

(65 FR 44644) to implement a health insurance premium conversion plan for employees participating in the FEHB Program. These interim regulations were effective on September 18, 2000, and are located at part 892.

The premium conversion plan is part of a "cafeteria plan" under section 125 of the Internal Revenue Code. OPM executed a separate plan document to comply with section 125 requirements, which is available on OPM's Web site: <http://www.opm.gov/insure/health>. OPM also issued separate instructions to personnel and payroll offices.

The premium conversion plan took effect on October 1, 2000. Under the plan, employees' health benefit premium withholdings are treated as a pre-tax salary deduction. Because premium conversion lowers employees' taxable income, it reduces their tax burden. The reduction in taxable income reduces the base for Federal income tax, Social Security and Medicare taxes, and, in most States and localities, State and local taxes based on income.

While most Federal employees are now covered by OPM's premium conversion plan, the Federal Judiciary, the United States Postal Service, and some smaller Executive Branch agencies with independent compensation-setting authority previously implemented their own premium conversion plans. Employees of those entities are not covered by the premium conversion plan described here.

All other employees in the Executive Branch of the Federal government who are participating in the FEHB Program, and whose pay is issued by an Executive Branch agency, automatically have their salary reduced (through a Federal allotment) and their FEHB premiums paid under the premium conversion plan. Also, individuals enrolled in the FEHB Program who are employed outside the Executive Branch, or whose pay is not issued by an Executive Branch agency, have their salaries reduced and their FEHB premiums paid under our premium conversion plan if their employer, in coordination with their payroll office, agreed to offer participation in the plan. However, any individual enrolled in the FEHB Program who does not want to participate in premium conversion may waive participation, subject to the limitations in these regulations.

To ensure that the premium conversion plan qualifies for pre-tax treatment of health insurance premiums, OPM amended its allotment regulations at 5 CFR part 550, subpart C. Each employee participating in premium conversion makes an

allotment to his or her employing agency in the amount of the employee share of the FEHB insurance premium. The agency then uses that amount to pay the employee's premium. The allotment is automatic unless the employee elects to waive premium conversion.

We received comments from three Federal agencies and one Federal employee. One Federal agency had several questions and comments concerning consequences of employee failure to pay union dues when enrolled in a plan that requires such, the availability of belated open season enrollments, LWOP, insufficient pay, early plan termination, and part-time reemployed annuitants. Each of these issues (except reemployed annuitants) was addressed in the final regulation under *Qualifying Life Events* and on the Table of Permissible Changes for Premium Conversion Election. OPM has already provided guidance to agencies on issues relating to reemployed annuitants and will continue to do so through Benefits Administration Letters and the FEHB Handbook. Another commenter asked what the effective date would be for changes from self and family to self only or for cancellations. This document incorporates the change in effective dates for FEHB changes in enrollment first published on August 31, 1998. The answer to this question now would depend upon the employee's premium conversion status, as follows:

For employees participating in premium conversion, a change to self only or cancellation can be made only during the annual open season or because of the occurrence of a qualifying life event as described in section 892.101. A change to self only made during the annual open season is effective on the same date as any other open-season change. A cancellation made during the annual open-season is effective at midnight of the day before the first day of the first pay period that begins in the next year. As of 12:00:01 a.m. on the first day of the first pay period that begins on or after January 1 of the next following year, the enrollee is no longer covered.

A change to self only related to a qualifying life event is effective on the first day of the first pay period that begins after the date the employing office receives the employee's appropriate request. A cancellation made because of a qualifying life event is effective at midnight of the last day of the pay period in which the employing office receives the appropriate request to cancel the enrollment. For convenience, we have

located all information on changes to self only and cancellation in part 892, which specifically applies to employees under premium conversion. Information on changes to self only is in section 892.208, and information on cancellation is in section 892.209.

For enrollees who are not participating in premium conversion (including employees who waived this benefit, annuitants, former spouses, and Temporary Continuation of Coverage (TCC) enrollees), a cancellation or change to self only is not considered an open-season change, even if it is submitted during open season. For effective dates see § 890.301(e)(2), or § 890.304(d)(ii).

Another commenter noted that premium conversion does affect Federal retirement plan benefits, specifically Social Security. The commenter correctly stated that the Federal Employees Retirement System (FERS) is a three-tiered retirement plan made up of Social Security Benefits, a Basic Benefit Plan, and Thrift Savings Plan Benefits. Since employee contributions to FEHB premiums are withheld pre-tax under premium conversion, the employee's taxable income is reduced. This in turn reduces the employee's Social Security taxes, which reduces career earnings, and thus reduces an individual's future Social Security benefits. The commenter requested that we disclose, discuss, and analyze this information so Federal employees make an informed decision. Our actuaries extensively analyzed the effect of premium conversion on future Social Security benefits. Based on that analysis, we concluded that most employees realize far greater savings than they lose in benefits. We provided information to agencies, in Benefits Administration Letters (BALs), and included several worksheets for employees to use to individually calculate savings and reductions in benefits. We also added a series of questions and answers on our Web site (<http://www.opm.gov/insure>) several of which specifically address the impact of premium conversion on Social Security benefits. A third commenter wondered why the rules for switching or canceling under premium conversion should be any different from current time frames in section 890.301. In order for employees to enjoy the tax benefit of premium conversion, our premium conversion plan must comply with Internal Revenue Service rules requiring an election to be irrevocable except during open season, or when a covered person experiences a qualifying life event. With this important exception, there is otherwise a great deal of