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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

48 CFR Parts 1602 and 1609

RIN 3206–AO43

Postal Service Reform Act; Establishment of the Postal Service Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This rule finalizes an interim final rule that established the Postal Service Health Benefits (PSHB) Program for Postal Service employees, Postal Service annuitants, and their eligible family members, pursuant to the Postal Service Reform Act of 2022. This Program will include health benefits plans available to United States Postal Service (Postal Service) employees, Postal Service annuitants, and their eligible family members starting January 1, 2025. For these individuals, eligibility for enrollment or coverage in FEHB plans based on Postal Service employment will end on December 31, 2024, and they will be able to enroll in or be covered only by PSHB plans after that time. Open Season for enrollee selection of PSHB plans will occur from November 11 through December 9, 2024. OPM will publish the negotiated PSHB plan rates and benefits for the 2025 plan year in September 2024. This rule adopts the provisions of the interim final rule with minor clarifications on the Office of Personnel Management's (OPM) implementation of the PSHB Program.

DATES: Effective July 5, 2024.

FOR FURTHER INFORMATION CONTACT: Louise Dyer Yinug, Senior Policy Analyst, at (202) 972–0913.

SUPPLEMENTARY INFORMATION:

Executive Summary

On April 6, 2023, OPM issued an interim final rule (88 FR 20383) to establish the Postal Service Health Benefits (PSHB) Program within the Federal Employees Health Benefits (FEHB) Program as required by the Postal Service Reform Act of 2022 (PSRA), Public Law 117–108. The interim final rule amended subparts A, C, and E of 5 CFR part 890 related to the FEHB Program and 48 CFR chapter 16, the OPM Federal Employees Health Benefits Acquisition Regulation (FEHBAR). The interim final rule also added a new subpart P to 5 CFR part 890 regulating the new PSHB Program within the FEHB Program.

OPM is making several changes between the interim final rule and this final rule:

- In § 890.1604, OPM is clarifying the requirements to enroll in Medicare Part B by expressly providing that the exceptions referring to events occurring “as of January 1, 2025” includes events that occur on January 1, 2025.
- Section 890.1604(c) is reserved in anticipation of future rulemaking.
- In § 890.1604(e), OPM is clarifying that a Postal Service annuitant or their family member 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.
- In § 890.1604, OPM is removing reference to the Postal Service as the entity to receive documentation of overseas residency to qualify for an exception to the Part B enrollment requirement.
- In § 890.1606(e), OPM is correcting a typographical error by removing the word “the” before “January 1 of the next year.”

These changes do not affect OPM's estimation of the regulatory impact of the PSHB Program.

To the greatest extent possible, OPM aligned the rules pertaining to PSHB plans with the regulations governing FEHB plans. Where there was no existing rule applicable to FEHB plans, OPM implemented rules to provide the greatest flexibility for Postal Service employees, Postal Service annuitants, and their family members. An example of this is the rules pertaining to disenrollment from PSHB for Medicare eligible annuitants who are not enrolled

in Medicare Part B despite the requirement to be so enrolled. OPM is defining such a circumstance as a termination of coverage, with rights to a temporary extension of coverage and conversion rights, rather than a cancellation of coverage.

The PSHB Program includes health benefits plans available to Postal Service employees, Postal Service annuitants, and their eligible family members starting January 1, 2025. For these individuals, eligibility for enrollment or coverage in FEHB plans based on Postal Service employment will end after December 31, 2024, and they will be able to enroll in or be covered only by PSHB plans starting January 1, 2025. Subject to limited exceptions, Postal Service annuitants who retire and become entitled to Medicare Part A after January 1, 2025, and their family members who are entitled to Medicare Part A will be required to enroll in Medicare Part B as a condition of eligibility to enroll in the PSHB Program.

The exceptions to the Medicare Part B enrollment requirement for PSHB enrollment described at § 890.1604 are:

- Individuals who are Postal Service annuitants on or before January 1, 2025, and who are not both entitled to Medicare Part A and enrolled in Medicare Part B on January 1, 2025;
- Individuals who, on January 1, 2025, are Postal Service employees and are aged 64 and over;
- Postal Service annuitants and family members residing outside the United States and its territories who demonstrate their residency;
- Postal Service annuitants and their family members enrolled in certain Department of Veterans Affairs (VA) health care benefits. This exemption is derived from 5 U.S.C.

8903c(e)(3)(A)(iv)(II), which refers to individuals “enrolled in health care benefits provided by the VA under subchapter II of chapter 17 of title 38, United States Code.” Subchapter II of chapter 17 of title 38, U.S.C. governs who is eligible for various VA health care benefits, including eligibility for VA hospital care and medical services. There is a limited class of veterans who are not required to enroll in the system of patient enrollment referred to in 38 U.S.C. 1705(a) in order to receive VA benefits described in subchapter II of chapter 17 of title 38, United States

Code. As such, this regulation is drafted to include all veterans described in 38 U.S.C. 1710, including those who are not required to enroll in the VA's system of patient enrollment referred to in 38 U.S.C. 1705(a);

- Postal Service annuitants and family members eligible for health services provided by the Indian Health Service; and
- A family member of a Postal Service annuitant who is not required to enroll in Medicare Part B, based on a statutory exception, in order to be eligible for PSHB coverage.

OPM will contract with carriers to offer two categories of health benefits plans through the broad umbrella of the FEHB Program, established under 5 U.S.C. 8901 *et seq.* OPM's authority to contract for FEHB plans and OPM's authority to contract for PSHB plans are in separate parts of the FEHB statute. First, pursuant to 5 U.S.C. 8902, OPM may contract with carriers to offer FEHB plans. Second, pursuant to 5 U.S.C. 8903c, OPM may now contract with carriers to offer PSHB plans through the PSHB Program within the FEHB Program. The broad umbrella of the FEHB Program comprises both FEHB plans and PSHB plans. OPM started the process of approving carrier participation in the PSHB Program when the interim final rule became effective on June 5, 2023.

This rule finalizes the interim final rule at 88 FR 20383 with minimal changes, as discussed further in the preamble, due to comments received during the 60-day comment period and a minor technical correction.

Background

Section 101 of the PSRA adds new section 8903c to 5 U.S.C. chapter 89 and directs OPM to establish the PSHB Program within the FEHB Program for Postal Service employees, Postal Service annuitants, and their eligible family members. OPM will administer the PSHB Program in accordance with 5 U.S.C. chapter 89, and implementing regulations (5 CFR parts 890 and 892 and 48 CFR chapter 16), including these amended regulations. In general, the provisions of the FEHB Program apply to the PSHB program; however, there are a number of provisions that are unique to the PSHB program. See 5 U.S.C. 8903c(c)(3).

The PSHB Program was authorized under the Title I Postal Service Financial Reforms provisions in the PSRA in furtherance of Congress's objective to "improve the financial position of the Postal Service while increasing transparency and accountability of the Postal Service's

operations, finances, and performance."¹ OPM issued an interim final rule to set forth standards to implement section 101 of the PSRA to establish the PSHB Program. The first Open Season for the PSHB Program will begin on November 11, 2024, and run through December 9, 2024, and the first contract year will begin January 2025.

Section 102 of the PSRA ("The USPS Fairness Act") amends 5 U.S.C. 8909a, which was established in the Postal Accountability and Enhancement Act of 2006 (Pub. L. 109–435), and required the Postal Service to pre-fund health benefits costs for its retirees. Section 102 of the PSRA repeals the requirement to pay actuarially determined normal cost and amortization payments into the Postal Service Retiree Health Benefits Fund (PSRHBF) established at 5 U.S.C. 8909a, and cancels any unpaid amounts previously required to be paid under section 8909a.² Section 102(b) requires OPM to calculate an amount that the Postal Service will pay annually into the PSRHBF using a formula set forth at 8909a(d)(1). This amount will be calculated by June 30 of each year beginning in 2026.

A. Legislative Requirements for Establishing the PSHB Program

Section 101 of Title I of the PSRA directs OPM to "establish the Postal Service Health Benefits Program within the Federal Employees Health Benefits Program" under 5 U.S.C. chapter 89. The PSRA specifies that "[e]xcept as otherwise provided . . . any [PSHB] contract . . . shall be consistent with the requirements of this chapter for contracts under section 8902 with carriers to offer health benefits plans." Therefore, generally, the requirements of the FEHB Program will apply to the PSHB Program, unless otherwise set forth in the PSRA or in 5 CFR part 890.

The PSHB Program is required by statute to begin in January 2025 and will be the health benefits program available to Postal Service employees, Postal Service annuitants, and their eligible family members. Further, Medicare-eligible Postal Service annuitants and their Medicare-eligible family members

will be required to enroll in Medicare Part B as a condition of enrollment in PSHB. There are several statutory exceptions to the Medicare Part B enrollment requirement, including current Postal Service annuitants and their family members who are not enrolled in Part B, Postal Service employees who have reached the age of 64 and their family members, Postal Service annuitants and their family members residing abroad, and Postal Service annuitants and their family members eligible for VA health care or Indian Health Service services.

The PSRA requires OPM to direct PSHB Carriers to coordinate PSHB coverage with Medicare for enrollees and their family members covered by Medicare. This coordination must include Part D prescription drug coverage for Medicare Part D-eligible individuals. In the initial contract year, the PSRA requires OPM to contract with health insurance carriers to provide coverage with benefits and cost-sharing equivalent to FEHB plans offered by the same carrier, except to the extent needed to integrate Medicare Part D prescription drug benefits.

The PSRA requires OPM to share information with other agencies to implement the statutory requirements, including the Medicare Part B enrollment requirement and the Medicare Part B special enrollment period administered by the Social Security Administration (SSA).

B. PSHB Program Background Information

The PSRA establishes the PSHB Program within the FEHB Program. The FEHB Program was established in 1960 and provides a choice of health plans, including fee-for-service plans and health maintenance organizations, to approximately 8.2 million covered individuals including employees of the Federal Government, Federal retirees (referred to as annuitants due to their eligibility for an annuity), members of their families, former spouses, and other groups statutorily eligible as enumerated in 5 U.S.C. 8901 or set forth in other authorizing legislation. Currently, Postal Service employees, Postal Service annuitants, and their family members are also eligible for FEHB pursuant to 39 U.S.C. 1005.

Health benefits plans offered under the FEHB Program cover a wide range of health services including routine physical exams, primary and specialist provider visits, inpatient hospital care, outpatient care, surgery, laboratory and diagnostic tests, prescription drugs, and mental health services. Required benefits are listed in broad categories at

¹ H. Rept. 117–89– Postal Service Reform Act of 2021, H.Rept.117–89, 117th Cong. (2023), <https://www.congress.gov/congressional-report/117th-congress/house-report/89/1>.

² The requirement for pre-funding payments into the PSRHBF was established by the 2006 Postal Accountability and Enhancement Act (Pub. L. 109–435) and required the Postal Service to pre-fund future health benefits costs for its retirees through fixed payments from 2007 and 2016. Pursuant to the Postal Accountability and Enhancement Act, these fixed payments ended in 2016 and were replaced with annual normal costs payments and amortization payments for the estimated unfunded liability.

5 U.S.C. 8904 and include “hospital benefits”, “surgical benefits”, “medical care and treatment”, and “obstetrical benefits”, among others. Eligible individuals, including Postal Service employees, Postal Service annuitants, and their eligible family members, can have additional dental and vision coverage through the Federal Employees Dental and Vision Insurance Program.

OPM negotiates the benefits, coverage, and premium details of each plan in the FEHB Program with health benefits carriers each year. Each year, OPM issues guidance for health benefits carriers preparing health benefits plan proposals. The guidance for the 2025 plan year is available here: <https://www.opm.gov/healthcare-insurance/carriers/fehb/2024/2024-04.pdf>. This guidance references OPM’s commitment to ensuring that the Federal Government offers competitive, comprehensive health insurance benefits and includes OPM’s policy goals and initiatives for the year. The guidance outlines technical requirements for each proposal, including benefit package details such as actuarial value, benefit changes from the previous year, and the drug formulary.

Carriers offering PSHB plans, as part of the FEHB Program, will be subject to the same or similar guidance as is issued to FEHB plans. The PSRA requires that carriers offering PSHB plans will, to the greatest extent practicable, offer benefits and cost-sharing (e.g., deductibles, copayments, and coinsurance) equivalent to the benefits and cost-sharing for FEHB plans for that carrier in the initial contract year.

Generally, an enrollment in a health benefits plan under the FEHB Program may be continued into retirement if the enrollee has been enrolled in a health benefits plan under the FEHB Program for five years before retiring or, if less than five years, for all periods in which they were eligible to enroll. Enrollees in an FEHB plan can also enroll in Medicare when they become eligible for Medicare regardless of whether they are retired or still actively employed. Medicare is the primary payer for annuitants who are enrolled in an FEHB plan and covered by Medicare. The rules for continuing a PSHB enrollment into retirement parallel those applicable for FEHB but the Medicare enrollment requirements differ for PSHB as discussed in the next section.

C. PSHB Program Eligibility

Under the PSRA, Postal Service employees whose Government contribution under chapter 89 is paid by the Postal Service, Postal Service

annuitants whose Government contribution under chapter 89 is required to be paid under 5 U.S.C. 8906(g)(2), and family members of those Postal Service employees and Postal Service annuitants are eligible for coverage under the PSHB Program. Starting January 2025, these Postal Service employees and Postal Service annuitants may not enroll in an FEHB plan. The major difference in eligibility between PSHB plans and FEHB plans is that, generally, as a condition of eligibility in the PSHB Program, the PSRA requires that Postal Service annuitants and their eligible family members who are entitled to Medicare Part A (also referred to as “covered Medicare individuals”), must enroll in Medicare Part B, unless an exception applies. Those exceptions are described in the Executive Summary and at § 890.1604 and are discussed more fully in the section “Regulatory Changes in This Final Rule.”

A “covered Medicare individual” under section 8903c(a)(1) means an individual who is entitled to Medicare Part A, excluding an individual who is eligible to enroll under section 1818 or 1818A of the Social Security Act (42 U.S.C. 1395i–2, 1395i–2a). Individuals entitled to Medicare Part A under 1818 are individuals age 65 or older who are not otherwise entitled to premium-free Medicare Part A, typically due to not having the required work history for premium-free Part A. Individuals entitled to enroll under 1818A are disabled individuals who lose Medicare coverage solely because they have exceeded the amounts allowed for substantial gainful work.³ These individuals are exempt from the Medicare Part B enrollment requirement that applies to most other Postal Service annuitants and their family members.

For purposes of the FEHB Program, 5 U.S.C. 8901(5) defines a “member of family” of employees and annuitants to include spouses and children under 22 years of age, subject to exception, including natural children, adopted children, stepchildren, and foster children. The enactment of the Affordable Care Act in 2010 required health insurers to cover dependents until age 26. At that time, OPM issued updates to its regulations codified at 5 CFR 890.302(b) and (c) to reflect that change, which defines FEHB covered family members to include such children until they reach the age of 26, subject to exception. The PSHB Program will align with 5 CFR part 890 regarding

the definition of family members for all purposes, including the Medicare SEP opportunity.

The PSRA adds new definitions to chapter 89. Section 8903c(a)(9) defines a Postal Service employee as “an employee of the Postal Service enrolled in a health benefits plan under this chapter whose Government contribution is paid by the Postal Service.” Under section 8903c(a)(8), a Postal Service annuitant “means an annuitant enrolled in a health benefits plan under this chapter whose Government contribution is required to be paid under section 8906(g)(2).” Therefore, individuals not meeting the statutory definition of a Postal Service annuitant or Postal Service employee are not eligible to enroll in a PSHB plan. If such individuals are eligible for enrollment in an FEHB plan, they may enroll or continue enrollment in such plan.

The PSRA does not establish a distinct category for Postal Service compensationers, those employees who sustain workplace-related illness or injury, receive workers’ compensation payments through the Department of Labor’s Office of Workers’ Compensation Programs (OWCP) because of that illness or injury, and who are determined by the Secretary of Labor to be unable to return to duty. Section 8901 of title 5, U.S.C. includes “an employee who receives monthly compensation under subchapter I of chapter 81 of this title and who is determined by the Secretary of Labor to be unable to return to duty” in the definition of annuitant.⁴ However, the PSRA definition of Postal Service annuitant is limited to those who are enrolled in a health benefits plan under 5 U.S.C. chapter 89, whose Government contribution is required to be paid under section 8906(g)(2).

Section 8906(g)(2) authorizes Government contributions for health benefits for individuals who become Postal Service annuitants “by reason of retirement” and their survivors. These contributions are paid first by the Postal Service Retiree Health Benefits Fund with any remaining amount paid by the Postal Service. The description in 8906(g)(2) does not include Postal Service compensationers, as they have not become annuitants by reason of retirement. Postal Service compensationers are more closely aligned with the 8903c(a) definition of Postal Service employee, whose Government contribution is paid by the Postal Service.

The definition of Postal Service employee, rather than Postal Service

³ For more information, see SSA’s amounts for Substantial Gainful Activity at <https://www.ssa.gov/oact/cola/sga.html>.

⁴ 5 U.S.C. 8901(3)(C).

annuitant, will include Postal Service compensationers. Postal Service compensationers will not be subject to the Medicare Part B enrollment requirement, regardless of Medicare Part A entitlement.

D. Centralized Enrollment

The FEHB Program's enrollment functions are decentralized processes that utilize independent systems at different Federal agencies. For purposes of the PSHB Program, OPM will shift certain responsibilities from the employing office to a centralized enrollment system which will be administered by OPM. The centralized enrollment system will be an electronic enrollment solution for all PSHB stakeholder groups including enrollees, the Postal Service and other employing offices, and PSHB Carriers. The centralized enrollment system will include an online portal to enter and process enrollment transactions (e.g., uploading verification of eligibility), robust decision support tools, and a customer support center to assist enrollees via phone, email, or online chat. Persons who are unable to access the online portal will be able to enroll through other means such as phone, fax, or mail. The interim final rule included regulatory provisions in §§ 890.1605, 890.1606, 890.1608, and 890.1614 specifying that OPM will assume responsibility for the following health benefits actions for the PSHB Program: enrollment, changes of enrollment, correction of errors, election not to enroll, and disenrollment of enrollees and removal of family members.

Comments Received on the Interim Final Rule and OPM's Responses

OPM received a total of 71 comments on the interim final rule. Most of these were from individual Postal Service employees, Postal Service annuitants, and their family members. There were also several detailed comment letters from stakeholders including health insurers and employee organizations. In addition to comments supporting the policies in the interim final rule, OPM received comments raising questions or expressing concerns with aspects of the interim final rule, mostly from individual Postal Service employees, Postal Service annuitants, and their family members.

Many public comments expressed support for the alignment between the FEHB and PSHB Programs. Commenters expressed support for issues in the rule including the January 1–December 31 plan year for PSHB plans, OPM's approach to automatic enrollment of Postal Service employees and Postal

Service annuitants who do not elect a PSHB plan during the transitional Open Season, OPM's integration of Medicare Part D prescription drug benefits for Medicare enrollees, OPM's member-centric approach allowing for an additional enrollment opportunity for Postal Service annuitants or family members who are inadvertently not enrolled in Medicare Part B, despite the requirement as a condition to maintain PSHB enrollment, and OPM's establishment of centralized enrollment through a new electronic enrollment system for PSHB.

In reviewing comments received in response to the interim final rule and feedback received, OPM determined a need to provide additional specification on several topics that were beyond the scope of the interim final rule. Accordingly, OPM will soon issue a proposed rule that further explains and expands on the implementation of the PSHB Program to provide clarity for PSHB Carriers, other agencies, and Postal Service employees, annuitants, and their family members before the Program begins enrollment for 2025. Topics OPM plans to address in more detail in the proposed rule include: reconsideration of initial decisions concerning PSHB eligibility; application of the Medicare Part B requirement and associated exceptions in specific scenarios; allocation of Reserves credits; calendar year alignment of government contribution requirements; financial reporting and actuarial calculations; premium payment prioritization from the Postal Service Retiree Health Benefits Fund; and Medicare Part D integration. A summary of the comments received during the 60-day comment period and OPM's responses follows; however, OPM notes that additional details on the topics listed above will be provided through the new rulemaking.

A. Transition From FEHB Plans to PSHB Plans

The interim final rule detailed the process by which Postal Service employees, Postal Service annuitants, and their family members will transition from FEHB plan coverage to PSHB plan coverage for plan year 2025. Medicare covered Postal Service annuitants who retire after January 1, 2025, and the Medicare covered members of family are required to enroll in Medicare Part B to remain enrolled in a PSHB plan, with limited exceptions.

Comments: OPM received several comments with concerns about the effect of the new program on Postal Service annuitants and their family members. Specifically, the commenters

are concerned about two new requirements: the requirement to transition from an FEHB plan to a PSHB plan and the requirement for most Postal Service annuitants and their Medicare-covered family members to enroll in Medicare Part B to maintain enrollment in the PSHB Program. A theme of the concerns is that many Postal annuitants plan their retirement based on the benefits packages available at the time of their employment and the PSHB Program changes those plans involuntarily.

Response: Pursuant to 5 U.S.C. chapter 89, the PSHB Program must include Postal Service employees, Postal Service annuitants, and their eligible family members. The law also requires that Medicare covered Postal Service annuitants, with limited exceptions as described in the Executive Summary, enroll in Medicare Part B to maintain enrollment in the PSHB. OPM is required to implement these statutory provisions and is not able to modify these mandates by regulation. As such, OPM will not make a regulatory change in response to these comments.

Comment: A commenter asked that OPM consider creating a hardship exception allowing individuals to continue in their chosen FEHB plan after the PSHB Program begins, should that plan not be offered in PSHB. The commenter stated that some small regional plans may not be available, creating a potential loss of access to coverage under those plans due to the creation of PSHB.

Response: OPM does not have the statutory authority to allow a hardship exception as requested by the commenter. Where a small regional plan is no longer available in the PSHB Program, coverage will nonetheless always be available under one of the nationwide PSHB plans.

Comments: Several commenters requested that Postal annuitants who retired under the Civil Service Retirement System, rather than the Federal Employees Retirement System, be allowed to maintain coverage under an FEHB plan.

Response: OPM does not have the statutory authority to allow an exception based on a Postal Service annuitant's retirement system.

Comments: Several commenters asked why employees of the United States Postal Inspection Service would be required to transition to PSHB.

Response: The United States Postal Inspection Service is part of the United States Postal Service as defined by statute. While certain individuals may receive other Federal benefits, those benefits are not relevant to the

definition of Postal Service employee under 5 U.S.C. 8903c(a)(9).

Comments: Several commenters asked if PSHB Program enrollment will count towards the five-year FEHB Program enrollment requirement to retire with FEHB coverage from another agency.

Response: Yes, the five-year requirement under the FEHB Program will continue to be in effect for the PSHB Program. An individual is eligible to continue enrollment in a PSHB plan into retirement if they meet the five-year requirement and were enrolled in a PSHB plan immediately before retirement. The five-year requirement does not change and is not changed by the Medicare Part B enrollment requirement for certain Postal Service annuitants enrolled in PSHB.

A Postal Service annuitant, whose Government contribution is required to be paid under 5 U.S.C. 8906(g)(2), is not eligible to continue enrollment in an FEHB plan. See section 8903c(d). As stated in the preamble of the interim final rule, in order to continue coverage into retirement, enrollees in the PSHB Program will be subject to the FEHB Program requirement of being covered by a plan for the 5 years of service immediately before retirement, or if less than 5 years, for all service since their first opportunity to enroll. See § 890.306.

A Postal Service annuitant who (at the time the individual becomes an annuitant) was enrolled in a health benefits plan under chapter 89, including under section 8903c, can meet that 5-year requirement if they were so enrolled as a Postal Service employee, as an employee defined at 5 U.S.C. 8901(1), or a mix of both in order to maintain health benefits after retirement. Similarly, an annuitant who is not a Postal Service annuitant, whose Government contribution is not required to be paid under 8906(g)(2), may meet the 5-year requirements for continuing FEHB coverage into retirement, if they were enrolled in a plan under chapter 89 as both an employee defined at 5 U.S.C. 8901(1) and as a Postal Service employee.

Comment: One commenter asked if a Postal Service annuitant is eligible to enroll under their spouse's FEHB eligibility rather than moving to the PSHB.

Response: Yes, the PSHB Program does not affect the eligibility of any Postal Service employee or Postal Service annuitant to be covered as a family member under an FEHB plan. In this circumstance, the spouse of the Postal Service annuitant would need to cover the Postal Service annuitant under their FEHB plan during Open Season

2024. The Postal Service annuitant would also need to elect not to enroll in a PSHB plan during the transitional Open Season to avoid automatic enrollment in a PSHB plan.

B. Medicare Part B Enrollment Requirement for Postal Service Annuitants

Many commenters asked about the details of the Medicare Part B enrollment requirement for Postal Service annuitants enrolled in a PSHB plan. OPM is taking the opportunity to clarify in this preamble and regulatory text some details about how the Medicare Part B requirement will be enforced after the launch of the PSHB Program.

The PSRA authorized a Medicare Part B Special Enrollment Period (SEP) for certain Postal Service annuitants and their family members. Codified at section 1837(o) of the Social Security Act (42 U.S.C. 1395p), the six-month special enrollment period will run from April 1 through September 30, 2024. Postal Service annuitants and their family members who are entitled to Medicare Part A but not enrolled in Medicare Part B as of January 1, 2024 are eligible to enroll in Medicare Part B during the SEP. The PSRA allows the Postal Service to pay any applicable Medicare Part B late enrollment penalties for individuals who enroll during this SEP.

As explained below in the section of the preamble discussing the changes included in this final rule, OPM is amending § 890.1604 to clarify the timing aspects of several exceptions that are statutorily required to apply “as of January 1, 2025”.

Comment: A commenter said that many Postal Service annuitants may be unaware of the requirement to enroll in Medicare Part B to maintain PSHB coverage. The commenter requested that such annuitants be automatically enrolled in Medicare Part B.

Response: OPM and the Postal Service are working together on educational materials to explain the transition to PSHB and the Medicare Part B enrollment requirements. They include plain language written materials such as fact sheets and tri-fold mailers, multi-media activities such as a five-part video series available at <https://www.keepingposted.org/postal-service-health-benefits.htm>, and regular “lunch and learn” virtual seminars. The Postal Service and OPM have been engaged in ongoing communication with Postal Service employees, annuitants, and their family members since late 2022 when OPM published FAQs on its

website at <https://www.opm.gov/healthcare-insurance/pshb/>.

OPM does not have the authority to enroll Postal Service annuitants in Medicare Part B automatically and will not make a regulatory change in response to this comment. Postal Service annuitants or their family members who enroll in Medicare Part B during the Special Enrollment Period may be subject to a Medicare Part B late enrollment penalty.⁵ The PSRA allows the Postal Service to pay such late enrollment penalty on behalf of the annuitant or family member.

Comment: Some commenters asked when family members of disabled Postal Service annuitants are required to enroll in Medicare Part B.

Response: A family member of a disabled Postal Service annuitant is required to enroll in Medicare Part B if the family member themselves are a Medicare covered individual. As described in the interim final rule, the Medicare Part B enrollment requirement applies regardless of how the Postal Service annuitant becomes entitled to Medicare Part A, such as age, end stage renal disease or receiving Social Security disability payments for 24 months. A family member of a PSHB enrollee who is a disabled Postal Service annuitant is required to enroll in Medicare Part B if both the Postal Service annuitants and the family member are Medicare covered individuals (meaning that both are entitled to Medicare Part A), unless the family member qualifies for an individual exception as listed in the Executive Summary and at § 890.1604 and discussed more fully in the section “Regulatory Changes in This Final Rule.”

Comment: A commenter asked whether a family member must maintain Part B coverage if the family member is enrolled in Medicare Part B prior to January 1, 2025, but the Postal Service annuitant, under whose PSHB enrollment the family member is covered, is not required to enroll in Part B.

Response: No, a Medicare covered family member is required to be enrolled in Medicare Part B only if the Postal Service annuitant under whose PSHB enrollment the family member is covered, is required to be enrolled in Medicare Part B. OPM is amending § 890.1604 to clarify the requirements and exceptions for enrolling in Medicare Part B, as described in the Executive Summary and in the section

⁵ Explanation of Medicare late enrollment penalties available here: <https://www.medicare.gov/basics/costs/medicare-costs/avoid-penalties>.

“Regulatory Changes in this Final Rule.”

C. Exceptions to the Medicare Part B Enrollment Requirement

OPM received several comments regarding the details of the requirement for Postal Service annuitants to enroll in Medicare Part B. The interim final rule addressed the requirement in § 890.1604, including several statutory exceptions to that requirement described in the Executive Summary and in the section “Regulatory Changes in This Final Rule.”

Comment: A commenter expressed support for OPM’s rule to allow self-attestations as proof of eligibility for health services from the Indian Health Service (IHS). The same commenter asked OPM to confirm that PSHB Carriers will not be responsible for determining whether PSHB enrollees qualify for the exception based on eligibility for IHS health services.

Response: OPM is not authorizing PSHB Carriers to determine whether an individual is excepted from the Medicare Part B enrollment requirement under the IHS exception or any other exceptions under § 890.1604. Under part 890, a carrier may only verify an individual’s relationship to the enrollee to confirm whether they are an eligible family member.

Comment: Several commenters requested clarification regarding how the PSHB Program will affect enrollees residing outside the United States especially as it relates to Medicare coverage.

Response: The interim final rule included a list of exceptions to the Medicare Part B enrollment requirement at 5 CFR 890.1604(c). These exceptions included an exception for Medicare covered Postal Service annuitants and Medicare covered members of family residing outside the United States. The PSRA and this final rule requires that individuals residing outside the United States will demonstrate such residency. OPM and the Postal Service are working together to operationalize the details of how individuals will demonstrate residency outside the United States. OPM is amending § 890.1604 to clarify the requirements and exceptions for enrolling in Medicare Part B.

D. Changes To Coverage and Premium Costs Due to the Medicare Part B Enrollment Requirement

Comment: OPM received several comments from Postal Service employees and Postal Service annuitants currently enrolled in FEHB plans seeking more information about anticipated changes to their medical,

physician, and pharmaceutical coverage and health insurance premiums when they are required to enroll in Medicare Part B to maintain coverage under the PSHB Program.

Response: OPM negotiates health benefits and premiums each year with carriers. As delineated in the interim final rule, a carrier’s PSHB plan must provide equivalent benefits and cost-sharing to the carrier’s FEHB plan in the 2025 contract year. Approved PSHB Carriers will submit benefit and rate proposals for PSHB plans by the end of May 2024. OPM expects that full benefits and premium information for 2025 PSHB plans will be available in September 2024.

OPM is asking carriers to focus on Medicare coordination in both FEHB plans and PSHB plans for 2025. The call letter for the 2025 FEHB and PSHB plan year⁶ states “All Carriers must implement a multi-pronged educational outreach effort to eligible enrollees focused on Medicare coordination. . . . FEHB and PSHB Program members for whom Medicare is primary must receive medical and drug coverage equal to or greater than the medical and drug coverage they would have received without Medicare Advantage Prescription Drug Plan (MA-PD) EGWP or Prescription Drug Plan (PDP) EGWP.”

The call letter further ensures robust coordinated coverage by directing carriers that “The PSRA requires PSHB Carriers, in the initial contract year, to provide benefits and cost-sharing that are equivalent to the benefits and cost-sharing of that Carrier’s 2025 FEHB plan option, except to the extent needed to integrate Medicare Part D prescription drug benefits. PDP EGWP formularies must, at a minimum, include the same covered drugs under the plan’s formulary. Furthermore, every drug covered under a plan option’s formulary must be covered at the same or lower cost-share by the plan’s PDP EGWP formulary. In circumstances where equivalent drug benefits and cost-sharing (not actuarial equivalence) cannot be met due to limitations in integrating Medicare Part D prescription drug benefits, PSHB Carriers must provide justification explaining why they cannot meet this standard.”

E. Continuity of Costs and Coverage Between FEHB Plans and PSHB Plans

Comment: OPM received many comments regarding changes in premium costs and benefits between FEHB plans and PSHB plans. There were questions about specific covered

services and requesting information about whether such services will be covered in a similar way after the launch of the PSHB Program. Several commenters raised concerns about possible cost increases after the launch of the new program.

Response: The PSRA requires that, in the initial contract year, a carrier offering PSHB plans must offer coverage with equivalent benefits and cost-sharing to FEHB plans offered by that carrier, except to the extent needed to integrate Medicare Part D prescription drug benefits. This requirement was codified in the interim final rule at § 890.1610 “Minimum standards for PSHB Program plans and Carriers.”

OPM is approving carriers for participation in the PSHB Program. Approved carriers will submit plan benefit and rate proposals by the end of May 2024, the plan premiums will be made public in September 2024, and more detailed plan brochures will be available prior to Open Season 2024 at <https://www.opm.gov/healthcare-insurance/open-season>.

In order to ensure that the drug coverage under a PSHB plan’s Medicare Part D EGWP is equal to the drug coverage under the PSHB plan, OPM has required that PSHB plans’ “PDP EGWP formularies must, at a minimum, include the same covered drugs under the plan’s formulary. Furthermore, every drug covered under a plan option’s formulary must be covered at the same or lower cost-share by the plan’s PDP EGWP formulary.” See *supra* note 6.

F. Information Sharing

The interim final rule outlined a process for agencies to share relevant information for OPM’s administration of the PSHB Program. This included implementing a statutory requirement for OPM and the SSA to share information necessary to identify individuals who may be eligible to enroll in Medicare Part B during the 6-month Medicare special enrollment period (SEP) from April 1, 2024, to September 30, 2024.

Comment: A commenter suggested that coordination of benefits with Medicare at 5 U.S.C. 8910(d) requires OPM to expand PSHB information sharing regulations at 5 CFR 890.1612 to the entire FEHB Program and allow carriers to access that information for coordination and reporting purposes.

Response: OPM agrees that information sharing between agencies is critical to administer the PSHB Program effectively. OPM is not expanding our information sharing effort to the entire FEHB Program since the PSRA’s

⁶ <https://www.opm.gov/healthcare-insurance/carriers/fehb/2024/2024-04.pdf>.

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 to carriers, except in limited circumstances required to operate the PSHB Program as permitted under the Privacy Act.

G. Centralized Enrollment System

The interim final rule explained that OPM will develop and implement a centralized enrollment system for the PSHB Program. The centralized enrollment system will be an electronic enrollment solution for PSHB enrollees, the Postal Service and other employing offices (including OPM's Retirement Services office for Postal Service annuitants), and PSHB Carriers. The centralized enrollment system will include an online portal to be used to process enrollment transactions and will include decision support tools and customer support to assist enrollees and their family members.

Comment: Several commenters made specific recommendations about the mechanics and operations of OPM's PSHB central enrollment system. Commenters requested elements such as specific data fields, a total cost calculator, and filtering capabilities.

Response: OPM appreciates the comments and will consider the recommendations in the system design. In July 2023, OPM awarded a contract for the development of the PSHB System. The scope of the project includes enrollment functions and a customer support center that will service PSHB employees, annuitants, and family members. The center will provide services such as eligibility determinations, enrollment support, and enrollment and premium reconciliation and a decision support tool.

That request for proposal (RFP) is available at <https://sam.gov/opp/94b39c9c3e504c02ae593ab3fab7a342/view>.

The RFP includes nearly 300 distinct requirements, including determining eligibility based on listing all necessary data fields to manage eligibility and enrollment, the ability for users to calculate total costs, and sort and filter plan information. OPM is on track with development of the system and is determining how and when these functionalities will be rolled out.⁷

⁷ From the PSHB System Performance Work Statement (<https://sam.gov/api/prod/opp/v3/opportunities/resources/files/>)

Comment: One commenter requested that OPM continue to provide periodic updates to carriers as the centralized enrollment system is developed, so that carriers can make appropriate adjustments to their systems and processes.

Response: OPM intends to continue regular communications with carriers as OPM's plans for the central enrollment system development. Carriers may contact their OPM contract representatives with specific questions.

H. PSHB Contracting

The interim final rule included several provisions related to contracting, including requirements for PSHB Carriers and PSHB plans.

Comment: Several commenters had specific recommendations about contracts, including details about the contract effective date and several comments related to accounting principles.

Response: OPM appreciates the comments and notes that PSHB contracting details are outside the scope of the regulation.

I. Automatic Enrollment

The interim final rule implemented the requirement that Postal Service employees and Postal Service annuitants who do not make an PSHB plan election during the transitional Open Season in 2024 will be automatically enrolled in a PSHB plan with coverage effective January 1, 2025.

Comment: A commenter requested clarification on 5 CFR 890.1605(c), regarding how automatic enrollment will work for a carrier that has three FEHB plan options but intends to offer only two PSHB plan options.

Response: In the interim final rule at § 890.1605(c)(2), when a carrier offers more than one PSHB plan or option in 2025, the individual will be automatically enrolled in the PSHB plan and option offered by the carrier that provides equivalent benefits and cost

81805a8de14f4084b5650da08d347e42/download?&status=archived&token=) "Starting in the fall of 2024, the system will process all enrollments and changes in enrollments for PSHB, including open season transactions, qualifying life events, and enrollments for newly eligible. The fully functional system will provide an account-based, one-stop-shop where enrollees can: (1) compare and learn about PSHB plan options, including benefits, provider networks, formulary, cost-sharing, and total out-of-pocket expenses, (2) select a plan that fits the unique needs of their family, and (3) complete the enrollment process. The system will also serve as the authoritative source for PHSBP enrollment data, ensure enrollee eligibility by exchanging data with relevant Federal agencies, and provide real-time enrollment and premium transaction information to all employing agencies and participating PSHBP health insurance issuers (herein referred to as Carriers)."

sharing to the individual's 2024 FEHB plan and option, as determined by OPM. In a case where the carrier is not offering a PSHB plan, the individuals enrolled in the carrier's FEHB plan in 2024 will be automatically enrolled in the lowest-cost nationwide PSHB plan option that is not a high deductible health plan and does not charge an association or membership fee. See § 890.1605(c)(3). OPM will apply the FEHB regulation at 5 CFR 890.301(n) to determine the lowest-cost nationwide plan. Per that regulation, OPM can designate an alternate plan for automatic enrollments if circumstances dictate this. All automatic enrollments will be into a PSHB plan of the same enrollment type (self only, self and family, or self plus one) as the 2024 FEHB plan. OPM plans to provide additional details regarding specific automatic enrollment circumstances in future rulemaking.

Comment: One commenter asked for clarity regarding the definition of a carrier for purposes of automatic enrollment and recommended that OPM allow automatic enrollment into the same carrier as under FEHB, regardless of whether the plans available in the PSHB Program are offered under a different contract than the enrollee's current FEHB plan.

Response: In the interim final rule, OPM defined "PSHB Carrier" at 48 CFR 1602.170–20, as follows: "PSHB Carrier means a carrier that enters into a contract with OPM under 5 U.S.C. 8902 to offer a health benefits plan in the PSHB Program." The interim final rule provided that the enrollee is automatically enrolled into a PSHB plan offered by the same carrier. This is true even though the PSHB plan is under a different contract with OPM than the enrollee's 2024 FEHB plan. OPM will automatically enroll the enrollee into a PSHB plan offered by a different carrier (the lowest-cost nationwide PSHB plan option that is not a high deductible health plan and does not charge an association or membership fee) if the carrier of the enrollee's 2024 FEHB plan does not offer a PSHB plan in 2025.

J. Health Benefits Education Program

Comment: One commenter requested that OPM provide outreach and education to Postal Service annuitants and their families regarding the changes to their coverage options under the PSHB Program.

Response: The Postal Service is coordinating with OPM and other agency partners to inform Postal Service employees, Postal Service annuitants, and their family members about the transition to the PSHB Program and

their coverage options. This education has been ongoing since late 2022 when OPM published FAQs on its website at <https://www.opm.gov/healthcare-insurance/pshb/>. Under 5 U.S.C. 8903c(l), the Postal Service is responsible for establishing a Health Benefits Education Program. The Postal Service's Health Benefits Education Program notifies eligible individuals about the PSHB Program, coverage options, and the Medicare Part B enrollment requirement.

In October 2023, USPS published a bulletin announcing an update to its Employee and Labor Relations Manual (ELM) to incorporate the Health Benefits Education Program at <https://about.usps.com/postal-bulletin/2023/pb22634/html/welcome.htm>. This Program included notifications of PSHB options, Medicare enrollment requirements, links to submit inquiries from employees and annuitants, and navigator activities for program education. The updates included in the October 2023 Postal Bulletin were effective immediately and were incorporated in the ELM as of March 31, 2024.

OPM and the Postal Service have been collaborating on education materials since 2022. Those informational materials include plain language written materials such as fact sheets and tri-fold mailers. There are also multi-media activities such as a five-part video series available at <https://www.keepingposted.org/postal-service-health-benefits.htm> and regular "lunch and learn" virtual seminars.

The Postal Service's Health Benefits Education Program notifies eligible individuals about the PSHB Program and provides information about coverage options, and the Medicare Part B enrollment requirement.

Additionally, PSHB plan premiums will be made public in September 2024, and more detailed plan brochures will be available prior to Open Season 2024 at <https://www.opm.gov/healthcare-insurance/open-season>.

K. Prescription Drug Benefits and Integration of Medicare Part D

As noted in the preamble to the interim final rule, PSHB plans must provide prescription drug benefits through Medicare Part D to Part D-eligible Postal Service annuitants and their Part D-eligible family members. Under 5 U.S.C. 8903c(h), PSHB plans are required to provide prescription drug benefits to these individuals through "employment-based retiree health coverage" either through a "prescription drug plan (PDP)" or a contract with a "PDP sponsor" of a

prescription drug plan, as these terms are defined in sections 1860D–22(c)(1), 1860D–41(a)(14), and 1860D–41(a)(13) of the Social Security Act, respectively. A carrier providing prescription drug benefits may, subject to OPM's approval, provide a Medicare Advantage plan with prescription drug benefits (MA–PD) so long as the carrier also provides a PDP.

Comment: Several commenters asked about how the timing of Medicare Part D coverage will align with the January 1–December 31 plan year of the PSHB Program. One commenter requested that OPM review the Centers for Medicare & Medicaid Services (CMS) rules to determine if Medicare Part D coverage needs to begin on the first day of the following month in a PSHB retroactive enrollment to avoid violation of CMS requirements.

Response: OPM appreciates the comment and is actively engaged with key stakeholders to ensure that enrollees and covered family members experience a seamless enrollment process. OPM notes that the proposed rule will provide more information regarding PSHB Program implementation of Medicare Part D coverage.

Comment: One commenter requested that OPM address perceived conflicts between the Internal Revenue Service (IRS) requirements for high deductible health plans with health savings accounts and CMS guidance around Part D prescription drug plans.

Response: OPM, through its guidance, rate and benefits negotiations, contract administration and negotiations process, will ensure that carriers' plan proposals are in compliance with all applicable requirements.

Comment: One commenter raised a concern about OPM's method for automatically enrolling members who do not choose a PSHB plan during the transitional Open Season in 2024. This commenter was concerned about whether members may be automatically enrolled into a plan with a standalone PDP, and whether an MA–PD plan may be more advantageous for such members.

Response: As directed by the PSRA, PSHB Carriers must integrate Medicare Part D into their PSHB plan design through a PDP or a contract with a PDP sponsor. OPM will also consider approving a carrier's MA–PD plan so long as the carrier provides a PDP. Whether a carrier provides Medicare Part D through a PDP or through a PDP and MA–PD does not affect automatic enrollment into a PSHB plan during the transitional Open Season. If an individual wants to be covered by a PDP or MA–PD, if available, under a PSHB

plan enrollment then the enrollee may choose a PSHB plan with the desired prescription drug benefits during the transitional Open Season. OPM notes that the proposed rule will provide more information regarding program implementation, including group enrollment and Medicare Part D plans including MA–PD plans.

Comment: One commenter asked that OPM encourage or require PSHB plans to offer health reimbursement arrangements (HRAs) with sufficient funds to offset the cost of any Medicare Part D income-related monthly adjusted amount (IRMAA), or alternatively, to reduce the costs of Part B premiums or other out-of-pocket expenses if not subject to IRMAA.

Response: PSHB Carriers may propose to offer HDHPs with an HRA, and individuals may enroll in such a plan and use the HRA to help pay for qualified medical expenses, Medicare premiums including any applicable IRMAA, and other qualified medical expenses. As demonstrated in the Federal Employees Health Benefits and Postal Service Health Benefits Programs Call Letter for 2025, OPM is working with carriers to inform enrollees about the possible impact of the IRMAA.

L. Medicare Part B Special Enrollment Period (SEP)

The PSRA authorized a 6-month Medicare Part B SEP that will run from April 1 through September 30, 2024. This SEP is codified in the Social Security Act and will allow enrollment in Medicare Part B for Postal Service annuitants who are entitled to Medicare Part A and their family members who are entitled to Medicare Part A and not already enrolled in Medicare Part B. In the interim final rule, OPM included a process to share information with SSA to identify individuals who may be eligible to enroll in Medicare Part B during the SEP.

Medicare-eligible individuals may have several opportunities to sign up for Medicare. More information is available at the CMS website here: <https://www.medicare.gov/basics/get-started-with-medicare/sign-up/when-can-i-sign-up-for-medicare>. If an individual does not enroll in Medicare Part B at their earliest opportunity, they may be subject to a permanent Medicare Part B late enrollment penalty.⁸ The PSRA allows the Postal Service to pay any applicable Medicare Part B late enrollment penalty on behalf of individuals who enroll during the SEP in 2024. If a Medicare-eligible Postal

⁸ <https://www.medicare.gov/basics/costs/medicare-costs/avoid-penalties>.

Service annuitant or covered family member not enrolled in Medicare Part B declines to enroll during the PSRA-authorized SEP in 2024, they may be subject to the Medicare late enrollment penalty if they choose to enroll in Medicare Part B at a later date. Such individual may also be eligible other SEPs due to extenuating circumstances. For example, Medicare Part B has an SEP for individuals impacted by an emergency or natural disaster.⁹

Comment: A commenter asked if OPM and SSA will include any additional criteria to determine who is eligible for the SEP.

Response: OPM does not have the authority to establish eligibility criteria for the Medicare Part B SEP. Under the PSRA, the SEP is available to a Postal Service annuitant who is entitled to Medicare Part A and who is an annuitant as of January 1, 2024 and their family members who are entitled to Medicare Part A, excluding those eligible to enroll in Medicare under section 1818 or 1818A of the Social Security Act.

Comment: A commenter requested further clarification regarding the SEP for PSHB, asking specifically if OPM intends to create an appeals process for those who believe that they are eligible for SEP but were misinformed or were never informed.

Response: OPM is coordinating with SSA and the Postal Service to prepare for the 6-month Medicare Part B SEP. The PSRA requires that OPM establish a process to provide information to SSA about Postal Service annuitants and covered family members who may be eligible for Medicare Part B during the PSRA SEP. Any appeals related to an individual's eligibility to enroll in Medicare Part B would be handled by SSA according to that agency's procedures. OPM does not have the authority to enroll individuals in Medicare Part B or to handle appeals of SSA's enrollment decisions.

Comment: A commenter requested clarification as to whether any PSHB plan information will be available at the beginning or during the SEP to allow individuals eligible to enroll in Medicare Part B during the SEP to consider the PSHB plans in deciding whether to enroll in Part B.

Response: The PSRA authorized a 6-month Medicare Part B SEP that will run from April 1 through September 30, 2024. OPM expects to make PSHB premium rate information available in September 2024. PSHB plan benefit

information, including detailed plan brochures, will be ready according to OPM's standard schedule for releasing such information before Open Season begins. Due to the plan application and contract negotiation schedule, there is no opportunity to make this information available sooner.

Comment: A commenter asked if OPM would consider extending the SEP to ensure Medicare Part B decisions and PSHB decisions can be made at the same time.

Response: The Medicare Part B SEP is established by statute under the PSRA and is administered by SSA. The authorizing language for the SEP, codified in the Social Security Act at section 1837(o)(1)(B) (42 U.S.C. 1395p(o)(1)(B)) states that eligible individuals "may elect to be enrolled under this part during a special enrollment period during the 6-month period beginning on April 1, 2024." OPM does not have the legal authority to extend the Medicare Part B SEP.

Comment: A commenter asked when individuals would be notified about SEP eligibility.

Response: OPM is coordinating with SSA and the Postal Service to identify individuals who may be eligible to enroll in Medicare Part B during the 2024 SEP. In January 2024, the Postal Service mailed informational postcards that included information about the PSRA Medicare Part B SEP to Postal Service annuitants and family members who were not enrolled in Medicare Part B. The Postal Service mailed notifications to eligible individuals in March 2024.

M. OPM Administration of PSHB

Comment: A commenter made a recommendation about the timing of the maximum Government contribution calculation and recommends that OPM release the maximum Government contribution earlier to create fair competition between all carriers.

Response: In the interim final rule, OPM addressed the Postal Service contribution at § 890.1613(b). OPM must determine the Government contribution consistent with the timing requirements at 5 U.S.C. 8906 and 5 CFR 890.501. OPM will endeavor to release PSHB and FEHB rates as soon as possible, no later than September 2024, and in a manner that does not impede fair competition.

N. Allocation of Carrier Reserves

Comment: One commenter recommended that OPM promote fair allocation of carrier reserves.

Response: OPM issued Carrier Letter 2023–13 (CL 2023–13) in July 2023 available at <https://www.opm.gov/>

[healthcare-insurance/carriers/fehb/2024/2024-04.pdf](https://www.opm.gov/healthcare-insurance/carriers/fehb/2024/2024-04.pdf) outlining a methodology to allocate FEHB plan reserves from FEHB plans to PSHB plans. In short, reserves will be allocated based on 2024 premium income attributable to the Postal Service and non-Postal Service populations for each plan option. OPM considered incorporating a risk component in the allocation of reserves; however, OPM determined the method outlined in CL 2023–13 is most consistent with current FEHB practice. As explained in CL 2023–13, OPM intends to use a similar approach for allocating medical loss ratio (MLR) credits between FEHB plans and PSHB plans offered by the same carrier.

Comment: One commenter inquired about the effect of PSHB on Postal Service annuitants who are eligible to continue their health insurance plan and pay the employee share of premium out of pocket directly to the National Finance Center and not as a deduction from their annuity.

Response: All payment options that are available for FEHB plans, including direct pay, will be available for enrollees in PSHB plans. Note that, if an annuitant pays both the employee share and the Government's share of premium, then the annuitant is not within the statutory definition of a Postal Service annuitant and is not subject to transition to a PSHB plan and will remain eligible for enrollment in an FEHB plan.

Regulatory Changes in This Final Rule

OPM is amending § 890.1604 in response to comments requesting clarification around the requirements for certain Postal Service annuitants and their family members to enroll in Medicare Part B, as discussed in the previous section. Specifically, OPM is clarifying how we are implementing the statutory language at 5 U.S.C. 8903c(e).

OPM is making this change to provide more clarity as to the applicability of exceptions to the Medicare Part B enrollment requirement under 5 CFR 890.1604. The statutory language in 5 U.S.C. 8903c(e), "as of" January 1, 2025, can be interpreted to either include or exclude events occurring on January 1, 2025. To avoid potential confusion and to ensure that Postal Service employees and annuitants can make informed decisions about their health coverage during important life events, OPM is revising the regulatory text to provide additional clarity on eligibility for the Medicare Part B exceptions.

Therefore, OPM is clarifying timing aspects of several exceptions to the requirement to enroll in Medicare Part

⁹ <https://www.medicare.gov/basics/get-started-with-medicare/sign-up/when-does-medicare-coverage-start#SEP>.

B. Specifically, OPM is clarifying that the statutory exception at 5 U.S.C. 8903c(e)(3)(A)(i), which applies to individuals “as of” January 1, 2025, includes individuals who are annuitants “on or before” January 1, 2025, and who were not both entitled to Medicare Part A and enrolled in Medicare Part B “on” January 1, 2025. OPM is making this change to ensure that the regulations are clear and specific when the exceptions are applicable so that all individuals can make informed decisions. For example, a Postal Service employee’s last day of service is December 31, 2024. Because this individual will be an annuitant on January 1, 2025, the individual is eligible for an exception to the requirement to enroll in Medicare Part B under 5 CFR 890.1604(d)(1)(i). This clarification also applies to employees age 64 on or before January 1, 2025. For example, a Postal Service employee turning age 64 on January 1, 2025, is eligible for an exception to the Medicare Part B requirement under 5 CFR 890.1604(d)(1)(ii) because they will be age 64 on January 1, 2025. This clarification is included in § 890.1604(d)(1)(i) and (ii).

OPM is revising the regulatory text of § 890.1604 related to demonstrating residency outside the United States to provide more operational flexibility to the Postal Service and OPM by removing the specific entity that will receive information about overseas residency. These changes are in § 890.1604(d)(1)(iii) for annuitants and § 890.1604(d)(2)(ii) for family members.

We are reserving § 890.1604(c) in anticipation of future rulemaking.

OPM is revising § 890.1604(e) (now codified at § 890.1604(f) due to insertion of the new, reserved paragraph (c)) to clarify that a Postal Service annuitant or their family member 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). This implements the PSRA requirement codified at 5 U.S.C. 8903c(g)(3)(D) that OPM issue regulations allowing individuals to cancel coverage in writing to the Postal Service, while allowing flexibility for OPM to also take these cancellations in writing.

Under part 890, OPM has imposed similar responsibilities on individuals to inform OPM of any changes that may affect their or their family member’s eligibility or coverage, for instance, if an individual is covered under another insurance plan. (See 5 CFR 890.302(a)(2)(ii), “To ensure that no person receives benefits under more than one enrollment, each enrollee must

promptly notify the insurance carrier as to which person(s) will be covered under his or her enrollment; see also 5 CFR 890.1605(d)(2) “The enrollee must affirmatively notify the PSHB Carrier, employing office, or OPM of any changes to members of family;” and § 890.808(b)(4), “The former spouse will be required to certify that he or she meets the requirements . . . and that he or she will notify the employing office within 31 days of an event that results in failure to meet one or more of the requirements.”).

OPM is correcting a typo in § 890.1606(e) by removing the word “the” before “January 1 of the next year.” This correction does not affect the PSHB Program or policy.

The changes outlined in this section do not affect OPM’s estimation of the regulatory impact of the PSHB Program.

Regulatory Impact Analysis

A. Need for Regulatory Action

This final rule follows an interim final rule implementing sections 101 and 102 of the PSRA, which direct OPM to establish the PSHB Program for Postal Service employees, annuitants, and their eligible family members. These sections of the PSRA amend 5 U.S.C. chapter 89, which identifies: the individuals who, starting in January 2025, will be eligible to enroll in a PSHB plan and may not remain in an FEHB plan under their Postal Service employment or retirement; those who must enroll in Medicare Part B to maintain enrollment in PSHB; the health benefits plans that should be offered to the greatest extent practicable; PSHB plan requirements; the need for automatic enrollment in certain circumstances; contributions by the Postal Service; how reserves for PSHB plans are to be structured; requirements for information sharing; and other requirements necessary for PSHB Program implementation.

The PSHB Program is contained within chapter 89, which governs the FEHB Program generally. The PSRA confirms that PSHB plans are subject to the same provisions as FEHB plans unless they are inconsistent with the PSRA. OPM is given the discretion to make such determinations.

Section 101 of the PSRA, codified at 5 U.S.C. 8903c, directs OPM to issue regulations establishing the PSHB Program and gives OPM the discretion to include “any provisions necessary to implement this section.” Section 8903c(g) addresses the topics for which Congress specifically instructed OPM to promulgate rules, clarifies how existing rules for the FEHB Program will apply

to the PSHB Program, and provides new requirements regarding eligibility and enrollment, information sharing with other agencies, PSHB Carrier requirements, and other rules that will govern the PSHB Program. This rule finalizes the provisions of the interim final rule and provides transparency into how OPM is implementing the PSRA, memorializes processes and procedures that will apply, and give individuals who will be impacted as much information about the PSHB Program as early as possible.

B. Summary of Impacts

Overall, the PSRA and the PSHB Program, through this final rule, promote the financial stability and long-term viability of the Postal Service, which provides a crucial role for society with respect to communication, commerce, and political participation. The Postal Service was established as a basic and fundamental service for the public to provide prompt, reliable, and efficient nationwide postal services, including mail and package delivery. With the Postal Service’s wide reach in providing essential services to nearly everyone in the U.S. in some form, its long-term stability is crucial. The PSRA helps improve the Postal Service’s financial position. Ultimately, a financially sustainable Postal Service ensures that it can continue to fulfill its universal service mission and make the investments needed to support service excellence and network efficiency and to introduce enhanced products and services for its customers.

This societal benefit will result primarily from the removal of the prefunding obligation related to future retiree health benefits and the shifting of insurance coverage costs away from the Postal Service to Medicare, and ultimately to taxpayers, who together with beneficiaries, fund Medicare. The Postal Service is generally self-funded, and the Postal Service, along with its employees, pay taxes to fund Medicare each year, but many of its employees do not enroll in Medicare after they retire. Therefore, unlike other employers who offer retiree health benefits and pay Medicare taxes, the Postal Service has not been able to ensure that its retiree health care program fully utilizes Medicare. Enabling the Postal Service to generally require its annuitants who are entitled to Medicare Part A to enroll in Medicare Part B when eligible ensures that the Postal Service can utilize Medicare in a similar manner as other employers, which strengthens its financial position and therefore its ability to continue its critical public service mission.

From a societal perspective, the primary costs associated with the implementation of the PSHB Program will be administrative and operational costs necessary to initiate and maintain the program, including development of information technology (IT) systems, education and outreach, and additional administrative staffing for the design, maintenance, and oversight of the increased quantity of health plans. These costs will be largest in the initial start-up phase and will be borne by Federal agencies, as well as carriers offering both FEHB plans and PSHB plans. The PSRA appropriated \$94 million in implementation funding for OPM and other Federal agencies for these administrative and operational costs. Pursuant to section 101(d)(4) of the PSRA, the Postal Service deposited the appropriated funds into the Treasury as a miscellaneous receipt from the Postal Service Fund in fiscal year 2022.

Most of the impact from the PSRA and this regulation will occur via distributional effects. The principal transfer will be the shifting of premium costs from the Postal Service and PSHB members to Medicare as a result of the Medicare Part B enrollment requirements and the integration of Medicare Part D coverage into PSHB plans. This Part D integration could also result in a portion of costs being transferred to the pharmaceutical industry via the statutory manufacturer discounts provided to Part D, in conjunction with discounts negotiated with individual FEHB plans. Further, integrating Part D coverage into PSHB plans may result in a transfer of costs to carriers, particularly those with little Medicare experience, who may need to contract with third-party vendors to assist with integration, increasing administrative costs. The segmentation of the current FEHB risk pool will result in premiums reflective of each separate risk pool's health care utilization and costs, which are estimated to be higher for Postal Service enrollees compared with non-postal.¹⁰ This may result in a slight reduction in FEHB premiums following implementation.

Ultimately, the total costs and benefits associated with the PSRA and this final rule are highly uncertain because enrollee and carrier reactions to the effects on Medicare, the FEHB Program, and the new PSHB Program are unknown. In accordance with Office of Management and Budget (OMB)

Circular A-4, the following sections outline the benefits, costs, and transfers associated with section 101 of the PSRA and this final rule in more detail. Where specific costs were quantifiable, they are included in table 1. As described below, the rule is expected to result in estimated average annualized costs of \$50.6 million at a 3% discount rate and \$50.2 million at a 7% discount rate over the eleven-year period of 2022–2032. In addition, the rule is expected to result in estimated average annualized net transfers from the Postal Service to Medicare of \$347 million at a 3% discount rate and \$343.3 million at a 7% discount rate over the eight-year period of 2025–2032.

C. Regulatory Baseline

The regulatory baseline for the final rule is the FEHB Program as it is currently administered, as the eligible population under both programs will largely remain the same. Postal Service employees, Postal Service annuitants, and their eligible family members are currently eligible for FEHB coverage. This population totals approximately 915,000 enrollees and 1.9 million total covered lives. There are nearly 700,000 Postal Service annuitants, including about 123,000 survivor annuitants. Of the Postal Service annuitants, about 500,000 are currently enrolled in the FEHB Program. A majority of these are Self-Only enrollments while 200,000 are Self Plus One or Self and Family enrollments.

Beginning in the 2025 plan year, the PSHB Program will be the only health benefits program available through the Postal Service to Postal Service employees, Postal Service annuitants, and their eligible family members. Unless they meet a specified exception, as previously outlined, Postal Service Medicare covered annuitants and their Medicare covered members of family will be required to enroll in Part B or will risk losing their eligibility to continue enrollment in the PSHB Program. Once an annuitant loses eligibility for enrollment in PSHB, it cannot be reinstated. As with the regulatory baseline, those covered by a PSHB plan will also be responsible for Medicare premiums.

Currently, Postal Service annuitants and their family members who are participating in FEHB are not required to enroll in Medicare Part B, regardless of Medicare eligibility status. Based on 2021 data, OPM estimates that 75% of Postal Service annuitants aged 65 and over have enrolled in Medicare Part B. There will be approximately 121,000 Postal Service annuitants and their eligible family members eligible to

enroll in Part B during the six-month SEP beginning April 1, 2024.

Prior to the PSRA, the Postal Service paid the Government contribution for all Postal Service employees and annuitants enrolled in FEHB. The Government contribution was paid directly by the Postal Service for employees and from the PSRHBF for annuitants. In addition, the Postal Service was required under the Postal Accountability and Enhancement Act of 2006 to fully prefund retiree health benefits. Section 102 of the PSRA (“The USPS Fairness Act”) amended 5 U.S.C. 8909a to remove this prefunding requirement and replace it with a new calculation for annual payments into the PSRHBF beginning in 2026. The law maintains the requirement that the Postal Service continue to pay the Government contribution—directly for employees or through the PSRHBF for annuitants. The Postal Service is also required to pay the Medicare Part B late enrollment penalty for any Medicare covered annuitants and members of family who enroll in Part B during the 2024 SEP. As with the regulatory baseline, there is no Government contribution towards Part B premiums.

Carriers that participate in the PSHB Program will generally be subject to the same minimum requirements for plan design that exist for FEHB plans under the FEHB Program, but PSHB plans will be required to integrate Part D prescription drug benefits for Postal Service Medicare covered annuitants and Medicare covered members of family. In addition, carriers that are offering both PSHB plans and FEHB plans will need to offer equivalent benefits and cost sharing in the initial year, other than as needed to integrate Part D coverage.

D. Benefits of Regulatory Action and Implementation

The interim final rule implemented the requirements of the PSRA. That rule built on the statute by offering clarity and efficient implementation. The timely promulgation of the interim final rule allowed other Federal agencies, PSHB Carriers, and enrollees to begin necessary education and deliberation. This final rule corrects a typographic error in the interim final rule and clarifies some exceptions to the Medicare Part B enrollment requirement.

The Postal Service will benefit from fewer costs because of the removal of the past-due pre-funding payments and future pre-funding obligations related to the retiree health benefits costs and from having a retiree health benefits program in which more annuitants are

¹⁰ H.R. 3076, *Postal Service Reform Act of 2021—Cost Estimate*, Congressional Budget Office (CBO) (2021). <https://www.cbo.gov/system/files/2021-07/hr3076.pdf>.

enrolled in Medicare. With fewer costs for retiree health benefits, the Postal Service will be better positioned to improve its financial stability. A more financially stable Postal Service would benefit the country overall. The Postal Service plays a critical role in the nation’s communications, commerce, and voting infrastructure. In rural and remote communities especially, many of which lack adequate broadband access and rely heavily on mail service, the Postal Service’s universal service mandate ensures crucial access to essentials including medicine and food.¹¹

Within these communities, the Postal Service is often the only delivery service carrier with a door-to-door network and is heavily relied on by other delivery service carriers to provide “last mile” deliveries. According to the Postal Service Office of Inspector General, the Postal Service provided vital services during the COVID–19 pandemic, including the delivery of critical items such as medications, stimulus payments, election ballots, and record levels of home package deliveries.¹² A Government Accountability Office Report found that the Postal Service experienced a 9 percent decline in total mail volume in 2020 when compared to 2019, but package volume rose by 32

percent over the same period.¹³ This underscores the importance of a stable Postal Service to the Nation.

With greater financial stability for the Postal Service, current Postal Service employees, Postal Service annuitants, and their family members will also see greater stability in their future health insurance coverage and other benefits.

Medicare covered annuitants may be eligible, depending on whether they meet statutory income and resource thresholds, for the low-income cost-sharing subsidies and premium subsidies that are part of the Medicare part D program, under section 1860D–14 of the Social Security Act.

E. Costs of Regulatory Action and Implementation

Implementation of the PSRA and this final rule necessitates the administration and oversight of new health benefits plans, including substantial member education and outreach efforts, additional interagency coordination and the creation of new IT processes to satisfy new statutory eligibility and enrollment requirements, creating startup and ongoing costs to agencies, enrollees, and carriers. Table 1 summarizes the assessment of the administrative costs associated with this regulatory action.

This table illustrates OPM’s best estimate of costs, including startup and ongoing maintenance costs given the information available from OPM and other agencies at this time. The costs are still subject to modification as the program implementation continues. For the purposes of this regulatory impact assessment (RIA), *Startup Costs* were defined as upfront, non-recurring costs associated with the PSRA implementation, including regulatory review costs, and are represented as aggregate total expenditures for the years leading up to and immediately following the PSHB implementation. *Ongoing Costs* were defined as recurring costs (e.g., salary costs) beginning in the years preceding or immediately following the PSRA implementation and expected to persist through at least FY2032. All ongoing costs are presented as fully loaded, annual totals. Given that onboarding and development will occur during the run-up period, ongoing costs are expected to gradually ramp up between FY2022–FY2025 and become fully loaded by the beginning of FY2026. These estimates for ongoing costs are preliminary, and funding for ongoing costs would be subject to the annual budget process.

TABLE 1—ESTIMATED ADMINISTRATIVE AND IMPLEMENTATION COSTS ASSOCIATED WITH THIS FINAL RULE

Agency/category	Startup costs	Ongoing costs ¹
OPM ²	\$81,680,944	\$49,315,703
Personnel		24,434,476
IT and IT Contracts	68,307,195	20,961,759
Non-IT Contracts	3,600,000	1,735,695
General (Supplies, Equipment, Communications, Training)	9,773,749	2,183,773
Postal Service	11,500,000	1,425,000
Implementation costs (updating systems, developing training materials, etc.)	11,500,000	
Personnel (4 Program and 2 IT full-time employees (FTEs))		\$925,000
Communications		500,000
Department of Labor	72,500	2,000
Training and Communication	72,500	
Additional support and communication for separate Open Season		2,000
Department of Veterans Affairs	395,000	
IT Contracts	395,000	
Social Security Administration	7,327,764	407,881
Staffing and Overhead	5,161,138	407,881
System Updates	2,166,626	
Ongoing Data Exchange		TBD
Indian Health Service		
Carriers	Unknown	Unknown
Total Known Administrative and Implementation Costs	100,976,208	51,150,584

¹ Ongoing costs represented as fully loaded annual costs beginning in FY2026 and remaining consistent through at least FY2032. Given that development and onboarding will occur during run-up period to PSHB implementation, ongoing costs will likely cross multiple fiscal periods and gradually ramp up between FY2022 and FY2025, although all costs are expected to become fully realized beginning in FY2026. All costs are represented based on 2022 dollars and pay scales and are subject to change based on PSHB enrollment and carrier participation following implementation.

¹¹ *The USPS and Rural America*, Institute for Policy Studies (2020), <https://inequality.org/wp-content/uploads/2020/04/IPS-policy-brief-USPS-Rural-America2.pdf>.

¹² *Audit Report Mail Service During the Early Stages of the COVID–19 Pandemic*, USPS Office of Inspector General (Jan. 2021), <https://www.uspsaig.gov/document/mail-service-during-early-stages-covid-19-pandemic>.

¹³ *U.S. Postal Service: Volume, Performance, and Financial Changes since the Onset of the COVID–19 Pandemic*, Government Accountability Office Publication 21–261 (2021), <https://www.gao.gov/products/gao-21-261>.

² Table 1 does not utilize estimates from OPM's FY 2025 Congressional Budget Justification (CBJ). The FY 2025 CBJ estimates would reflect \$80.1 million startup and \$51.7 million ongoing costs.

Table 2 depicts the projected allocation of total startup and ongoing costs by year for fiscal years (FY) 2022 through 2032. Given that operations and maintenance activities are occurring in

the run-up period, albeit at a different intensity, and a portion of start-up costs were allocated for go-live and post go-live support (e.g., call centers), the expected costs for FY2022–FY2025 are

composed of both startup and ongoing costs. Beginning in FY2026, expected costs are all attributable to recurring operational and maintenance activities.

TABLE 2—PROJECTED TOTAL ADMINISTRATIVE AND IMPLEMENTATION COSTS BY YEAR—ALL AGENCIES, FY2022–2032
[\$ Millions]

Type of Cost ¹	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
Startup Costs	\$3.68	\$48.49	\$46.74	\$2.06
Recurring Costs	3.69	17.98	28.39	50.47	51.15	51.15	51.15	51.15	51.15	51.15	51.15
Total Costs	7.38	66.47	75.14	52.53	51.15	51.15	51.15	51.15	51.15	51.15	51.15

¹ Annual cost projections are in terms of 2022 dollars and pay scales and do not reflect any adjustments for inflation, discounting, staffing promotions, etc. This table is intended only to summarize the expected timing of the costs outlined in table 1 and is not meant to reflect budgetary expectations.

Detailed Startup and Ongoing Cost Related to the PSRA

The following sections contain underlying details for the cost estimates presented in table 1, including, where appropriate, the assumptions and methodology used by individual agencies in preparing them. For the purposes of this regulatory impact assessment (RIA), *Startup Costs* were defined as upfront, non-recurring costs associated with the PSRA implementation, including regulatory review costs, and are represented as aggregate total expenditures for the years leading up to and immediately following the PSHB implementation. *Ongoing Costs* were defined as recurring costs (e.g., salary costs) beginning in the years preceding or immediately following the PSRA implementation and expected to persist through at least FY2032. All ongoing costs are presented as fully loaded, annual totals. These estimates for ongoing costs are preliminary, and funding for ongoing costs would be subject to the annual budget process.

OPM

Startup Costs: OPM estimates a total of \$81.6 million in start-up costs for the development and administration of the PSHB Program. This estimate includes \$68.3 million of IT and IT contract costs for system development and updates, including the creation of the centralized enrollment system. The centralized enrollment system will consolidate data from multiple agencies, including the Postal Service, SSA, CMS, IHS, and VA, to create a centralized platform for verifying eligibility and processing enrollments. While a centralized enrollment system was not mandated by the PSRA, it will create efficiencies through the elimination of decentralized duplicative and manual processes and

improve interagency communication. It is expected to yield long term cost-savings that will help offset significant upfront costs of development. Additional IT and IT contract costs are anticipated for updating existing systems, including Benefits Plus and the audit resolution tracking system, and developing new resources to improve customer experience, including the creation of an enrollment Decision Support Tool.

The remaining \$13.4 million in estimated startup costs include \$3.6 million for non-IT contractor support and regulatory review throughout implementation and \$9.8 million for additional supplies, equipment, training, and communication related to the PSRA. All costs were estimated based on 2022 dollars and contract rates.

Ongoing Costs: As this is a new program, additional staffing and resources will be essential to establish and administer the PSHB. OPM estimates a total of \$49.3 million in annual, ongoing costs related to the PSRA. This estimate consists of \$24.4 million in annual salary costs for additional full-time employees (FTEs) necessary for contract oversight, program operations, systems maintenance, customer service, policy support, and general support. Additionally, OPM anticipates \$21 million in annual IT and IT contract costs for ongoing system development and maintenance support, and an additional \$1.7 million in annual, non-IT contract costs related to oversight and management of the increased number of health benefits plans within the PSHB and FEHB populations. Finally, OPM estimates an additional \$2.2 million in annual costs for training, communications and overhead related

to the PSHB program and the annual Open Season period.

The above costs are represented as fully loaded annual projections based on 2022 dollars. Salaries and overhead (benefits, equipment, etc.) were based on 2022 pay tables and Washington, DC metro area locality adjustment, an overhead percentage of 34%, and award and transit subsidies. This adjustment factor was used in lieu of a standard wage rate to more accurately reflect the historical trends in benefit costs for OPM employees, based on the anticipated locations and experience-levels of the aforementioned positions. Additionally, the wage rate is meant to capture overhead costs which were already represented in separate categories. All recurring costs are projected to be fully loaded beginning in FY2025 and to persist through at least FY2032. Given that development and onboarding will occur in the run-up to the PSHB implementation, OPM anticipates that annual costs related to the PSRA will increase steadily between FY2022 and FY2024.

Postal Service

Startup Costs: The Postal Service estimates \$11.5 million in start-up costs for updating systems, development of training materials, and the development and maintenance of the Health Benefits Education Program. These estimates were calculated based on anticipated system configuration and assumed effort level and are subject to change based on additional requirements that may be required of the Postal Service.

Ongoing Costs: In preparation for and following implementation of the PSHB, the Postal Service estimates an additional \$1.4 million in annual costs for increased staffing and communication needs. Specifically, the Postal Service estimates \$0.9 million in

salary costs for 6 additional FTEs, including 4 Program and 2 IT FTEs, and an additional \$0.5 million towards increased outreach, education, and communication. Given the general retirement eligibility ages in comparison to the Medicare eligibility age, there will be a 3- to-5-year gap between the time of retirement until Medicare enrollment. It will be critical during the initial implementation of the Program and for the subsequent 5–10 years to send constant communications regarding plan options and healthcare costs, along with information about Medicare Part B eligibility periods and how and when to enroll. Additional resources will also be needed to monitor enrollee compliance for the Medicare Part B enrollment exceptions requirements on an ongoing basis. Although recruitment, onboarding, and development costs will gradually ramp up preceding implementation, the ongoing costs are expected to become fully realized beginning in FY25 and will likely persist for a period of 5–10 years following implementation, at which point the Postal Service will reevaluate resourcing needs. All costs were estimated in terms of 2022 dollars and pay scales.

Department of Labor—Office of Workers' Compensation Programs (OWCP)

Startup Costs: OWCP estimates a total of \$72,500 in startup costs related to the PSRA. These include an estimated \$50,000 in staff time for training on the PSRA changes and implementation, and \$22,500 for pre- and post-implementation mailings to approximately 12,500 claimants and beneficiaries regarding changes to health benefit coverage. All costs were estimated based on 2022 dollars and pay scales.

Ongoing Costs: Beginning in 2025, OWCP estimates an additional \$2,000 of annual, recurring costs for the creation and distribution of mailing announcements and customer service response letters related to the PSHB Open Season.

Department of Veterans Affairs (VA)

Startup Costs: The VA anticipates startup costs for system updates and development to meet the information sharing requirements outlined in § 890.1612 of the regulation. In total, the VA estimates \$395,000 worth of IT contractor development work will be needed to integrate the existing Veteran Verification process with the centralized Enrollment and Eligibility System. The estimated costs are based on the anticipated number of scrum teams and

sprints required to build this functionality and the projected firm-fixed-price contract rates. All costs were estimated in 2022 dollars.

Social Security Administration (SSA)

Startup Costs: SSA estimates \$7.3 million in startup costs for staffing support and system updates related to the PSHB implementation. These include an estimated \$5.16 million in staffing costs for project management, policy and business process development, and additional technician support for the initial SEP. Additionally, SSA anticipates \$2.17 million in up-front costs for system enhancements that will be necessary to support data exchanges and the initial SEP.

Ongoing Costs: SSA anticipates approximately 3 FTEs will be needed to support the PSHB following implementation, with estimated salary and overhead costs totaling \$408,000 annually. These costs are based on the anticipated workload for processing annual enrollments and exceptions related to the Medicare coverage requirements for postal annuitants and family members. Additionally, SSA anticipates a small cost for the ongoing data exchange with OPM, although this cost cannot be determined until the data exchange is completed and will ultimately be reimbursed by OPM.

Indian Health Service

Indian Health Service (IHS) estimates de minimis costs for PSHB implementation. This is based upon the assumption that self-attestation will be utilized for Postal Service annuitants and family members to provide proof of eligibility for IHS health services for purposes of an exception to the Medicare Part B requirement.

Carriers (Not Quantified)

Carriers will also have startup costs to participate in the PSHB Program, although the magnitude of these costs is unknown and will likely vary by carrier. Based on the 2021 FEHB headcount, OPM estimates that 41 FEHB Carriers provide coverage to Postal Service enrollees, and they will therefore be impacted by implementation of the PSHB Program. OPM has received applications for participation in the PSHB Program from 36 carriers, all of which currently participate in the FEHB Program. These carriers are expected to incur additional costs associated with the creation and administration of separate PSHB plans. These costs will likely be incurred for internal training, updating enrollment processes and information systems, updating financial

systems, and development of proposals specific to the PSHB Program.

In developing plan options for the PSHB, carriers will not simply be able to duplicate FEHB plan designs as the requirement to integrate Part D coverage is substantively different. While large carriers may be able to leverage existing experience integrating Medicare Part D coverage in their other books of business, the need to apply and submit a different PSHB proposal will be a cost to carriers. PSHB Carriers will continue to incur annual costs to offer plans as there will need to be two sets of proposals, contract negotiations, and enrollment processing for carriers offering both PSHB and FEHB plans. This will likely create additional staffing costs on an ongoing basis.

Postal Service Annuitants (Not Quantified)

Existing and future Postal Service annuitants may incur additional costs in navigating both Medicare and PSHB enrollment decisions, particularly in the initial years following implementation. Prior to the PSHB Program Open Season, a six-month SEP will be offered to provide Postal Service annuitants and their family members who are entitled to Medicare Part A with the opportunity to enroll in Medicare Part B. This enrollment window will take place before PSHB benefits and premiums are set, meaning participants will not know the details of the PSHB premiums when making their Medicare election during the SEP. This could create additional burden and confusion for participants and may result in suboptimal enrollment decisions.

As with the training and communications costs for the first year, Postal Service employees may continue to need training as they approach retirement. They may generally experience new costs associated with interacting with a new set of options, especially if they have already planned to take certain actions upon retirement which are now infeasible under the PSRA. Additionally, as is true currently under FEHB, retirement will not be a PSHB qualifying life event. Postal Service annuitants will need to understand how their PSHB plan election will work with the Part B requirement upon retirement or wait for Open Season alignment in both Medicare and the PSHB to make a suitable choice for their health care insurance needs.

Transfers

The main impact of section 101 of the PSRA and these rules will be a transfer of costs from the Postal Service to

Medicare, which is funded by taxpayers, including the Postal Service and its beneficiaries. Additionally, a portion of prescription drug costs will likely be transferred to pharmaceutical manufacturers due to applicable point-of-sale discounts received by Medicare Part D enrollees. Table 3 summarizes the projected changes in annual premium expenditures for each of the

primary stakeholders. These projections were obtained from separate, independent analyses performed by CMS, the Postal Service, and OPM, which were produced at different points in time and with different underlying methods and assumptions and are therefore intended to summarize the directional transfer of costs among the different stakeholders, not the overall

budgetary impacts of the PSRA. Additionally, all estimates were based on FEHB and Medicare coverage as of 2023, and do not incorporate any changes expected from the Inflation Reduction Act or Carrier Letter 2023–02.¹⁴ Details on the methods and assumptions utilized by each agency are provided in the table 3 footnotes.

TABLE 3—NET TRANSFER EFFECTS

Agency/Outlay	Projected Change in Annual Coverage Costs Due to PSRA (\$ Billions)												
	FY22	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY23–27	FY23–32
CMS ¹	0.00	0.00	0.00	0.50	0.76	0.92	1.11	1.16	1.35	1.53	1.73	2.18	9.06
Part B, net of premium ^a	0.00	0.00	0.00	0.09	0.18	0.24	0.31	0.39	0.47	0.57	0.68	0.51	2.93
Part D, net of premium and clawback ^b	0.00	0.00	0.00	0.41	0.58	0.68	0.80	0.77	0.88	0.96	1.05	1.67	6.13
USPS ²	0.00	0.00	0.00	-0.30	-0.30	-0.30	-0.30	-0.40	-0.40	-0.40	-0.40	-0.90	-2.80
USPS share of employee premiums	0.00	0.00	0.00	-0.30	-0.30	-0.30	-0.30	-0.40	-0.40	-0.40	-0.40	-0.90	-2.80
PSRHBF Annuitant Premiums ³	0.00	0.00	0.00	-0.17	-0.23	-0.29	-0.36	-0.45	-0.49	-0.53	-0.58	-0.69	-3.10
PSRHBF Share of Annuitant Premiums	0.00	0.00	0.00	-0.17	-0.23	-0.29	-0.36	-0.45	-0.49	-0.53	-0.58	-0.69	-3.10
FEHB and Federal Share USPS Premiums ³	0.00	0.00	0.00	-0.09	-0.09	-0.10	-0.10	-0.10	-0.11	-0.11	-0.12	-0.28	-0.83
Payments for NP annuitant premiums	0.00	0.00	0.00	-0.06	-0.07	-0.07	-0.07	-0.08	-0.08	-0.09	-0.09	-0.20	-0.61
Federal Share of USPS Annuitant Premiums	0.00	0.00	0.00	-0.03	-0.03	-0.03	-0.03	-0.03	-0.03	-0.03	-0.03	-0.08	-0.21
Employee and Annuitant Share of Premiums	0.00	0.00	0.00	-0.26	-0.26	-0.25	-0.25	-0.25	-0.25	-0.24	-0.23	-0.76	-1.98
Postal employee share PSHB premiums ²	0.00	0.00	0.00	-0.10	-0.11	-0.12	-0.13	-0.14	-0.15	-0.16	-0.17	-0.34	-1.09
Postal annuitants share PSHB premiums ²	0.00	0.00	0.00	-0.11	-0.12	-0.14	-0.15	-0.16	-0.17	-0.18	-0.19	-0.37	-1.22
Non-Postal employee share FEHB premiums ³	0.00	0.00	0.00	-0.04	-0.04	-0.04	-0.04	-0.05	-0.05	-0.05	-0.05	-0.12	-0.36
Non-Postal annuitant share FEHB premiums ³	0.00	0.00	0.00	-0.03	-0.03	-0.03	-0.03	-0.04	-0.04	-0.04	-0.04	-0.09	-0.28
Postal annuitant premiums for Medicare B ^{1a}	0.00	0.00	0.00	0.03	0.05	0.08	0.11	0.13	0.16	0.19	0.23	0.16	0.98

The estimated costs in this table were aggregated from multiple, independent analyses conducted by separate agencies, and are intended only to represent the directional flow of costs between various stakeholders. Due to the differences in assumptions and methodology employed by each agency (as detailed below), the cumulative impacts represented in this table do not directly align with the general expectation, as detailed in the narrative below, that aggregate premium payments will be lower post-PSRA due to the transfer of costs to drug manufacturers via mandatory Part D discounts. All estimates are based on coverage provisions as of 2023 and do not reflect expected changes to pharmaceutical coverage from the Inflation Reduction Act or Carrier Letter Number 2023–04, the 2023 FEHB Call Letter.

Sources and methodology:

¹ Projected Medicare costs for additional Part B and Part D enrollment were provided by CMS.

^a Part B projections were based on an assumption that about 7,000 new retirees plus spouses would enroll in Part B in 2025, and growth would be consistent with aged enrollment. Additionally, CMS assumed that roughly 14,000 existing retirees would enroll in 2025, which would degrade over time due to deaths. Expected costs and premiums for additional enrollees were assumed to be consistent with current average Part B beneficiaries.

^b CMS estimated additional Part D costs based on projected annual headcounts of Postal Service annuitants. Annual headcounts were estimated using the 2021 Postal Service annuitant enrollment total (approximately 515,000) and applying an annual growth rate based on the number of new postal retirees in 2021. Growth estimates were trended by the projected annual growth in overall Part A and/or Part B enrollment and were decremented yearly by the annual mortality rates from SSA for ages 70–75. Using this methodology, CMS estimated that approximately 603,000 postal retirees would join Part D in 2025 and that this population would grow to 797,000 by 2032. To project annual Part D spending on Postal retirees, CMS assumed a 90/10 split between PDP–EGWP and MAPD–EGWP, and annual costs consistent with current beneficiaries in each of these enrollment categories.

² Based on estimates provided by USPS actuaries and budget analysts. Projected savings on PSHB premiums are based on the expected reduction in the portion of retirees' medical costs that will be paid by PSHB plans, which is expected to lower overall costs in the combined pool of annuitants and employees and reduce premiums. USPS assumed that 30% of grandfathered annuitants would enroll in Part B during the SEP, resulting in 30,000 new enrollments in 2025. Annual projections for current and annuitant Postal enrollee populations were based on mortality and retirement projections for the postal population, which were developed by OPM.

³ Estimates from OPM Office of Administration (OA) Budget Summary as of January 2023. Assumed 30% of grandfathered annuitants and family members would join during SEP and stable population of total annuitants from 2025–2032 (annual new retirees + family members = deaths in Postal annuitant population). Differential costs of FEHB and PSHB population was estimated using age distribution in the two populations, which skews slightly higher for Postal, and historical average costs by age band for the joint FEHB population. OA estimates a 5.8% reduction in average PSHB premiums beginning in 2025, which is attributed to the Part B and Part D requirements, and a 0.4% reduction in average FEHB premiums. Annual projections assumed a 4.8% medical inflation rate.

The mandatory Medicare Part B enrollment for all future Postal Service Medicare covered annuitants enrolled in PSHB starting in 2025, as well as the optional Part B enrollment for current annuitants who are entitled to Part A, will shift a portion of Government share

of premium costs for these individuals away from the Postal Service and will shift some of their healthcare costs to Medicare.

Medicare Part B enrollment and the shift of healthcare costs to Medicare will lower the aggregate costs among the

PSHB population as Medicare will cover a larger portion of healthcare costs for Postal Service annuitants and family members that would have previously been covered by a plan. Given that premiums are based on average per member costs of the combined pool of

¹⁴ FEHB Program Carrier Letter Number 2023–02, FEHB and Medicare Part D Prescription Drug

Coordination (published January 25, 2023),

available at <https://www.opm.gov/healthcare-insurance/carriers/fehb/2023/2023-02.pdf>.

annuitants and employees, this will likely result in lower premiums for PSHB plans compared to current FEHB premium amounts. This will reduce costs for the Postal Service and Postal Service employees. Currently in FEHB, approximately 75% of retirees from the Postal Service are enrolled in Medicare Part B and pay the Part B premium. Some of the 25% of the retirees from the Postal Service without Medicare Part B may decide to enroll in Part B to coordinate with their PSHB coverage that starts in 2025. Those individuals and their family members will incur an increased cost for Part B premium that they otherwise would not incur if the retiree chose not to enroll in Part B. Because these individuals will ultimately be subject to premiums for both Medicare and PSHB plans, on net their premiums may be higher than FEHB premiums. At the same time, being covered by Medicare in conjunction with a PSHB plan may also reduce out-of-pocket expenses (e.g., co-payments and co-insurance) for Postal Service annuitants compared to those that would otherwise have been incurred. In addition, because Medicare will pay primary for the costs of medical coverage, for those enrolled in Part B, costs of coverage are expected to be lower for the PSHB Program and could result in lower PSHB premiums than they would have been without the integration of Medicare. Furthermore, we anticipate that some PSHB plans will reimburse all or part of Part B premiums, as is currently the case with some FEHB plans.

As required in the PSRA, the Postal Service will need to pay to HHS the monthly late enrollment penalties for any Medicare Part B enrollments that occur during the 2024 SEP. These late enrollment penalties are assessed to enrollees as a monthly increase in Medicare Part B premiums. We estimate that approximately 100,000 Postal Service annuitant aged 65+ currently enrolled in the FEHB Program are not enrolled in Medicare Part B and, thus, would be eligible for the SEP. For these individuals, the late enrollment penalties will be paid by the Postal Service.

Uncertainty and Directional Effects Related to Enrollment, Utilization, and Carrier Participation

The summary above is based on baseline assumptions that plan enrollment, carrier participation, and healthcare utilization will remain consistent following implementation of the PSHB Program. It is likely that implementation of the PSHB Program and the additional Medicare enrollment

requirements will impact some or all of these baseline assumptions, which will have downstream effects for cost and utilization within both the PSHB and FEHB populations. The magnitude and directionality of these effects will depend on several factors that are presently uncertain.

Individual carriers will likely weigh the costs and benefits of offering FEHB plans and PSHB plans. Shifting enrollment numbers and additional implementation costs may lead some carriers to scale back or discontinue offering both FEHB and PSHB plans. This would impact the number of available plan options for both PSHB and FEHB enrollees, as well as the likelihood that enrollees will be able to remain enrolled in a plan with the same carrier and have a consistent choice of plans and options from year to year. However, as noted below, it is likely that the PSRA will increase the total number of plans covering the Postal Service and non-Postal Service population notwithstanding that plan choices for each population may vary.

PSHB enrollees required to enroll in Medicare Part B would be subject to additional premiums, which may impact the likelihood of their enrollment in PSHB plans. It is estimated that around 25% of Postal Service annuitants who are otherwise eligible for Part B are not currently enrolled. It is possible they declined Part B coverage because they were satisfied with their FEHB coverage or felt that the additional Medicare premium costs were too high, although it is also possible that they were not fully aware of the benefits of Medicare enrollment on their overall health care expenses over the course of their lifetimes. Assuming that a similar percentage of future Postal Service annuitants would have made a similar determination, these individuals may now be required to enroll as a condition of PSHB eligibility. This may result in some Postal Service annuitants dropping PSHB coverage altogether if they determine that PSHB and Part B coverage together is unaffordable or duplicative for their health care circumstances, though this number may be limited since it would require those annuitants to forgo PSHB coverage for the rest of their lifetimes unless individuals enroll in a Medicare Advantage plan. This could potentially result in adverse selection within the PSHB plans, referring to the tendency for individuals with higher health risks to disproportionately elect more generous coverage. Ultimately, this would increase the average risk and costs within the PSHB enrolled

population, creating upward pressure on premiums. Additionally, some carriers may elect not to offer or discontinue PSHB plans if they anticipate or experience lower than expected enrollment.

The additional Medicare Part B and Part D coverage may also induce a moral hazard effect due to the more robust coverage and lower cost-sharing. Moral hazard refers to the tendency of individuals to increase health care utilization and spending in response to greater coverage or lower out-of-pocket costs. If an individual is required to enroll in Medicare, they may feel more compelled to utilize the benefits, increasing overall health care consumption. This effect could increase utilization of both necessary and unnecessary health services upon introduction of increased coverage and lower cost sharing. Increased utilization among these individuals would increase the overall per member costs within the PSHB plans which may result in higher premiums and potentially impact health outcomes.

Because not all carriers will offer both FEHB plans and PSHB plans, the result is smaller risk pools within each plan option, which could lead to greater uncertainty with respect to costs. With smaller risk pools, each enrollee's health status has a larger impact on total costs. This can create greater variability in annual premiums. Smaller risk pools increase individual plans' exposure to high-cost outlier events, as there are fewer low or average-cost enrollees to offset these costs. Administrative costs would also be spread across smaller risk pools. To ensure financial solvency in such scenarios, plans may seek to price this additional risk exposure into premiums, resulting in an increase in the aggregate costs for all PSHB plan and FEHB plan enrollees compared to the baseline.

At present, there remains a great deal of uncertainty with respect to the longer-term impacts on plan enrollment, carrier participation, plan design, and plan premiums. It is possible that a number of FEHB Carriers will elect not to participate in the PSHB Program or to drop their current FEHB plan offerings. Consolidation within the FEHB and PSHB markets would likely benefit larger carriers and may yield some efficiencies through greater economies of scale, although on aggregate, it is expected that PSHB implementation will result in a greater number of total plans across both the FEHB and PSHB Programs and increased administrative costs and premiums. Fewer options within the PSHB Program may also simplify plan choice for employees and

annuitants, saving time on plan comparisons.

Enrollment in the PSHB Program, particularly among individuals who are required to enroll in Medicare Part B, is also uncertain. For future Postal Service annuitants, the requirement to enroll in Part B after retirement represents an additional cost. This will likely factor into individual retirement planning decisions and could potentially lead to employees remaining in the workforce longer to delay these additional costs. Likewise, lower-risk individuals may determine that their Medicare coverage, including Part B coverage is sufficient for their health care needs and opt out of PSHB enrollment. These aspects could impact PSHB Program risk pools and influence carriers' decisions on whether to continue offering plans in the PSHB Program. Each of these scenarios could trigger potential downstream effects on utilization and premiums and will be important to monitor.

F. Alternatives

There are no feasible alternatives to the final rule as it implements section 8903c, as added by the PSRA, which establishes the PSHB Program and is mandated by the law. Therefore, OPM does not have the discretion to forego issuing regulations altogether. However, we considered alternatives to certain aspects of this regulation.

Initial Enrollment in the PSHB Program and Medicare Part B

OPM recognizes that, for a small portion of Postal Service annuitants and their family members who take advantage of the Medicare Part B SEP from April 1 to September 30, 2024, there may be confusion about having two separate health plan enrollment opportunities given that the PSHB Program Open Season for plan year 2025 will occur from November 11 through December 9, 2024. As with FEHB plans, however, OPM's rate review process for PSHB plans will not be completed until September 2024, which makes simultaneous enrollment in Medicare Part B and PSHB plans impossible. If OPM were to open PSHB plan enrollment at the same time as the Medicare SEP, without completing the PSHB rate review process, enrollees would be selecting PSHB plans without knowing the monthly cost of their PSHB plan premium, which does not resolve the conflict.

We explored an opportunity for Postal Service annuitants to "pre-enroll" in PSHB plans prior to OPM completing its PSHB rate review process. Combining the opportunity to pre-enroll in a PSHB

plan with the Medicare SEP would allow Postal Service annuitants to complete both actions simultaneously. Alternatively, Postal Service annuitants could be automatically enrolled in a PSHB plan at the same time they enroll in Medicare Part B. Automatic pre-enrollment in PSHB would relieve these Postal Service annuitants from two separate enrollment periods. However, we found both of these options would be undesirable for enrollees and their family members for several reasons.

Allowing individuals to pre-enroll in PSHB plans during the SEP means they would sign up for a plan without knowing their PSHB premium obligation. Similarly, because OPM will not have certified the PSHB plans by the time the Medicare SEP occurs, there would be no way for an individual to know whether a given carrier will be participating in the PSHB Program for the next plan year, let alone what the final contract would look like. In general, while allowing those annuitants taking advantage of the Medicare SEP to simultaneously pre-enroll in a PSHB plan seems like it could reduce confusion and frustration from having two separate enrollment obligations, the timing of simultaneous PSHB pre-enrollment and the Medicare SEP would mean choosing a PSHB plan with unknown benefits and premiums and likely having to review the selection again during the PSHB Open Season period to ensure that the plan an individual pre-enrolled in actually makes sense for them once plan details are finalized and approved by OPM.

Much of the rationale for considering PSHB plan pre-enrollment can be achieved by providing information about automatic enrollment to Postal Service employees, Postal Service annuitants, and their family members. Postal Service annuitants who wish to keep their plan or take as little action as possible can have their needs met as easily with automatic enrollment after Open Season ends instead of OPM implementing a new pre-enrollment or automatic pre-enrollment. In addition, under 5 CFR 890.301(f)(2), the OPM Director has the authority to modify the dates for Open Season or hold additional Open Seasons. These authorities and flexibilities exist under current regulations and may be exercised without needing to make any specific provisions under this rulemaking.

Centralized Enrollment

OPM is developing a centralized enrollment system simultaneously with the implementation of the PSHB Program. As explained above, the

centralized enrollment system will shift certain responsibilities from the employing office to a new system which will function as an electronic enrollment solution for all PSHB stakeholder groups. Developing a centralized enrollment system for the PSHB Program allows OPM to take advantage of IT solutions and create a modern enrollment system for Postal Service employees, Postal Service annuitants, and their family members. OPM considered maintaining the existing enrollment processes that apply to enrollment in FEHB plans but ultimately determined that the establishment of the PSHB provided an ideal opportunity to utilize new technologies and centralization processes that will improve the experience of PSHB stakeholders.

PSHB Plan Coverage Effective Date

OPM considered keeping the effective date of coverage for coverage under PSHB Plans as the first day of the first pay period of the calendar year for Postal Service employees, as it is for FEHB Plans. Keeping the same effective date of coverage for PSHB Plans as the effective date of coverage for FEHB Plans that Postal Service employees are familiar with would not result in implementation costs or risk confusing existing enrollees.

The benefits of a January 1 effective date, however, outweigh the costs and risks of implementation and educating enrollees, as implementation costs are incurred only one time and after several years there will be little to no ongoing enrollee education needs. Conversely, the benefits of the January 1 date will remain indefinitely. A calendar year start date is convenient and is consistent with the industry standard and many similar programs, including health savings accounts, the Federal Employees Dental and Vision Insurance Program, and the cutoff date for certain exceptions to the Medicare Part B enrollment requirement for Postal Service Medicare covered annuitants and their covered members of family who qualify for an exception.

Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 12866, 13563, 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 has determined that this

rule is a “significant regulatory action” under section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094.

Regulatory Flexibility Act

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

Federalism

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

Civil Justice Reform

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

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending by State, local, and Tribal governments in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2023, that threshold was approximately \$183 million. This final rule does not mandate any requirements for State, local, or Tribal governments, or for the private sector.

Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*) requires rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action before its effective date, as required by 5 U.S.C. 801. OMB’s Office of Information and Regulatory Affairs has determined that this rule meets the criteria 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.

In the interim final rule, OPM requested comment on what, if any, information collection activities may be required by this rulemaking, including any comments on whether to create a new information collection or revise the information collection for SF–2809, *Health Benefits Election Form*, under OMB Control number 3206–0160. A commenter recommended that OPM update the existing Standard Form (SF) 2809 for Postal Service employees and Postal Service annuitants rather than developing a new form under PSHB to accommodate the needs of the PSHB Program. OPM agrees with this suggestion and will update the SF–2809 to include PSHB enrollments. OPM notes that there is a corresponding health benefits election form for retirees, OPM 2809 (OMB control number 3206–0141). OPM will also update the OPM–2809 to include PSHB enrollments. The revised forms would be made available prior to Open Season for the PSHB Program, which will begin on November 11, 2024. OPM is publishing a separate notice regarding modifications to these forms and will provide opportunities to comment as required by the PRA. An initial notice of proposed changes to these information collections with a 60-day comment period is published elsewhere in this issue of the **Federal Register**. In that notice, in addition to the changes to the forms, OPM proposes to combine OMB Control number 3206–0160 and OMB Control number 3206–0141 into a single information collection.

The information collection for form SF–2809 (OMB Control Number 3206–0160) is currently approved with an estimated public burden of 9,000 hours. The information collection (OMB Control number 3206–0141) associated with that form is currently approved with an estimated public burden of 11,667 hours.

A list of routine uses associated with these forms can be found in the Privacy Act System of Records Notice (SORN), OPM/CENTRAL 1 Civil Service Retirement and Insurance, available at <https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf>.

Participants in the 6-month Medicare Part B SEP will use form CMS 40B, Application for Enrollment in Medicare—Part B (Medical Insurance) (OMB control number 0938–1230) to enroll in Medicare Part B.

List of Subjects in 5 CFR Part 890

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

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

For reasons stated in the preamble, OPM is adopting the interim rule amending 5 CFR part 890 published on April 6, 2023, at 88 FR 20383, as final with the following changes:

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 P—Postal Service Health Benefits Program

■ 2. Revise § 890.1604 to read as follows:

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

(a) *Annuitant.* A Postal Service annuitant who is entitled to Medicare Part A must be enrolled in Medicare Part B to enroll or continue enrollment in a health benefits plan under this subpart, except as otherwise provided by paragraph (d)(1) of this section.

(b) *Member of family.* A Postal Service Medicare covered annuitant’s member of family who is entitled to Medicare Part A must be enrolled in Medicare Part B to be covered or continue coverage in a health benefits plan under this subpart, unless:

(1) The Postal Service Medicare covered annuitant is excepted from the requirement to enroll in Medicare Part B as provided by paragraphs (d)(1)(i) through (v) of this section; or

(2) The member of family is excepted from the requirement to enroll in

Medicare Part B as provided by paragraphs (d)(2)(i) through (iv) of this section.

(c) [Reserved]

(d) *Exceptions.* The Medicare Part B enrollment requirements provided in paragraphs (a) and (b) of this section do not apply:

(1) To a Postal Service Medicare covered annuitant who—

(i) Was a Postal Service annuitant on or before January 1, 2025, and who was not both entitled to Medicare Part A and enrolled in Medicare Part B on January 1, 2025;

(ii) Was a Postal Service employee and was 64 years of age or older on January 1, 2025;

(iii) 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;

(iv) 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

(v) Is eligible for health services from the Indian Health Service, subject to the documentation requirements in paragraph (e)(3) of this section.

(2) To a Medicare covered member of family who—

(i) Is eligible for PSHB coverage under the PSHB enrollment of a Postal Service Medicare covered annuitant who is not required to enroll in Medicare Part B, as provided in paragraphs (d)(1)(i) through (v) 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 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) to receive VA hospital care and medical services, 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.

(e) *Documentation requirements.* To qualify for an exception under

paragraph (d) of this section, a Postal Service Medicare covered annuitant, or a Medicare covered member of family must meet one of the following documentation requirements:

(1) Documentation or information in a form, manner, and frequency as prescribed by OPM demonstrating qualification, satisfactory to the Postal Service, for the exceptions at paragraph (d)(1)(iii) or (d)(2)(ii) of this section;

(2) Documentation from the Department of Veterans Affairs in a form, manner, and frequency as prescribed by OPM demonstrating the individual meets an exception identified in paragraph (d)(1)(iv) or (d)(2)(iii), of this section; or

(3) Documentation from the Indian Health Service (IHS) in a form, manner, and frequency as prescribed by OPM in consultation with IHS demonstrating the individual meets an exception identified in paragraph (d)(1)(v) or (d)(2)(iv) of this section.

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

(g) *Effect of non-enrollment in Part B.* Failure to enroll or disenrollment from Medicare Part B will have the effect of a termination of PSHB coverage, as described in § 890.1608(b).

■ 3. Amend § 890.1606 by revising paragraph (e) to read as follows:

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

* * * * *

(e) Under this subpart, an enrollment, change of enrollment, or reenrollment made during Open Season takes effect on January 1 of the next year.

* * * * *

[FR Doc. 2024-09565 Filed 5-3-24; 8:45 am]

BILLING CODE 6325-63-P

DEPARTMENT OF ENERGY

10 CFR Chapter III

RIN 1901-ZA02

Interpretation of Foreign Entity of Concern

AGENCY: Office of Manufacturing and Energy Supply Chains (MESOC), U.S. Department of Energy.

ACTION: Notification of final interpretive rule.

SUMMARY: On December 4, 2023, the U.S. Department of Energy (DOE or the Department) published in the **Federal Register** for public comment a proposed interpretive rule on DOE's interpretation of the statutory definition of "foreign entity of concern" (FEOC) in the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), which applies to multiple programs related to the battery supply chain. This statutory definition provides that, among other criteria, a foreign entity is a FEOC if it is "owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation." In this final interpretive rule, DOE responds to public comments, clarifying the term "foreign entity of concern" by providing interpretations of the following key terms: "government of a foreign country;" "foreign entity;" "subject to the jurisdiction;" and "owned by, controlled by, or subject to the direction."

DATES: This final interpretive rule is effective May 6, 2024.

FOR FURTHER INFORMATION CONTACT:

Widad Whitman, U.S. Department of Energy, Office of Manufacturing and Energy Supply Chains at Email: FEOCguidance@hq.doe.gov, Telephone: (202) 586-3302.

SUPPLEMENTARY INFORMATION:

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I. Background and Purpose

Section 40207 of BIL (42 U.S.C. 18741) provides DOE \$6 billion to support domestic battery material