

the Code of Federal Regulations are amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

2. Section 73.3550 is revised to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

(a) All requests for new or modified call sign assignments for radio and television broadcast stations shall be made via the FCC's on-line call sign reservation and authorization system accessible through the Internet's World Wide Web by specifying <http://www.fcc.gov>. Licensees and permittees may utilize this on-line system to determine the availability and licensing status of any call sign; to select an initial call sign for a new station; to change a station's currently assigned call sign; to modify an existing call sign by adding or deleting an "-FM" or "-TV" suffix; to exchange call signs with another licensee or permittee in the same service; or to reserve a different call sign for a station being transferred or assigned.

(b) No request for an initial call sign assignment will be accepted from a permittee for a new radio or full-service television station until the FCC has granted a construction permit. Each such permittee shall request the assignment of its station's initial call sign expeditiously following the grant of its construction permit. All initial construction permits for low power TV stations will be issued with a five-character low power TV call sign, in accordance with § 74.783(d).

(c) Following the filing of a transfer or assignment application, the proposed assignee/transferee may request a new call sign for the station whose license or construction permit is being transferred or assigned. No change in call sign assignment will be effective until such transfer or assignment application is granted by the FCC and notification of consummation of the transaction is received by the FCC.

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly-owned station not part of the transaction, the new licensee of the transferred or assigned station shall expeditiously request a different call sign, unless consent to retain the conforming call

sign has been obtained from the primary holder and from the licensee of any other station that may be using such conforming call sign.

(e) Call signs beginning with the letter "K" will not be assigned to stations located east of the Mississippi River, nor will call signs beginning with the letter "W" be assigned to stations located west of the Mississippi River.

(f) Only four-letter call signs (plus an LP suffix or FM or TV suffixes, if used) will be assigned.

However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call sign assignment (plus FM, TV or LP suffixes, if used).

(g) Subject to the foregoing limitations, applicants may request call signs of their choice if the combination is available. Objections to the assignment of requested call signs will not be entertained at the FCC. However, this does not hamper any party from asserting such rights as it may have under private law in some other forum. Should it be determined by an appropriate forum that a station should not utilize a particular call sign, the initial assignment of a call sign will not serve as a bar to the making of a different assignment.

(h) Stations in different broadcast services (or operating jointly in the 535–1605 kHz band and in the 1605–1705 kHz band) which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

(i) The provisions of this section shall not apply to International broadcast stations or to stations authorized under Part 74 of the rules (except as provided in § 74.783 of this chapter).

(j) A change in call sign assignment will be made effective on the date specified in the postcard acknowledging the assignment of the requested new call sign and authorizing the change. Unless the requested change in call sign assignment is subject to a pending transfer or assignment application, the requester is required to include in its on-line call sign request a specific effective date to take place within 45 days of the submission of its electronic call sign request. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(k) Four-letter combinations commencing with "W" or "K" which

are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the "-FM" or "-TV" suffix.

(l) Users of nonlicensed, low-power devices operating under Part 15 of the FCC rules may use whatever identification is currently desired, so long as propriety is observed and no confusion results with a station for which the FCC issues a license.

(m) Where a requested call sign, without the "-FM," "-TV" or "-LP" suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

4. Section 74.783 is amended by revising paragraph (e) to read as follows:

§ 74.783 Station identification.

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(e) Low power TV permittees or licensees may request that they be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs described in paragraph (d) of this section. Parties requesting four-letter call signs are to follow the procedures delineated in § 73.3550. Such four-letter call signs shall begin with K or W; stations west of the Mississippi River will be assigned an initial letter K and stations east of the Mississippi River will be assigned an initial letter W. The four-letter call sign will be followed by the suffix "-LP."

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OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1609, 1632, 1652

RIN 3206–A116

Federal Employees Health Benefits Program Improving Carrier Performance; Conforming Changes

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to issue a regulation that would amend the Federal Employees Health Benefits Acquisition Regulation (FEHBAR) to underscore accountability for customer service and contractual compliance among the Federal Employees Health Benefits (FEHB) Program community-rated carriers. The regulation would enable OPM to better manage carriers' performance over key contract areas, including customer service measures, information and reporting requirements, and significant events that might affect service to enrollees. Accurate and timely performance by carriers will facilitate the Program meeting its customer service standards.

DATES: Comments must be received on or before August 17, 1998.

ADDRESSES: Written comments may be sent to Abby L. Block, Chief, Insurance Policy and Information Division, Office of Insurance Programs, Retirement and Insurance Service, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; delivered to OPM, Room 3425, 1900 E Street NW., Washington, DC; or FAX to (202) 606-0633.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 606-0004.

SUPPLEMENTARY INFORMATION: Among OPM's guiding principles in its role as administrator of the FEHB Program, and consistent with the Government's customer service initiatives, is the goal of ensuring high quality customer service for enrollees in the FEHB Program. In order to accomplish this goal, each carrier participating in the Program must meet its responsibility to provide high quality customer service.

OPM's customer service focus has led to our establishing certain Program requirements that will enable both OPM and carriers to provide enrollees with the quality of service they expect. These requirements are generally set by regulation, the FEHB contract, or OPM's administrative policies, and the vast majority of FEHB carriers comply with them. Nevertheless, sometimes FEHB carriers fall short of one or more of the requirements, for example, by failing to meet a specified standard for customer service or submitting a required report late or with incorrect information. A carrier's failure to meet its obligations reduces OPM's ability to ensure that the FEHB Program provides good customer service to FEHB enrollees, and may reduce the Program's efficiency and effectiveness. Accordingly, OPM seeks to implement a system of monetary performance incentives that would hold

community-rated carriers accountable for their performance. Such incentives are already in place for experience-rated carriers.

OPM has identified certain carrier obligations that, when unmet, can delay or keep customer service goals from being met. Some examples of poor performance reducing customer service are: Failure to meet customer service standards; failure to provide accurate and timely benefits and rate information, brochures, or reports; failure to comply with the disputed claims process; failure to comply with the requirement for a paperless enrollment system, failure to accurately reconcile enrollment data; and failure to cooperate in survey administration. A carrier's failure to meet its obligations, particularly with regard to surveys and brochures, impedes or delays OPM's ability to provide enrollees with information that will enable them to make an informed decision in selecting a health plan. An additional critical obligation is the carrier's responsibility to provide information regarding events that might have a material effect upon the carrier's ability to meet its obligations under the contract, such as, changes to its participating providers, a change of corporate name or ownership or a transfer of assets, and labor disputes. These events may reduce the carrier's ability to provide required services to our enrollees.

Under authority of the regulations, OPM would withhold a portion of the community-rated carrier's premium if the carrier does not meet its FEHB Program obligations. It should be emphasized that we expect the vast majority of community-rated carriers will receive minor, if any, premium adjustment.

Incentive percentage factors will be assigned to two basic elements, Customer Service and Critical Contract Compliance Requirements, described below. The Contracting Officer will assign a percentage factor for each basic element based on the carrier's demonstrated record in meeting its obligations during the contract year. The percentage factor will be applied to each community-rated carrier's total FEHB premiums. The aggregate withhold amount for any carrier would not exceed one percent of premium paid for any contract year. OPM would evaluate the carrier's performance after the contract year ends, apply the percentage factors directly to the total net-to-carrier premium dollars paid for the preceding contract year, and withhold the amount from the carrier's periodic premium payments payable during the first quarter of the following contract year.

Carriers could make alternative payment arrangements acceptable to their FEHB contracting officer.

So that there will be no question as to what level of effort OPM expects, we have developed a standard evaluation list with sub-elements that will be used by the FEHB contracting officers in evaluating the carriers' performance, and will share it with all community-rated carriers during the public comment period. An understanding of the elements and sub-elements should make it easier for carriers to achieve full performance under the contract and ensure that the FEHB Program maintains its position as a leader in meeting its customers' needs.

The regulation also amends FEHBAR 1632.170, Recurring payments to carriers, FEHBAR 1652.232-70, Payments-community-rated contracts, and FEHBAR 1652.232-71, Payments-experience-rated contracts, to enable OPM to withhold monies from premium payments for other contractual obligations, such as the carrier's share of the cost of a customer satisfaction survey.

Reference changes have been made to the FEHB Clause Matrix at 1652.3 to conform to reference changes in the Federal Acquisition Regulation (FAR) [Chapter 1 of Title 48, Code of Federal Regulations] since the last FEHB Clause Matrix update, and the reference to FAR 52.215-70 is corrected to read 1652.215-70.

Reduction of Comment Period for Proposed Rulemaking

I have determined that the comment period will be thirty days because OPM must receive public comments on this new initiative as soon as possible in order to analyze them, work with interested parties, and publish a final regulation prior to the beginning of the 1999 Contract Year.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because in no case will it affect more than one percent of a carrier's premium.

List of Subjects in 48 CFR Parts 1609, 1632, and 1652

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

Office of Personnel Management.

Janice R. Lachance,
Director.

Accordingly, OPM is proposing to amend Chapter 16 of Title 48, Code of Federal Regulations, as follows:

**CHAPTER 16—OFFICE OF PERSONNEL
MANAGEMENT FEDERAL EMPLOYEES
HEALTH BENEFITS ACQUISITION
REGULATION**

1. The authority citation for 48 CFR Parts 1609, 1632, and 1652 continue to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

**PART 1609—CONTRACTOR
QUALIFICATIONS**

2. Subpart 1609.71 is added to read as follows:

Subpart 1609.71—Performance Incentives
Sec.

1609.7101 Policy.

1609.7101-1 Community-rated carrier incentive elements.

1609.7101-2 Community-rated carrier performance incentive factors.

**Subpart 1609.71—Performance
Incentives**

1609.7101 Policy.

At the end of each contract period, the contracting officer shall determine each community-rated carrier's responsiveness to the Program requirements in 1609.7101-1. 1609.7101-1 Community-rated carrier incentive elements.

(a) *Customer Service.* This incentive element is intended to assist OPM in achieving the goal of providing customer service that meets or exceeds the expectations of Federal enrollees. The Customer Service element shall represent 70 percent of the total calculation and shall be based on the carrier's compliance with the following sub-elements:

(1) *Meeting Customer Service Performance Standards.* Compliance with this sub-element is essential so that OPM can ensure that the carrier is providing quality health care and other services to enrollees. The contracting officer will evaluate this sub-element based on the carrier's compliance with the *FEHB Quality Assurance* clause of the contract and shall consider the carrier's demonstrated efforts in responding to its members' needs, providing quality services, applying its quality assurance program, verifying that its physicians are credentialed, making appointments for patients, assessing the quality of its health care, accurately processing claims, properly responding to requests for

reconsideration of disputed claims, and making timely payments to members and providers.

(2) *Timely Closure on Rates and Benefits Consistent with Policy Guidelines.* In order for information to be available to our customers in time for the annual Open Season, carriers must work with OPM to conclude benefits and rate negotiations by mid-August. The contracting officer will evaluate this sub-element based on the carrier's demonstrated record in providing its rate proposal, rate reconciliation data, and necessary clarifications within the time frames prescribed by and in the format required by OPM. The contracting officer also will evaluate this sub-element based on the carrier's record in submitting proposed benefit changes and clarifications and proposed brochure language in accordance with the instructions in the Call Letter.

(3) *Customer Information.* Enrollees must have accurate information and adequate time to make informed Open Season choices in selecting a health plan. In evaluating this sub-element, the contracting officer will consider the carrier's timely submission of the contract, signed by the contracting official, to OPM; the carrier's compliance with FEHBP Supplemental Literature Guidelines; the timeliness of the carrier's compliance with the *Information and Marketing Materials* clause of the contract and the carrier's efforts in submitting complete and accurate brochures to OPM's distribution center for annuitants, OPM contract specialists, and its current enrollees. The contracting officer shall also consider the timely submission of an electronic brochure for OPM's World Wide Web Site and the carrier's efforts in verifying, within the OPM-specified time frame, the accuracy of the information in the current FEHB Guide in preparation for the upcoming contract period as part of this requirement.

(4) *Cooperation in Surveys.* FEHB enrollees rely on feedback from the customer satisfaction survey in selecting a health plan. The contracting officer will evaluate this sub-element based on the carrier's record in cooperating with OPM and/or its designated representative in administering a customer satisfaction survey as specified in the FEHB contract and OPM guidance.

(5) *Reconsideration/Disputed Claims.* The requirement for carriers to reconsider disputed health benefits claims is in 5 CFR 890.105. An incomplete explanation of denied benefits by the carrier places a burden on enrollees, causing them to seek

reconsideration because the carrier did not fully explain its denial. Incomplete responses to enrollee requests for reconsideration drive enrollees to take the additional step of requesting reconsideration by OPM. Late carrier responses to OPM's requests for the carrier's reconsideration file delays OPM's response to enrollees. When a dispute is brought to OPM through the disputed claims process, community-rated carriers must provide thorough and complete information according to OPM-specified time frames. The contracting officer will evaluate this sub-element based on the carrier's reconsideration files, including the responses to enrollees' requests for reconsideration and the carrier's submission of the reconsideration files to OPM for review of the carrier's decisions within the time frame specified by OPM.

(6) *Paperless Enrollment/Enrollment Reconciliation—(i) Paperless Enrollment.* The requirement to cooperate in the OPM designated system for paperless enrollment is under the section entitled "Enrollment Instructions" in the FEHB Supplemental Literature Guidelines in the FEHB contract. The contracting officer will evaluate this sub-element based on the carrier's efforts at setting up a method of accepting electronic data transmission from the OPM designated electronic enrollment system, processing enrollment changes on a weekly basis, and issuing ID cards timely. Consideration will also be given if the carrier does not accept enrollment verification letters provided through the electronic system as proof of insurance.

(ii) *Enrollment Reconciliation.* The requirement for carriers to reconcile their enrollment records on a quarterly basis with those provided by Federal Government agencies is in the *Records and Information to be Furnished by OPM* clause of the contract, as well as 5 CFR 890.110 and 5 CFR 890.308 (final regulations pending). The carrier's cooperation in the enrollment reconciliation process is essential so that OPM can determine the total premium payment to the carrier. The contracting officer will evaluate this sub-element based on the carrier's demonstrated record of complying with OPM guidance in reconciling enrollments and resolving enrollment discrepancies, as well as on the carrier's demonstrated record of following disenrollment procedures in accordance with 5 CFR 890.110 and 890.308 (final regulations pending).

(b) *Critical Contract Compliance Requirements.* This performance

incentive element shall represent 30 percent of the total computation and shall be based on the carrier's compliance with the following sub-elements:

(1) *Notification of Changes in Name or Ownership; or Transfer of Assets.* OPM must be able to assess the viability of the carrier and its ability to provide health care to enrollees so that they do not experience difficulty obtaining treatment and other services. The contracting officer will evaluate this sub-element based on the carrier's compliance with FEHBAR Subparts 1642.12, Novation and Change-of-Name Agreements, and 1642.70, Management Agreement (in Lieu of Novation Agreement).

(2) *Notification of Other Significant Events.* The carrier must notify OPM of significant events such as lawsuits, strikes, and natural disasters so that OPM can assess the carrier's ability to pay claims and provide services to enrollees. In evaluating this sub-element, the contracting officer will consider the carrier's demonstrated record of compliance with 1652.222-70, including timely notification and explanation of all significant events that may have a material effect on the carrier's ability to perform the contract. Such events include, but are not limited to: Disposal of major assets; loss of 15% or more of its overall membership; addition or termination of provider agreements; and changes of participating plans.

(3) *Notification of Changes in Contract Administrators.* OPM must be able to reach the person responsible for managing the carrier's FEHB contract without delay when an enrollee calls OPM in need of urgent medical treatment, an ID card, or other service. Each carrier's designated contact will maintain telephone and electronic communications with OPM so that issues can be resolved quickly. The contracting officer will evaluate this sub-element based on the carrier's compliance with the *Notice* clause and *Contract Administration Data* sheet in the contract, and will consider the carrier's record in notifying OPM promptly of changes in its carrier Representative or contracting official, mailing or electronic address, telephone or FAX number.

(4) *Submission of Required Reports.* The reports specified in the *Statistics and Special Studies* and *FEHB Quality Assurance* clauses of the contract and are essential for tracking enrollment, finances, rates, etc. The contracting officer will base the carrier's performance in this sub-element on its demonstrated record in providing

timely and accurate performance, demographics, fraud and abuse, debarment, and CPA reports, HEDIS and FACCT measures, and other reports as required by OPM within the OPM-specified time frames.

1609.7101-2 Community-rated carrier performance incentive factors.

OPM will apply the Customer Service and Critical Contract Compliance Requirements percentage factors specified by the contracting officer when a community-rated carrier does not provide the information, payment, or service, perform the function, or otherwise meet its obligations as stated in 1609.7101-1. The factors will be added and applied to the carrier's total premium dollars paid for the preceding contract period. The amount obtained after the total premium is multiplied by the factor will be withheld from the carrier's periodic premium payments payable during the first quarter of the following contract period, unless an alternative payment arrangement is made with the carrier's contracting officer.

The incentive factors for each basic element are set forth below:

COMMUNITY-RATED CARRIER PERFORMANCE INCENTIVE FACTORS

Element	Incentive factor (To be multiplied by premium and withheld from carrier's payments)
I. Customer Service (70% of Total)007
II. Critical Contract Compliance Requirements (30% of Total)003
Maximum Aggregate Percent of Premium01

PART 1632—CONTRACT FINANCING

3. In section 1632.170, paragraphs (a) and (b)(1) are revised to read as follows:

1632.170 Recurring premium payments to carriers.

(a)(1) *Recurring payments to carriers of community-rated plans.* OPM will pay to carriers of community-rated plans the premium payments received for the plan less the amounts credited to the contingency and administrative reserves, amounts assessed under paragraph (a)(2) of this section, and amounts due for other contractual obligations. Premiums will be due and payable not later than 30 days after receipt by the Employees Health Benefits (EHB) Fund.

(2) The sum of the two performance incentive factors applicable under 1609.7101-2 will be multiplied by the carrier's total net-to-carrier premium dollars paid for the preceding contract period. The amount obtained after the total premium is multiplied by the sum of the factors will be withheld from the carrier's periodic premium payment payable during the first quarter of the following contract period unless an alternative payment arrangement is made with the carrier's contracting officer. OPM will deposit the withheld funds in the carrier's contingency reserve for the plan. The aggregate amount withheld annually for performance for any carrier shall not exceed one percent of premium for any contract period.

(b)(1) *Recurring payments to carriers of experience-rated plans.* OPM will make payments on a letter of credit (LOC) basis. Premium payments received for the plan, less the amounts credited to the contingency and administrative reserves and amounts for other obligations due under the contract, will be made available for carrier drawdown not later than 30 days after receipt by the EHB Fund.

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PART 1652—CONTRACT CLAUSES

4. The clause heading and paragraph (a) of the clause in section 1652.232-70 are revised to read as follows:

1652.232-70 Payments—community-rated contracts.

* * * * *

PAYMENTS (JAN 1999)

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the plan by the Employees Health Benefits Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM, amounts assessed under 1609.7101-2, and amounts for other obligations due under the contract, plus any payments made by OPM from the Contingency Reserve.

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5. In section 1652.232-71, the clause heading and paragraph (a) of the clause are revised to read as follows:

1652.232-71 Payments—experience-rated contracts.

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PAYMENTS (JAN 1999)

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the Plan by the Employees Health Benefits

Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM and amounts for other obligations due under the contract, plus any payments made by OPM from the Contingency Reserve.

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1652.244-70 [Amended]

6. In section 1652.244-70, in paragraph (f) of the clause, the FAR reference "15.903(d)" is removed and

the FAR reference "15.404-4(c)(4)(i)" is added in its place.

7. Section 1652.370 in the table in paragraph (c) the following clauses and Text references in the FEHBP Clause Matrix are revised as follows: FAR 52.215-22 and FAR 15.804-8(a) are revised to read 52.215-10 and 15.408(b) respectively; 52.215-24 and 15.804-8(c) are revised to read 52.215-12 and 15.408(d) respectively; 52.215-27 and 15.804-8(e) are revised to read 52.215-

15 and 15.408(g) respectively; 52.215-30 and 15.904(a) are revised to read 52.215-16 and 15.408(h) respectively; 52.215-31 and 15.904(b) are revised to read 52.215-17 and 15.408(i) respectively; and 52.215-39 and 15.804-8(f) are revised to read 52.215-18 and 15.408(j) respectively; FAR 52.215-70 is revised to read 1652.215-70.

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