled in Part B, would be given a one-time opportunity to enroll in Part B during the next available Medicare enrollment period. As proposed, the individual would not be removed from PSHB coverage until after the end of the next Medicare enrollment period. OPM requested comment on this proposal, including the deadline by which the individual must be enrolled in Part B before PSHB coverage is terminated.

Commenters generally supported the proposed one-time opportunity for individuals who are required to be, but are not yet, enrolled in Part B in order to be eligible to enroll in the PSHB Program. One carrier commented that this approach provides clear parameters for enrollees, smooths the transition to PSHB, and reduces the risk of interruption in an individual’s health

coverage. A carrier also commented to support the proposed approach but requested that OPM provide Postal Service annuitants with as generous of a window as possible to enroll in Part B, noting that the goal is to assist people with enrolling in Part B as soon as possible. A commenter sought confirmation that the approach outlined would allow individuals who are required to enroll in Part B, but have not done so, to remain enrolled in a PSHB plan if they enroll in Part B during their next Medicare enrollment period. The commenter suggested that, if the individual fails to enroll in Part B at that point, OPM may disenroll the individual from the PSHB plan.

One commenter, a union organization, suggested the Medicare Part B enrollment deadline for these individuals should be the end of the next Medicare General Enrollment Period that starts at least six months after the individual is required to enroll in Part B, suggesting that this privilege would be infrequently utilized. In some cases, such as where the individual is required to enroll near the end of a calendar year, the enrollment opportunity could run beyond a full year, because the next Medicare General Enrollment period would not start at least six months after the individual is required to enroll in Part B.

OPM supports providing a generous opportunity for Part B enrollment and understands that the PSHB program eligibility rules and enrollment processes may be confusing for Postal Service annuitants and their families during the early stages of this program, especially as it relates to the Part B enrollment requirement. It is for these reasons that OPM proposed the one-time enrollment opportunity for these individuals. The approach proposed by the commenter, recommending extending the deadline to the Medicare General Enrollment Periods starting at least six-months after the individual is required to enroll in Part B, could conflict with the cost savings intent of the PSRA. Providing PSHB enrollees, in certain circumstances, with more than a full plan year to enroll in Part B could result in a higher cost burden on USPS and the PSHB program. This cost-saving goal must be balanced against the flexibility provided to enrollees. OPM agrees with the commenter’s assertion that these enrollment opportunities should be needed infrequently, particularly as education and experience regarding the PSHB Program improves and believes that the policy as proposed by OPM will provide sufficient flexibility for these individuals to enroll in Part B and

remain enrolled in the PSHB Program. OPM is finalizing with two minor technical corrections. In § 890.1608(b) the term “re-enroll” has been replaced with “reenroll” to conform to drafting conventions in Subpart P. In § 890.1608(b)(6), the term “from” was moved within the first sentence from after “. . . initial decision disenrolling them from PSHB or removing . . .” to after “them” and before “coverage under a PSHB enrollment at the time OPM becomes aware of the Medicare disenrollment” to correct a typographical error.

Information Sharing—5 CFR 890.1612(f) and (g)

OPM proposed to amend the information sharing provisions at § 890.1612 by adding new paragraphs (f) and (g). First, in subsection (f), OPM proposed to provide a written notice prior to issuing an initial decision on eligibility for PSHB enrollment or coverage based on information or data OPM receives from a source agency through an information sharing agreement that establishes a basis that the individual may be ineligible for PSHB enrollment or coverage. The proposed notice would include certain required information, such as the specific data impacting the individual’s PSHB enrollment or coverage, source agency contact information, timelines, and information on the individual’s rights during the dispute. OPM solicited comments on this proposal.

In proposed paragraph (g) of § 890.1612 OPM proposed that, if OPM issues an initial decision to remove or disenroll the individual based on the information or data from a source agency, the individual would have reconsideration rights pursuant to § 890.1607. As proposed, reconsideration would be limited to the data or information from the source agency that was before OPM at the time OPM made the initial decision.

OPM did not receive any comments on these proposals. OPM is finalizing as proposed.

A trade association commented to request that OPM expand its information sharing rule at 5 CFR 890.1612 to include the entire FEHB Program, not just PSHB, and allow carriers access to that database for coordination of benefits and Section 111 reporting purposes. The commenter noted that Medicare Part A becomes primary over FEHB coverage on the last day of work preceding retirement and requests that OPM include a field for this date in the database.

OPM appreciates this feedback, but this comment is beyond the scope of

this rulemaking. As a general matter, OPM agrees that information sharing between agencies is critical to administer the PSHB Program effectively. OPM is not expanding its information sharing effort to the entire FEHB Program since the PSRA's information sharing provisions are intended to implement the PSHB Program and its Medicare enrollment requirement for certain Postal Service annuitants and their family members. Similarly, OPM does not intend to provide the information that is the subject of interagency information sharing agreements with carriers, except in limited circumstances required to operate the PSHB Program as permitted under the Privacy Act.

Postal Service Contract Year Beginning Date, Medicare Late Enrollment Penalty, Calculations for the Postal Service Retiree Health Benefits Fund, and Clarifications of Statutory Terms—5 CFR 890.1613(a), (c), and (e)

OPM proposed in § 890.1613(a) to calculate the contributions and withholdings for coverage for the PSHB program as described under 5 U.S.C. 8906 and subpart E of part 890. As proposed, the subscription charge and the Government contribution would begin on January 1 of each year for Postal Service annuitants and Postal Service employees.

Under § 890.1613(c), OPM proposed that, upon request from the USPS, and until the Postal Service Retiree Health Benefits Fund (the PSRHBF) is depleted, OPM will pay out from the PSRHBF 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). As required under the PSRA, if the PSRHBF is depleted, the Postal Service will pay the late enrollment penalties from the Postal Service Fund, established under 39 U.S.C. 2003. OPM has proposed to prioritize use of the PSRHBF to pay health benefit premiums of individuals described in 5 U.S.C. 8906(g)(2)(A) before use of the PSRHBF for payment of late enrollment penalties.

In § 890.1613(e), OPM proposed that the “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). As proposed, the computations for post-retirement health obligations computed under 39 U.S.C. 3654(b) will be performed using an aggregate entry-age normal cost method described in 5 U.S.C. 8331(17) and in accordance with OPM's actuarial

funding methods under 5 U.S.C. 8348(h). OPM proposed 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.

OPM did not receive any comments on these proposals. OPM is finalizing as proposed with a minor technical correction in § 890.1613(c) to change a reference to the “special enrollment period” to “Special Enrollment Period” to conform with the drafting conventions of the Social Security Act. Otherwise, OPM is finalizing without change.

Other Administrative Provisions—5 CFR 890.1614(a)

OPM proposed to amend § 890.1614(a) to reflect OPM's central role in administering the PSHB enrollment process. As proposed, OPM may make prospective or retroactive corrections of administrative errors at any time and may make a correction of an administrative error for purposes of equity and good conscience, in addition to ordering an employing office to make such corrections. OPM, rather than the employing office, would also be able to make retroactive corrections of enrollee enrollment code errors. OPM proposed to adopt the standards in § 890.103(d) with the addition of a reference to PSHB. As proposed, retroactive corrections would be subject to withholdings and contributions under the provisions of both §§ 890.502 and 890.1613.

OPM did not receive any comments on these proposed amendments to 5 CFR 890.1614(a). OPM is finalizing as proposed.

Crediting Separate Reserves for PSHB—5 CFR 890.1615

OPM proposed a Reserve credit methodology for crediting the reserves from FEHB options to PSHB options. To effectively credit reserves OPM proposed definitions that only apply for crediting purposes. These definitions include 2024 FEHB Option premium, 2024 Postal Service premium, Amount available, Corresponding PSHB option, Option, Plan, and Runout. OPM proposed to credit reserves as soon as practicable on or after January 1, 2025, using the methodology proposed in this section. Reserves will be credited by determining the 2024 Postal Service premium by multiplying the 2024 FEHB Option's enrollment types (self only, self plus one, self and family) by the number of Postal Service enrollments of the Option and taking the sum of those amounts. OPM will then determine the

Postal Service Percentage, which is 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 proposed to apply that percentage to the amounts available in the 2024 FEHB Option's reserves, taking into account the need for Runout, for each 2024 FEHB Option as of December 31, 2024. OPM will credit the resulting reserve amount to the PSHB Options for 2025. The reserves will be allocated to the PSHB Options, for experience-rated and community-rated Options, depending on the conditions that the Option meets. Each condition is based on the number of 2024 FEHB Options and the number of Corresponding PSHB Options offered by the carrier in 2025. OPM also proposed conditions for 2024 FEHB Carriers that do not offer a 2025 PSHB plan and for those 2025 PSHB Carriers that do not offer a 2025 FEHB plan.

As proposed, OPM will estimate the Runout amount considering any income attributable to periods for FEHB experience-rated Options. Finally, OPM proposed that 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 detailed above.

Two commenters addressed the reserve credit portion of the proposed rule. A carrier commented to note the importance of codifying reserve allocation guidance provided in a detailed carrier letter, Methodology for Crediting Postal Service Health Benefits (PSHB) Program Plan Reserves and Earned FEHB Medical Loss Ratio Credits (Letter Number 2023–13),⁵ dated July 19, 2023, on the topic of reserve credit and stated its appreciation for this detailed guidance. A trade association commented to request that OPM confirm that the letter remains in effect except to the extent it conflicts with this rule.

OPM confirms that Carrier Letter 2023–13 remains in effect. While OPM is unaware of any conflict between Carrier Letter 2023–13 and this rule, nonetheless we agree that a conflict between the Carrier Letter and the rule would properly be resolved in favor of this rule.

⁵Methodology for Crediting Postal Service Health Benefits (PSHB) Program Plan Reserves and Earned FEHB Medical Loss Ratio Credits (Letter Number 2023–13), July 19, 2023, available at <https://www.opm.gov/healthcare-insurance/carriers/fehb/2023/2023-13.pdf>.

Another commenter sought clarity on requirements for Runout accounts. Specifically, the commenter asked whether plans would need two separate runout accounts: one for FEHB paying claims for services rendered on or before December 31, 2024, but paid after January 1, 2025, and another account for PSHB.

As it relates to Runout accounts, there could be up to three LOCA Runout accounts: one for paying FEHB claims for services rendered on or before December 31, 2024, but paid after January 1, 2025, one for FEHB claims for services on or after January 1, 2025, and one for PSHB claims for services on or after January 1, 2025.

A commenter also recommended that OPM promote fair allocation of carrier reserves.

As stated in the proposed rule and Carrier Letter 2023–13, reserves will be allocated proportionately, based on 2024 premium attributable to the Postal Service and non-Postal Service populations for each Option. OPM considered incorporating a risk component in the allocation of reserves; however, OPM determined the method outlined in Carrier Letter 2023–13 is most consistent with current FEHB practice.

Finally, a trade association requested that OPM issue guidance soliciting waiver requests from any FEHB plan that expects the cost of calculating the reserve transfer will approximate or exceed the amount of the reserve transfer, with a submission deadline of October 1, 2024.

This comment is outside of the scope of this regulation. OPM notes that any carrier concerns can be addressed to the appropriate contracting officer.

OPM is finalizing the proposal without changes.

Medicare Part D—5 CFR 890.1616

§ 890.1616(a): Carrier Requirement To Offer Medicare Part D Prescription Drug Benefits

As proposed, a carrier offering a plan in the PSHB program must provide prescription drug benefits to any Part D-eligible Postal Service annuitant and their family members who are Part D-eligible through a Medicare Part D employer group waiver plan (EGWP). The carrier must offer a Part D EGWP through a prescription drug plan (PDP) EGWP or contract with a PDP sponsor. A carrier may, with the approval of OPM, offer a Medicare Advantage plan (MAPD) EGWP in PSHB; however, the carrier must also offer a PDP EGWP. All PSHB Carriers must be approved by and contracted with CMS prior to offering

PSHB Part D coverage through a PDP or MAPD EGWP.

A commenter recommended that OPM allow carriers to decide whether to offer a PDP EGWP or MAPD EGWP, or both, rather than requiring PSHB Carriers to offer a PDP EGWP as the default method of Part D benefits integration.

Section 8903c(h)(2) of title 5 U.S.C. states that OPM “shall require each Program plan” to provide prescription drug benefits to Part D-eligible Postal Service annuitants and their eligible family members through a PDP EGWP or “through a contract with a PDP sponsor.” The statute requires all carriers to offer a PDP EGWP to all Part D-eligible annuitants and their Part D-eligible family members. OPM’s final rule “Postal Service Reform Act; Establishment of the Postal Service Health Benefits Program” (at 89 FR 37061) permits carriers to offer an MAPD EGWP, as approved by OPM, in PSHB so long as the carrier also offers a PDP EGWP pursuant to the statutory requirement. OPM does not have the authority under the statute to permit carriers to decide whether to offer a PDP EGWP in the PSHB Program.

Another commenter suggested that OPM align PSHB EGWP guidance with existing FEHB EGWP guidance.

While the PSHB is included under the FEHB Program umbrella, PSHB is subject to distinct statutory requirements, including those governing the requirement to offer a PDP EGWP and to integrate Medicare Part D benefits under 5 U.S.C. 8903c(h)(1) and (2). When enacting the PSRA, Congress was addressing specific policy goals, including increasing enrollment in Medicare by USPS annuitants and promoting long term financial health for the PSHB Program, which require certain variances from policies that are generally applicable in the FEHB Program. As discussed in more detail below, the specific statutory requirements governing the PSHB Program as well as the unique policy goals of PSHB require separate regulations, policies, and implementation of PSHB EGWPs within the FEHB Program.

OPM is finalizing the proposal without changes.

§ 890.1616(b): Prescription Drug Coverage Under a PSHB Plan Through Medicare Part D and § 890.1616(e): Effect of Opting Out of Group Enrollment Into or Disenrolling From a Medicare EGWP

In 5 CFR 890.1616(b), OPM proposed that Postal Service annuitants and family members who are Part D-eligible

must be enrolled in the PSHB plan’s Part D EGWP to receive prescription drug coverage under the PSHB plan. A Part D-eligible individual who is not covered by the EGWP would not receive prescription drug coverage as a benefit under the PSHB plan. OPM also proposed that a Part D-eligible individual would also not receive prescription drug coverage through their PSHB coverage if they opted out of the PSHB Part D group enrollment process in 5 CFR 890.1616(e) and did not otherwise select a PDP EGWP or MAPD EGWP associated with their PSHB plan.

As proposed, OPM would require all PSHB Carriers to group enroll all Part D-eligible Postal Service annuitants and their Part D-eligible family members into the EGWP offered by their PSHB plan. This proposal is consistent with CMS rules⁶ and permits these Part D-eligible individuals to opt out of the group enrollment process. OPM proposed that, if an individual opts out of group enrollment, the individual would not receive prescription drug coverage under the PSHB plan. The individual would retain their rights to change their elections during Open Season or a qualifying life event and could later elect to enroll in Part D coverage offered by their chosen PSHB plan.

OPM received numerous comments on these proposals. One carrier stated they were aligned with the proposal and stated that they are prepared to proceed as proposed. Another carrier supported the approach and noted the importance of ensuring PSHB enrollees understand their options for receiving prescription drug coverage. The carrier suggested that allowing Part D-eligible individuals to opt out of the PDP EGWP and into an MAPD EGWP serves the interests of annuitants.

Other commenters, including individuals and a union, indicated that individuals may want to opt out of the Part D plan offered by their PSHB Carrier to avoid paying an Income-Related Monthly Adjustment Amount (IRMAA), an income-related monthly adjustment amount assessed and applied by Medicare. An individual commenter also noted that Postal Service annuitants and their family members who opted out of Part D would be paying for a plan that includes drug coverage and not receiving any of the

⁶ See 40.1.6—Group Enrollment Mechanisms for Employer/Union Sponsored PDPs, Medicare Prescription Drug Benefit Manual, Chapter 3—Eligibility, Enrollment and Disenrollment, available at https://www.cms.gov/Medicare/Eligibility-and-Enrollment/MedicarePresDrugEligEnroll/Downloads/CY_2018_PDP_Enrollment_and_Disenrollment_Guidance_6-15-17.pdf.

benefits because declining Part D coverage would not result in a reduced premium. Another commenter noted that Part D enrollees cannot use drug company discounts for expensive drugs, thus limiting PSHB enrollees' access to these discounts.

A union representing Federal employees and retirees stated that it believes OPM incorrectly interpreted the statute, specifically noting that the PSRA does not impose a Part D enrollment requirement on Medicare Part D-eligible Postal Service annuitants but instead mandates that PSHB Carriers provide prescription drug benefits through Part D benefits integration. The union suggested that Congress would not create detailed grandfathering and exemption provisions from the Part B requirement and not do the same for Part D if the Part D provisions were a mandate. Thus, the commenter concluded that Congress intended to allow Part D-eligible individuals to opt out of the Part D EGWPs without losing all prescription drug coverage under the PSHB plan. Instead, the commenter suggested, OPM and carriers could limit the number of opt-outs by educating Postal Service annuitants about the substantial changes to the Part D program in 2025. Several commenters also noted that the PSRA does not impose a Part D enrollment requirement on Medicare Part D-eligible Postal Service annuitants and their family members, but instead mandates that PSHB plans provide prescription drug benefits through Part D. Several commenters requested that OPM allow Postal Service annuitants and their family members to choose whether to enroll in the Part D EGWP offered by their PSHB plan or to retain the non-Medicare prescription drug coverage offered by their PSHB plan.

Finally, a trade association commented asserting that the FEHB program is subject to Section 1557 of the Affordable Care Act (ACA) and that a Medicare-eligible annuitant in the PSHB program could allege the Part D opt-out proposal violates Section 1557's prohibition on age discrimination. This commenter argued that this proposal would impose additional cost-sharing or impose other limitations on coverage for a protected class of individuals. The commenter requested that OPM provide a legitimate, non-discriminatory basis for this proposal.

OPM appreciates these comments and the thoughtful concerns they raised. OPM believes that its proposed approach—namely, that Part D-eligible Postal Service annuitants and their eligible family members who opt out of the Medicare Part D plan offered by

their PSHB plan will lose prescription drug benefits under their PSHB plan—is most consistent with the PSRA and its policy goals. As commenters noted, the PSRA, at 5 U.S.C. 8903c(h)(2), clearly requires carriers to provide PSHB prescription drug benefits to Part-D eligible annuitants and their Part-D-eligible family members through a Medicare Part D EGWP. And it requires, at 5 U.S.C. 8903c(c)(2), for carriers to integrate Part D coverage. While commenters are correct that the PSRA does not explicitly require Part D-eligible annuitants and their family members to enroll in Medicare Part D as a condition of PSHB enrollment—and, indeed, CMS regulations afford individuals that are group enrolled into a Part D EGWP the right to opt-out—the PSRA's express goal is to create cost savings for the PSHB Program, in part through shifting costs to Medicare. OPM believes that requiring Part D-eligible annuitants and their Part D-eligible family members to obtain PSHB prescription drug coverage through a Part D EGWP, rather than through their PSHB plan, best advances Congress' intent.

Further, 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 the vast majority of individuals eligible for Part D will be better off retaining their PSHB prescription drug coverage, there will be seamless coordination between the PSHB plan and Medicare, and the cost of the Part D EGWP will be included in their PSHB premium, with no reduction for those who opt out. 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. For these reasons, OPM is finalizing the proposal to require Part D-eligible Postal Service annuitants and their eligible family members to receive their prescription drug benefits under their PSHB plan through the Medicare Part D plan offered by their PSHB plan.

OPM is, however, making changes in response to comments expressing concern about the consequences of opting out of or disenrolling from the Part D EGWP for individuals who make the choice inadvertently or without full awareness of the implications of their decision. OPM is finalizing with changes to 5 CFR 890.1616(d), discussed in more detail in a separate section, and paragraph (e) to address these concerns. OPM believes that these changes will add important protections for Part D-

eligible annuitants and their Part D-eligible family members.

OPM is amending proposed 890.1616(e) to add new subparagraph (4) establishing enrollment flexibility to individuals who opt out or decline the plan's Part D EGWP due to an error. OPM is clarifying that a Part D-eligible annuitant or family member who is not enrolled in the Part D EGWP, either by opting out of group enrollment or actively declining the plan's Part D EGWP, can enroll in the plan's Part D EGWP during this limited enrollment flexibility. This flexibility is available where an individual opted out or declined the plan's Part D EGWP due to an error. OPM's policy is to construe this flexibility broadly, especially during the first year of the PSHB Program, consistent with applicable law.

This enrollment flexibility will allow individuals who are not enrolled in the Part D EGWP to enroll in Part D EGWP coverage within 90 days from the date at which their Part D coverage would have been effective. The effective date of the enrollment will be retroactive to the extent permitted in CMS regulations and guidance. OPM has determined the high risk of confusion, especially during early years of implementation of the PSHB Program, and the potential consequences for Part D-eligible annuitants and family members associated with errors around Part D EGWP enrollment, warrants this flexibility to allow for corrections when timely reported. OPM notes that this enrollment flexibility itself does not impact whether or not an individual may be subject to a Part D LEP if they remain without Medicare Part D or other creditable prescription drug coverage for more than 63 consecutive days.⁷ As the PSHB Program matures and there is more familiarity with Part D, the need for this flexibility is anticipated to decline and it is our expectation that it will be needed infrequently.

Recognizing that the flexibility in § 890.1616(e)(4)(i) may not provide sufficient time for all individuals to request correction of Part D EGWP enrollment errors, OPM is further clarifying in § 890.1616(e)(4)(ii) that individuals who identify an error 91 days or more after their plan's effective date can also request Part D EGWP plan corrections with a prospective effective date. An individual may be permitted to enroll or reenroll into the Part D EGWP plan offered by their PSHB plan option based on exceptional circumstances, broadly defined and as determined by OPM. The effective date of enrollment

⁷ See 42 CFR 423.46(a).

will be prospective. The flexibilities described above are limited to new Part D EGWP enrollments (either PDP or MAPD, as applicable). The flexibility does not permit a change to the individual's PSHB plan enrollment and does not permit an individual to change enrollment from a PDP EGWP to an MAPD EGWP, or from an MAPD EGWP to a PDP EGWP, offered by their PSHB plan. OPM appreciates and shares commenters' concerns with making sure that all PSHB enrollees have access to prescription drug coverage. OPM believes that its final rule—which requires Part D-eligible annuitants and their Part D-eligible family members to obtain drug coverage through a Part D EGWP but provides significant enrollment flexibility for those who opt out of Part D inadvertently or without understanding the consequences—appropriately balances the PSRA's express goals of cost-savings with the important goal of protecting enrollees and making sure they have the option of obtaining prescription drug coverage.

In response to the comment raising concerns related to Section 1557 of the Patient Protection and Affordable Care Act (ACA), and age discrimination issues in particular, OPM notes that discrimination complaints in the PSHB are not subject to the Section 1557 complaint process; rather, as stated in HHS's May 6, 2024 final rule implementing Section 1557, entitled "Nondiscrimination in Health Programs and Activities," 89 FR 37522, 37627, HHS will "refer to OPM complaints alleging discrimination in the FEHB Program (including the Postal Service Health Benefits Program)." More substantively, OPM ensures that the FEHB and PSHB Programs comply with applicable Federal nondiscrimination laws, and, as noted above, has chosen this approach to Part D coverage for multiple nondiscriminatory reasons, including that it is most consistent with the PSRA and helps advance the PSRA's cost-saving goals.

Medicare Part D Enrollment for Part D-Eligible Postal Service Annuitants and Family Members Living Abroad

One commenter, a carrier organization, noted that individuals living outside of the United States cannot obtain Medicare Part D coverage, as eligibility is limited to individuals who live within a Part D plan's service area, which must be within the United States. The commenter suggested that Part D-eligible Postal Service annuitants and their family members who live outside the United States and its territories be exempt from the requirement that their PSHB plan may

only provide them with prescription drug coverage through a Part D EGWP. OPM appreciates this comment raising this important issue regarding access to Part D coverage outside of the United States.

After considering these issues, OPM recognizes the need for a narrow exception to the proposal to group enrollment and limitation of prescription drug coverage for Part D-eligible annuitants and their eligible family members who reside outside of the Part D plan's service area and are ineligible to enroll in Medicare Part D. Under CMS rules, individuals must live within a Part D plan's service area to be eligible to enroll in that Part D plan.⁸ OPM is clarifying in the final rule that Part D-eligible Postal Service annuitants and their family members who live outside of the United States (including the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) would not be group enrolled into their PSHB plan's Part D EGWP because they reside outside of the Part D plan's service area and are therefore not eligible to enroll. Accordingly, OPM is amending § 890.1616(b) to clarify that PSHB plans may not group enroll individuals residing outside of the United States into the Part D plan and must provide these individuals with prescription drug coverage through the PSHB plan benefits.

§ 890.1616(c): PSHB Plan Enrollment or Disenrollment and Medicare EGWPs

In § 890.1616(c), OPM proposed that changes to PSHB enrollments during Open Season or because of a qualifying life event, as defined in part 892, would include the ability to change enrollment in the Part D EGWP offered by the PSHB Carrier.

Two commenters, a carrier and an individual, requested clarity on the specific timeframes and circumstances in which an individual would be allowed to enroll into a Part D EGWP or make changes to their enrollment. The individual asserted that FEHB MAPDs allow members to enroll in or disenroll from the MAPD during the plan year and asked whether Postal Service enrollees would only be allowed to enroll in the PSHB MAPD EGWP during Open Season or pursuant to a qualifying life event. The commenter also requested clarity on whether the Medicare Part D-eligible annuitant who opts out of or disenrolls from their

PSHB plan's MAPD EGWP would be automatically enrolled in their PSHB plan's PDP EGWP or would instead receive no prescription drug benefits under PSHB.

We appreciate these comments and requests for clarification. Consistent with the rules governing FEHB enrollment, PSHB enrollees will be allowed to make changes to their enrollment during Open Season or subject to a qualifying life event. These existing rules will apply to PSHB Part D coverage, either through the PSHB PDP EGWP or an MAPD EGWP, the same as they apply to the PSHB plan, meaning a Part D-eligible annuitant or family member will have an opportunity to enroll in Part D coverage during the next available Open Season or during any qualifying life event that may apply. An individual who opts out of or disenrolls from their PSHB MAPD plan would have opted out of the Part D plan offered by their PSHB Carrier and would not receive prescription drug coverage as a benefit under the PSHB plan unless they make an active plan selection into the PDP EGWP during Open Season or any available qualifying life events (or during the flexibility period under 1616(e)(4)). The individual would not be automatically group enrolled into the PSHB Carrier's PDP EGWP. OPM is finalizing as proposed.

§ 890.1616(d): Carrier Requirements for Group Enrollment Into Medicare EGWPs

OPM proposed that all carriers automatically group enroll all Part D-eligible Postal Service annuitants and their eligible family members into the plan's Part D EGWP. Group enrollment is a waiver permitted by CMS that allows carriers to enroll individuals into the Part D EGWP without the need for the individual to complete an additional enrollment. All carriers are required to comply with all applicable CMS requirements, including all notice requirements for group enrollment into PDP and MAPD EGWPs. As proposed, the group enrollment requirement for carriers does not impact the individual's right to choose a PSHB plan during Open Season or during a qualifying life event.

The proposed requirement for automatic group enrollment applies to both PDP and MAPD EGWPs. For PDP EGWPs, the carrier, at the end of Open Season or during a qualifying life event, would be required to automatically group enroll Part D-eligible annuitants and their Part D-eligible family members into the PDP EGWP, unless the individual elects to enroll into the plan's MAPD EGWP or opts out of group enrollment. For MAPD EGWPs, at the

⁸ See 42 CFR 423.4, 423.30 and 423.44(b)(2)(i), as well as 42 CFR 422.2, 422.50(a)(3), and 422.74(b)(2)(i).

end of Open Season or during a qualifying life event, the carrier must automatically group enroll Part D-eligible Postal Service annuitants and family members if they elect to enroll in the carrier's MAPD EGWP. During the 2025 transitional Open Season, a PSHB MAPD EGWP may only automatically group enroll individuals if they were covered by the carrier's 2024 FEHB MAPD or if the individual actively elects to enroll in the carrier's MAPD plan for plan year 2025. OPM has also proposed that in addition to CMS notice requirements, that each year, not less than 30 days prior to Open Season, PSHB Carriers must send notice to Part D-eligible individuals detailing that the carrier intends to group enroll the individual into the Part D plan, that the individual may opt out of the group enrollment, the impact of opting out, the date by which the individual must opt out, how to opt out, that the individual will not receive prescription drug coverage under the PSHB plan, and that no adjustment will be made to the premium. An MAPD plan must also inform the individual that they may enroll in the plan's PDP EGWP and inform individuals that they may be required to remain enrolled in Medicare Part B to maintain eligibility for the PSHB Program.

Two carriers expressed support for the use of automatic group enrollment of individuals eligible for Part D and not currently receiving a Medicare Part D product. Each commenter counseled caution, however, stressing the importance of coordination between OPM and carriers to ensure smooth enrollment and clear communication to affected enrollees, as well as the tight timing between group enrollment, Open Season, and the January 1 PSHB coverage effective date.

OPM appreciates the comments in support of this proposal as well as comments raising concerns about the potential risks associated with this proposal. OPM is committed to working closely with PSHB Carriers to ensure a seamless process for Part D-eligible annuitants and their Part D-eligible family members. OPM understands the carriers' concerns about the timeline between Open Season and the PSHB coverage effective date of January 1, 2025. OPM is working on additional guidance for carriers to ensure a smooth transition to the PSHB Program for both the enrollees and the carriers. OPM is clarifying that all Part D-eligible Postal Service annuitants and their eligible family members will be automatically group enrolled into the Part D plan offered by their carrier in 2025. There is no limitation to only those annuitants

and family members currently enrolled in a Part D plan in 2024. Additionally, OPM is amending § 890.1616(d)(1)(ii), to require the carriers to group enroll and provide the required notice to all Postal Service annuitants and family members, annually. This amendment requires carriers to annually group enroll all Medicare Part D-eligible Postal Service annuitants and family members regardless of the individual's decision to opt out of the plan's Part D EGWP in the prior plan year. OPM is amending this section in consideration of the comments, as detailed in § 890.1616(b) and (e), about the risk of Postal Service annuitants and family members not understanding the consequences of opting out of the group enrollment into the Part D EGWP offered by their PSHB plan. This amendment will require an individual to opt out of the Part D EGWP offered by their PSHB plan on an annual basis.

OPM is finalizing the Medicare Part D group enrollment requirement with the amendments described above.

§ 890.1616(f): EGWP Prescription Drug Benefits

OPM proposed that a carrier must provide the same prescription drug benefits to Part D-eligible individuals under the PDP or MAPD EGWP, as the carrier provides to the non-Part D-eligible individuals enrolled in prescription drug benefits under the PSHB plan, except to the extent necessary to integrate Medicare Part D prescription drug benefits, as determined by OPM. OPM identified that in the preamble text this standard was described as requiring carriers to offer "equal or better" benefits in their Part D plans as is offered in the PSHB plan formulary, whereas in the proposed regulatory text the standard was described as "the same." This error is addressed in the final rule, as discussed in more detail below.

Several commenters provided feedback on this proposal. One commenter supported the approach, emphasizing the importance of OPM's position. A carrier commented that it understood the proposal to require Part D EGWP formularies to cover the same medications as PSHB formularies, with equivalent or better cost-sharing and tiering.

A Federal employee association requested clarification about the difference in language used in the preamble to the proposed rule, proposing the "equal or better" standard, from the proposed regulatory language at 5 CFR 890.1616(f), proposing that benefits must be the "same." This commenter requested

additional clarity around these standards to ensure Part D-eligible individuals receive coverage that is equal or better than existing coverage. A commenter asserted that some Part D coverage offered in the FEHB Program in plan year 2024 may not have met the equal or better standard, noting that in certain instances tier classifications may have resulted in enrollees paying higher out-of-pocket costs for the same prescription medication. This commenter supported language included in the 2024 Carrier Call Letter,⁹ issued February 8, 2024, which included a requirement that PDP EGWP formularies include the same covered drugs at the same or lower cost-sharing as the plan's non-PDP EGWP formulary, and encouraged OPM to incorporate similar language in the final rule to ensure that Part D coverage is really equal to or better than PSHB plan drug coverage.

A carrier requested further clarity regarding the specifics of formulary match standards between the Part D EGWP prescription drug benefit and the PSHB plan prescription drug benefit. The commenter requested greater detail on formulary design requirements and clarity on cost implications. This commenter further stated that carriers could promote health care savings and promote enrollee choice in the PSHB Program by designing PSHB formularies to meet the needs for active employees, while designing PDP formularies to meet the needs of Medicare Part D-eligible individuals.

One commenter suggested that the language in proposed § 890.1616(f) is not strong enough to ensure that Part D drug coverage will be equal to or better than PSHB plan drug coverage. The other suggested a potentially unintended impact on the ability to generate cost savings based on the proposed requirement that Part D EGWP formularies cover the same drugs as PSHB formularies, with equivalent or better cost-sharing and tiering. The commenter suggested that the requirement for parity in prescription drug benefits could limit the flexibility needed to leverage rebates and innovative pricing strategies effectively on the smaller membership population. These constraints might reduce the potential for cost savings typically achieved through negotiated agreements and formulary management within the Part D framework. They suggested that

⁹ See Federal Employees Health Benefits and Postal Service Health Benefits Programs Call Letter, Office of Personnel Management, Letter No. 2024-04, Feb. 8, 2024, available at <https://www.opm.gov/healthcare-insurance/carriers/fehb/2024/2024-04.pdf> at pp 6-7.

OPM consider these factors to ensure that the implementation of this requirement does not inadvertently hinder cost-saving opportunities for the PSHB Program and its enrollees.

OPM appreciates these comments requesting additional clarifications and is finalizing with amendments to provide more clarity and to better ensure Postal Service annuitants and family members who are Medicare Part D enrollees receive at least equal benefits to those offered in the corresponding PSHB plan, to the extent consistent with applicable Medicare Part D requirements. OPM previously provided carriers with details on PSHB formulary requirements in Carrier Letter 2024–06,¹⁰ and OPM is amending § 890.1616(f) to explicitly incorporate these standards. Section 890.1616(f), as amended, adds new paragraphs (1) and (2) that require that the Part D EGWP formularies within the PSHB Program include the same medications, products, and supplies as covered in the PSHB formulary with the same or lower cost-sharing, and that carriers may not lower or otherwise limit or restrict benefits, such as by limiting the number or types of medications on the formulary or increasing cost sharing, offered in the PSHB formulary to meet this standard. New paragraph (3) provides that OPM has authority to grant exceptions to these requirements, in OPM's discretion to the extent necessary and consistent with applicable law, where requested by carriers.

We appreciate comments seeking additional flexibility to innovate and leverage prescription medication rebates. While OPM appreciates the benefits that may be derived from carrier innovation, the need to ensure all PSHB enrollees receive equal benefits, regardless of their Part D eligibility status, outweighs the potential theoretical benefits that may be derived through the types of innovations commenters asserted may be limited by the proposed approach. OPM believes that this approach strikes a balance between innovation and ensuring that all individuals in the PSHB Program continue to have access to the same high quality prescription drug coverage.

Medicare Part D Premium

One individual commenter expressed concern that mandating payment of Medicare Part D premiums will increase the cost of health coverage for Postal

Service annuitants, given they will already be required to pay Medicare Part B premiums.

OPM appreciates this comment seeking clarity regarding the Part D premium. A Part D-eligible Postal Service annuitant and family member enrolled in the Part D EGWP will not pay an additional premium for Part D coverage. Part D coverage is included in the premium for PSHB coverage. The FEHB Program requires that all FEHB enrollees enrolled in the same plan and coverage level, as well as all PSHB enrollees enrolled in the same plan and coverage level, pay the same premium whether an eligible individual chooses to stay in or opt out of the available Part D EGWP.¹¹ This means that those who opt out of Part D coverage will not receive a reduction in premium costs as a result of opting out of Part D.

Comments Beyond the Scope of This Rulemaking

The following comments are outside of the scope of this rulemaking, but OPM summarizes them here for the sake of completeness.

Contracting and Carrier Requirements

A trade association submitted comments raising several questions pertaining to contracting issues. The commenter asserted that OPM did not request advance agreement as it relates to precontract costs under the FEHBA (48 CFR 1631.205–77) from FEHB plans joining the PSHB Program, asserting that OPM stated this would be an unnecessary technicality. The commenter requested that OPM state in the final rule that such precontract costs “are allowable to the extent they would have been allowable if incurred after the date of the contract.” OPM appreciates this comment, but it is beyond the scope of the proposed rule.

PSHB Special Enrollment Period

Two commenters made suggestions regarding the Postal Service Reform Act's Medicare Part B Special Enrollment Period, which ran from April 1, 2024, through September 30, 2024. One commenter suggested that the existence of a Medicare Part B Special Enrollment Period for Postal Service annuitants is wrong or unlawful given that a number of Postal Service annuitants are already paying late enrollment penalties for Medicare Part B. This commenter requested that USPS pay Part B late enrollment penalties for *all* Postal Service annuitants, regardless of when the Postal Service annuitant or the family member enrolled in Medicare

Part B. The other commenter suggested USPS would not pay Part B late enrollment penalties for those who enroll in Part B during the Postal SEP.

With respect to the first comment, we note that the Special Enrollment Period at issue is established by the PSRA. In any event, both comments are beyond the scope of this rulemaking.

Automatic Enrollment Into Medicare Part B

One commenter suggested that OPM explore with SSA and CMS automatic enrollment into Medicare Part B like there is for Part D group enrollment.

OPM appreciates this commenter's suggestion to simplify the Medicare Part B enrollment requirement for Postal Service annuitants and their eligible family members and promote administrative simplicity, but this comment is outside of the scope of this regulation.

True Out-of-Pocket and Maximum Out-of-Pocket Metrics

One carrier commenter recommended that OPM maintain separate accumulation metrics for true out-of-pocket (TrOOP) and maximum out-of-pocket (MOOP) metrics, suggesting that integrating the two metrics could strain government budgets by allowing individuals to reach their out-of-pocket limits quicker and placing more of the cost burden on the Federal system. Another carrier commenter added that the Inflation Reduction Act (IRA) included significant changes to the PDP plans that go into effect on January 1, 2025. The changes make the PDP designs institute zero-dollar cost share once the enrollee meets the \$2,000 TrOOP.

OPM appreciates these comments, but they are outside the scope of this regulation.

General Program Education

Multiple comments from USPS employees, annuitants, and their families made it clear that enrollee and family member education remain very important as the PSHB Program moves towards implementation and providing coverage. Several commenters asked for available resources to learn about Medicare-related options and costs, as well as eligibility requirements for the PSHB, rights related to the Medicare Part B Special Enrollment Period, and how Medicare-related matters relate to PSHB integration. Another requested a PSHB plan comparison tool to facilitate plan selection during the first PSHB Open Season.

OPM appreciates commenters raising these questions and concerns and

¹⁰ Technical Guidance and Instructions for 2025 Benefit Proposals, Letter No. 2024–06, March 7, 2024, available at <https://www.opm.gov/healthcare-insurance/carriers/fehb/2024/2024-06.pdf>.

¹¹ See 5 U.S.C. 8906(d).

understands the importance of providing Postal Service employees and annuitants with sufficient information to make informed PSHB plan enrollment decisions. While these comments are out of scope, OPM reminds stakeholders of the range of educational resources currently available from OPM¹² and USPS through the MyHR¹³ PSHB page and *keepingposted.org*,¹⁴ in addition to PSHB educational resources mailed to employees and annuitants. Anyone with questions about the range of options available under the PSHB Program and the impacts on Postal Service employees and annuitants are encouraged to review all available resources.

In addition, individuals will have available a web-based decision support tool to simplify the comparison of covered benefits, premiums, provider networks and pharmacy information for enrollees choosing among a wide array of plan choices. OPM plans to launch the tool in late October, and it will be available within the PSHB System, the online enrollment portal.

OPM continues to work closely with USPS to develop and release PSHB educational materials for Postal Service employees, annuitants, and their family members. In June 2024, OPM posted a series of FAQs explaining parts of the proposed rule for consumers.¹⁵ In late July 2024, USPS developed and distributed a new PSHB guide covering OPM's proposed rules on EGWP coverage, among other relevant updates.

Regulatory Changes in This Final Rule

OPM is making several changes to this final rule from the NPRM in response to comments as well as changes to address one error in the proposed rule and several technical corrections.

OPM is making minor technical corrections throughout this rule to replace the term "open season" with "Open Season" to reflect drafting conventions in part 890 of Title 5. OPM is also making minor technical corrections throughout this rule to add the term "paragraph" where applicable to conform with drafting conventions in

part 890 of Title 5. This change was made to §§ 890.1602(c)(4), 890.1604(d)(3)(i), and 890.1616(f).

Section 890.1606(c)

The proposed rule included a proposed amendment to § 890.1606(c). This amendment was included in error, so OPM is not finalizing this proposal.

Section 890.1605(c)

OPM is making a minor technical correction in § 890.1605(c) to replace the reference to "§ 890.1605(b)" with the term "paragraph (b) of this section" for consistency within the section.

OPM is making a minor technical correction in § 890.1605(c)(1) to replace the term "same plan" with the term "corresponding plan" for consistency within the section.

Section 890.1607(d)

OPM is making a minor technical correction in § 890.1607(d) to replace the term "employing office" with the term "employing agency" for consistency within the section.

Section 890.1608(b)

OPM is making two minor technical corrections in § 890.1608(b). First, the term "re-enroll" has been replaced with "reenroll" to conform to drafting conventions in Subpart P. In § 890.1608(b)(6), the term "from" was moved to correct a typographical error.

Section 890.1613(c)

OPM is making minor technical corrections in this section to replace the term "special enrollment period" with "Special Enrollment Period" to conform to drafting conventions of the Social Security Act.

Section 890.1616(a)

OPM is making minor technical corrections in this section to add the term "section" prior to 1860D–22(b), (c)(1), to conform to the drafting conventions of the Social Security Act.

Section 890.1616(b)(1)

Under 5 CFR 890.1616(b), a Part D-eligible individual (as defined in section 1860D–1(a)(3)(A) of the Social Security Act) must be enrolled in their PSHB plan's Part D EGWP by their PSHB carrier in order to receive prescription drug coverage under the PSHB Program. However, under CMS regulations at 42 CFR 423.30(a)(1)(ii), an individual who is living abroad is not eligible to enroll in Part D as they cannot meet the requirement of residing in the service area of a Part D plan.

In § 890.1616(b)(1), OPM is clarifying that a Part D-eligible Postal Service

annuitant or family member of the annuitant who resides outside of the United States must not be group enrolled in the Part D EGWP. Instead, these individuals will receive non-Medicare prescription drug coverage provided by the PSHB plan for as long as they reside outside of the United States.

Section 890.1616(d)

In consideration of the comments about the risk of Postal Service annuitants and family members not understanding the consequences of opting out of the Part D EGWP offered by their PSHB plan, OPM is amending § 890.1616(d)(1)(ii), to require the carriers to group enroll and provide the required notice to all Postal Service annuitants and family members, annually. This amendment also requires carriers to annually group enroll all Medicare Part D-eligible Postal Service annuitants and family members regardless of the individual's decision to opt out of the plan's Part D EGWP in the prior plan year. This amendment will require an individual to opt out of the Part D EGWP offered by their PSHB plan on an annual basis. OPM is making this change in part to address concerns about individuals losing access to prescription drug benefits unintentionally.

Section 890.1616(e)(4)

OPM received several public comments expressing concern for individuals who may opt out of or disenroll from the Part D EGWP due to a lack of complete understanding of the consequences of that decision, despite OPM's and USPS's best efforts to provide education and awareness to the affected population. In the interest of providing greater flexibility for Postal Service annuitants and their family members during the transition to PSHB, OPM is establishing a Part D EGWP enrollment flexibility for Part D-eligible Postal Service annuitants and their eligible family members. This enrollment flexibility will allow these individuals to enroll in their PSHB plan option's Part D EGWP for up to 90 days after the start of the plan year or the effective date of coverage after a qualifying life event that permitted a plan change. For those who utilize the enrollment opportunity, Part D coverage will be retroactive to the extent permitted by CMS regulations and guidance. In addition, for individuals who seek to enroll after 90 days, an individual will be permitted to request to enroll or reenroll into the Part D plan offered by their PSHB plan option based on exceptional circumstances, as

¹² OPM's PSHB Program information can be found at <https://www.opm.gov/healthcare-insurance/pshb/>.

¹³ MyHR is the new USPS human resources website and is only accessible to USPS employees.

¹⁴ Keeping Posted is a USPS-operated website providing benefits information targeted at Postal retirees. The PSHB resources page can be accessed at <https://www.keepingposted.org/postal-service-health-benefits.htm>.

¹⁵ Office of Personnel Management, Postal Service Health Benefits Program, "PSHB Program NPRM FAQ," June 11, 2024, available at <https://www.opm.gov/healthcare-insurance/pshb/#url=FAQs>.

determined by OPM. For those who utilize this enrollment opportunity, Part D coverage will be prospective as permitted by OPM regulations. These enrollment flexibilities are limited. This flexibility does not permit a change to the individual's PSHB plan enrollment and does not permit an individual to change enrollment from a PDP EGWP to an MAPD EGWP, or from an MAPD EGWP to a PDP EGWP.

OPM notes that a Part D-eligible individual may be subject to a Part D LEP if they remain without Medicare Part D or other creditable prescription drug coverage for more than 63 consecutive days.¹⁶ This possible LEP is not affected by the availability of the enrollment opportunity. This Part D LEP is separate and apart from the Part B LEP that is paid by the Postal Service for annuitants participating in the PSRA SEP. All Part D LEP for delayed Part D enrollment is the responsibility of the enrollee.

Section 890.1616(f)(1) & (2)

As proposed in the NPRM, carriers would be required to provide the same prescription drug benefits to Part D-eligible individuals under a PSHB plan's 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 EGWP except to the extent necessary, as determined by OPM, to integrate the Medicare Part D prescription drug benefit coverage.

As a result of comments received, OPM is amending § 890.1616(f) by changing "the same as" standard to "equal to or better" to correct the drafting error in the NPRM. OPM is also adding new (f)(1), (2), and (3) to specify that: (1) Prescription drug benefits under the EGWP must cover the same medications as in the PSHB formulary with the same or lower cost-sharing, to the extent consistent with applicable Medicare provisions; (2) Carriers must not lower benefits, such as by limiting the number or types of medications on the formulary or increasing cost sharing offered in the PSHB formulary to meet this standard; and (3) a carrier may request OPM approval to offer different medications, products, or supplies, or modify cost sharing on their EGWP formulary, subject to OPM's approval, where the requests are necessary and consistent with applicable law.

Expected Impact of This Final Rule

Statement of Need

This rulemaking follows a previous rulemaking¹⁷ 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 codified 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 as compared to the FEHB Program. Similarly, several regulatory changes to the PSHB Medicare Part B requirement were identified as needed 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 processes and situations that were not contemplated when the interim final rule was initially developed. As an example, OPM received public comments on the interim final rule concerning survivor annuitants as it relates to the Medicare Part B requirement indicating a need to provide clear regulation of the treatment of this group and informed the proposal in the proposed rule.

In addition, some issues required more time for policy development and were not able to be included in the initial rulemaking. Those issues included 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 PSRHF, 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 some of the more complex issues that required more time than the interim final rule timeframe allowed, such as the methodology for allocation of reserve credits. This rulemaking provides an additional vehicle for a more comprehensive regulatory scheme before the PSHB Program begins operation in 2025.

OPM is finalizing the provisions in 5 CFR 890.1607 regarding reconsiderations, which will 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 reconsideration regulations also account for the use of a centralized enrollment system, which is not used for enrollment in FEHB plans. Because some of the data used in eligibility determinations will come from source agencies rather than OPM directly, the regulations establish a multistep process for an affected individual where the information does not belong to OPM and therefore cannot be independently verified.

OPM is further clarifying Medicare Part B requirements and exceptions in this rulemaking. 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 final rule regarding the applicability of the Medicare Part B requirement and exceptions to survivor annuitants 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 policies 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

¹⁷ The previous rulemaking referred to here is the collective interim final rule and the final rule under the title Postal Service Reform Act; Establishment of the Postal Service Health Benefits Program. These documents are herein referred to collectively as the "initial rulemaking." The final rule can be found at 89 FR 37061, which adopted the provisions of OPM's interim final rule, published at 88 FR 20383, with minor clarifying changes.

¹⁶ See 42 CFR 423.46(a).

requirements that align the government contribution adjustment for Postal Service employees and Postal Service annuitants 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. This rule's provisions regarding prioritizing premium payments from the PSRHBF, and thereafter Medicare Part B late enrollment penalty payments, establish 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 opt-out or 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, as interpreted and determined appropriate by OPM, in compliance with Medicare regulations and requirements.

In addition, this rulemaking is necessary to clarify the meaning of the statutory provision contained in 5 U.S.C. 8903c(h)(2) that requires carriers to provide prescription drug benefits to Postal Service annuitants and their eligible family members who are Part D-eligible (as defined in the statute) through employment-based retiree health coverage via a Part D prescription drug plan (PDP) or contracts between a carrier and a PDP sponsor. Specifically, this rule codifies preamble discussion from the interim final rule stating that a carrier may, in addition to offering one of the above options, also offer a Medicare Advantage Prescription Drug (MAPD) Plan. This rule codifies that carriers must group enroll all Medicare Part D-eligible annuitants and their eligible family members, consistent with applicable CMS requirements, including the right to opt out or decline Part D EGWP coverage. This rule further clarifies that PSHB Part D EGWP prescription drug coverage must be equal to or better than the PSHB prescription drug coverage available to active PSHB employees and their family members, to ensure that Medicare Part D-eligible PSHB annuitants and their eligible family members continue to receive the same high level of coverage.

Further, the rule makes clear that the only way that a Medicare Part D-eligible annuitant or their eligible family member may receive PSHB prescription drug coverage is through a carrier's PSHB EGWP, unless the Part D-eligible annuitant or their eligible family member resides outside of the United States. OPM determined that regulations were necessary to provide clarity to both carriers and Postal Service annuitants on implementation of 5 U.S.C. 8903c(h)(2). These issues were not addressed in the initial rulemaking with sufficient clarity for the regulated community and other stakeholders.

Impact

This rulemaking establishes additional requirements and clarifications for the operations and management of the PSHB Program. Based on OPM's estimates, OPM determined that this regulation will not have a significant impact on the broader Federal health insurance market. In 2023, Postal premiums accounted for about 21% 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.

As with the initial rulemaking, this rulemaking 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, while ensuring minimal disruptions to enrollees during the early years of the program. The largest potential impact from this rule is found in the regulatory portions addressing reserves. OPM estimates that \$4.9 billion of the estimated \$23 billion in total FEHB reserves—which includes contingency reserves and the Letter of Credit Account within the EHB Fund—as of the end of 2023 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 be approximately \$100 million.

The other changes in this rule are not expected to be economically significant. The reconsideration process largely mirrors that of 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 rule will result in a shift of funds from FEHB plan reserves to PSHB Option reserves based on the proportion of enrollment attributable to Postal Service employees and Postal Service annuitants between 2024 and 2025. However, as discussed above, in large part we expect these funds to shift between plans or Options within the same carrier, as we expect many PSHB enrollees to remain with their current FEHB Carrier to the extent possible.¹⁸

B. Impacts on PSHB Enrollees

The rule provides clarification on several circumstances concerning Medicare Part B enrollment requirements and exceptions under the PSHB Program. The rule clarifies treatment of survivor annuitants as well as Postal Service annuitants and family members returning to the U.S. after living abroad as it relates to 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 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 inadvertently or mistakenly missing Part B coverage and should apply to a very small number of individuals. This rule clarifies that this opportunity is a one-time benefit, and any subsequent instances where the individual lacks required Medicare Part B enrollment

¹⁸ The reserves for FEHB and PSHB are held in the Employees Health Benefits Fund. Interest on the reserves accrues to the Fund.

would result in PSHB termination. OPM expects the number of individuals who face multiple good-faith instances of missing Medicare Part B enrollment to be negligible, so the impact of limiting this benefit to one use 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 and eligible family members, which does not exist for annuitants or family members 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 rule, employing agencies (USPS for Postal Service employees, or OPM 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 Medicare-eligible Postal Service annuitants and eligible family members in order to be enrolled in or covered under the PSHB Program, there will be additional verification for affected Medicare-eligible Postal Service annuitants and family members. In addition to performing verification checks where appropriate, an adverse outcome for enrollees and family members may increase the number of eligibility reconsideration requests made by individuals seeking coverage.

This rule will 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 May 6, 2024 Final Rule. 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 amounts withheld from the pay of each enrolled Postal Service employee and from the annuity of each enrolled Postal Service annuitant are correctly calculated and align with the pro-rated period of coverage for which premium is being paid 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, OPM, and DOL.

OPM determined that 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.

Carriers will need to account for the Part D 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 Part D coverage through the PSHB plan is expected to be negligible; however, the impact for any Part D-eligible individual who opts out will be large as those who opt out 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 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 coverage and the 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 also finalizing

the rule to provide enrollment flexibility for Medicare Part D-eligible annuitants and family members who opt out or disenroll from their plan's Part D EGWP in error. OPM seeks to ensure that any individual who opts out is doing so based on an informed understanding of the consequences and that anyone who opts out in error can have their Part D EGWP enrollment corrected.

Costs

OPM does not anticipate that this regulatory action will result in significant or quantifiable economic costs. The provisions 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 initial rulemaking and will not be significantly impacted by the clarifications provided by this rule.

In particular, this rule clarifies the May 6, 2024 final rulemaking provision related to PSHB enrollees and family members 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 infeasible to quantify. Because enrollees and family members 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.

Benefits

As with the interim final rule, this final 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 these clarifications.

Distributional Effects

OPM estimates that \$4.9 billion of the \$23 billion in 2023 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 discontinuation of its plan under the FEHB. Program 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 Employee Organization plan is discontinued and not merged with other Employee Organizations under the FEHB Program, or if a Comprehensive Medical Plan is discontinued under the FEHB Program, the reserve balances credited to those plans are redistributed to the plans continuing under the FEHB Program, as indicated at 5 U.S.C. 8909(e).

Second, OPM estimates that more than 97% of the reserve 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 found in § 1615(c)(5)(i)–(iii)). 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 found in § 1615(c)(5)(iv)). Based on 2023 enrollments and anticipated carrier participation in the PSHB Program, OPM estimates that the total amount of these between-carrier transfers will be approximately \$100M, well below the \$200M threshold for economic significance.

Alternatives

This 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, the PSRA Medicare integration requirement, the cost saving intent of the PSRA, and consistency with Medicare regulations.

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 establishing Program-wide enrollment in Part D, consistent with Congressional intent to promote access to high-quality drug coverage and savings to the PSHB Program. 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. Making Medicare Part D 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 not only result in loss of 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 reasonable 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 structure 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 determined this was not the best interpretation of the statute in light of Congressional intent. 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 in part by providing prescription drug coverage to Postal Service annuitants and their family members through Medicare Part D. 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 not be the most efficient approach to promote these cost-savings goals.

As a result, OPM considers the policy included in this rulemaking to be 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 alternative 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 establish 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 finds good cause to make this final rule effective upon publication. See 5 U.S.C. 553(d)(3). As discussed more fully in the NPRM, OPM is balancing the interests of carriers and Postal Service employees, Postal Service annuitants, and their eligible family members affected by this rulemaking. OPM worked 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. The provisions in this final rule are time-sensitive, as they will address the remaining issues needed to finalize the Program. For example, Postal Service Medicare covered annuitants need information about their rights so that they can make informed decisions about prescription drug coverage during the transitional Open Season.

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 immediately. 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 being final as the transitional Open Season begins.

Regulatory Flexibility Act

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

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.

Severability

If any of the provisions of this final rule 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 final rule 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 rule providing procedures for challenging enrollment decisions can and would function independently of any of the other portions of this rule.

E.O. 13132, Federalism

OPM examined this rule 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.

E.O. 12988, Civil Justice Reform

This rule meets the applicable standard set forth in Executive Order 12988, Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions. Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or Tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently, approximately \$183 million. Although

we have not been able to quantify all costs, this rule does not contain mandates that would impose spending costs on State, local, and Tribal governments or the private sector in excess of the threshold. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs has determined that this rule does not meet the criteria specified in 5 U.S.C. 804(2).

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

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-23 FEHB Program Enrollment Records, available at 89 FR 72902 (September 6, 2024) at <https://www.federalregister.gov/d/2024-20061>.

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 provided a 60-day notice for an extension of this information collection. OPM proposed changes to the SF 2809 and the OPM 2809 for clarity, ease of use, and implementation of the PSHB Program. OPM provided copies of the revised drafts of the SF 2809 and OPM 2809 forms for review in the docket at <https://www.regulations.gov/docket/OPM-2024-0011/document>. OPM is not consolidating the SF 2809 and the OPM 2809 into a single form; however, we are proposing to manage the two forms under a single information collection, OMB Control No. 3206–0160, going forward. During the 60-day comment period, OPM received fourteen

comments, including six unique comments and one comment representing eight submissions, from agencies regarding aspects of the SF 2809.

One commenter suggested that the SF 2809 form should allow one to list addresses for minor children who live at a different location than enrollee. Another commenter noted that the SF 2809 form should allow an option to remove a family member. We agree with these recommendations and are amending the SF 2809 accordingly. Three commenters suggested changes to the formatting of the paper form SF 2809. We are declining to make these changes because most enrollees will use electronic systems to enroll. There were also comments about the eOPF that were beyond the scope of this information collection request. OPM made a technical correction indicating that common law marriage must be initiated in any "state, the District of Columbia, or other jurisdiction" instead of "state" that recognizes such marriages; the technical correction accounts for common law marriages in the District of Columbia. OPM published a 30-day notice with a request for comments on September 24, 2024, at 89 FR 77899.

List of Subjects in Title 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 amends 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 definitions for "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, by adding paragraphs (c) and (d)(3) and revising paragraph (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)(ii) through (iv) of this section.

(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 paragraph (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 paragraph (b) of this section, will be automatically enrolled in the PSHB Program as follows:

(1) Into corresponding 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 paragraph (d) to read as follows:

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

(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 (c)(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 agency 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.

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 paragraph (a), adding paragraph (b) introductory text, revising paragraphs (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 an FEHB plan will remain available for an eligible family member who is or becomes covered as a member of family of an 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 an 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) * * * 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 reenroll 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 reenroll 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 reenroll 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)(ii) of this section.

(i) A Postal Service annuitant will have no further opportunity to reenroll 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 them from 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 annuitant 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:

(i) 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

(ii) 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 section 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 paragraph (a)(2) of this section 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. The prescription drug benefit is not covered under a PSHB plan for a Part D-eligible individual who is not enrolled in the PSHB plan's Part D EGWP.

(1) *Prescription Drug Coverage for Medicare Part D-eligible annuitants and members of family residing outside of the United States.* A carrier will not group enroll, as described in paragraph (d) of this section, a Medicare Part D-eligible Postal Service annuitant or a member of family of such annuitant who resides outside of 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) into the Medicare Part D EGWP offered by the plan. A carrier must provide prescription drug coverage through the PSHB plan to these individuals.

(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 opted out of group enrollment in the PSHB plan's PDP EGWP or MAPD EGWP for the current or upcoming plan year, as applicable.

(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:

(i) 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 benefits and rate proposal.

(e) *Effect of opting out of group enrollment into or disenrolling from a Medicare EGWP—(1) Effect of opting out of group enrollment.* 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) *Opportunity to enroll other than group enrollment.* 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) *Disenrollment.* 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.

(4) *Enrollment flexibility.* A Part D-eligible individual who is not enrolled in the PDP EGWP or MAPD EGWP, as applicable, for prescription

drug benefits offered by their PSHB plan may request enrollment into their PSHB plan's EGWP outside of Open Enrollment or a qualifying life event to correct errors.

(i) *Part D EGWP Enrollment Flexibility.* A Part D-eligible individual who opts out of Part D EGWP group enrollment or disenrolls from their PSHB plan's Part D EGWP can request enrollment into their plan's Part D EGWP within 90 days of the start of plan year or 90 days from the effective date of coverage after a qualifying life event that permitted a plan change. Enrollments made under this paragraph (e)(4)(i) will be retroactive to the extent consistent with applicable CMS regulations.

(ii) *Exceptional circumstances.* A Part D-eligible individual who opts out of Part D EGWP group enrollment or disenrolls from their PSHB plan's Part D EGWP can request enrollment into their plan's Part D EGWP 91 days or more after the start of the plan year or the effective date of coverage after a qualifying life event that permitted a plan change as determined by OPM. Enrollments made under this paragraph (e)(4)(ii) will be prospective.

(iii) Changes to enrollment under this paragraph (e)(4) are limited to new enrollments into the individual's current PSHB plan's Part D EGWP.

(f) *PDP EGWP and MAPD EGWP prescription drug benefits.* A carrier must provide prescription drug benefits to a PSHB EGWP plan's Part D-eligible covered individuals that are equal to or better than the prescription drug benefits provided to that PSHB plan's covered individuals who are not eligible to enroll in Part D and not enrolled in the plan's EGWP, subject to paragraph (f)(3) of this section. For purposes of this section:

(1) A carrier must ensure that a Medicare Part D EGWP within the PSHB Program includes the same medications, products, and supplies covered in the corresponding plan option's PSHB pharmacy benefit with the same or lower cost sharing, to the extent consistent with applicable Medicare provisions; and

(2) A carrier must not reduce or otherwise limit prescription drug benefits to meet this standard, for example by limiting the coverage of medications, products, and supplies or increasing cost sharing of the prescription drug benefits provided to individuals covered under the PSHB plan who are not eligible for Part D.

(3) A carrier may request OPM approval to offer different medications, products, or supplies, or modify cost

sharing on their EGWP formulary. OPM has discretion to determine whether and to what extent a carrier request under

this subsection is necessary and consistent with 5 U.S.C. 8903c.

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