

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 894

RIN 3206-AM57

### Federal Employees Dental and Vision Insurance Program; Qualifying Life Event Amendments

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management issued a Notice of Proposed Rulemaking on December 23, 2013, to amend conditions under which Federal employees and retirees may change enrollment under the Federal Employees Dental and Vision Insurance Program. This is the final rule.

**DATES:** This rule is effective August 15, 2014.

**FOR FURTHER INFORMATION CONTACT:** Michael W. Kaszynski, Senior Policy Analyst at [mwkaszyn@opm.gov](mailto:mwkaszyn@opm.gov) or (202) 606-0004.

**SUPPLEMENTARY INFORMATION:** The U.S. Office of Personnel Management (OPM) issued a Notice of Proposed Rulemaking to change some of the requirements for Federal employees and retirees to make enrollment changes under the Federal Employees Dental and Vision Insurance Program (FEDVIP). These expanded enrollment opportunities are intended to better align FEDVIP with specific Federal Employees Health Benefits (FEHB) qualifying life events (QLE). We received no comments on the regulation. The new enrollment opportunities will allow FEDVIP enrollees to make enrollment changes when they get married or return to work after certain periods of leave without pay. FEDVIP enrollees will now be able to enroll or change plans or options when they experience these life events. Previously, enrollees had to wait until

the annual Open Season event to make these changes. This better aligns these enrollment opportunities under both the FEDVIP and the FEHB Programs.

The Federal Employee Dental and Vision Benefits Enhancement Act of 2004 provided OPM the opportunity to establish arrangements under which supplemental dental and vision benefits were made available to Federal employees, retirees, and their family members.

FEDVIP is available to eligible Federal and Postal employees, retirees, and their eligible family members on an enrollee-pay-all basis. This program allows dental and vision insurance to be purchased on a group basis with competitive premiums and no pre-existing condition limitations for enrollment. Premiums for enrolled Federal and Postal employees are withheld from salary on a pre-tax basis.

### Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs 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). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule is not considered a major rule because there will be a minimal impact on costs to Federal agencies.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only adds flexibility to the current enrollment process.

### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative

impact on the rights, roles and responsibilities of State, local, or tribal governments.

### List of Subjects in 5 CFR Part 894

Administrative practice and procedure, Employee benefit plans, Government employees, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

**Katherine Archuleta,**  
*Director.*

Accordingly, OPM amends 5 CFR Part 894 as follows:

### PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

■ 1. The authority citation for part 894 continues to read as follows:

**Authority:** 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110-279, 122 Stat. 2604.

### Subpart E—Enrollment and Changing Enrollment

■ 2. In § 894.501, revise paragraphs (c) and (d) and add new paragraphs (e) and (f) to read as follows:

#### § 894.501 When may I enroll?

\* \* \* \* \*

(c) Within 60 days of when you return to service following a break in service of at least 30 days;

(d) From 31 days before you or an eligible family member loses other dental/vision coverage to 60 days after a QLE that allows you to enroll;

(e) From 31 days before you get married to 60 days after; or

(f) Within 60 days after returning to Federal employment after being on leave without pay if you did not have Federal dental or vision coverage prior to going on leave without pay, or your coverage was terminated or canceled during your period of leave without pay.

■ 3. In § 894.502, revise paragraphs (b) and (c) and add new paragraphs (d) and (e) to read as follows:

#### § 894.502 What are the Qualifying Life Events (QLEs) that allow me to enroll?

\* \* \* \* \*

(b) Your annuity or compensation is restored after having been terminated;

(c) You return to pay status after being on leave without pay due to deployment to active military duty;

(d) You get married; or  
(e) You return to Federal employment after being on leave without pay if you did not have Federal dental or vision coverage prior to going on leave without pay, or your coverage was terminated or canceled during your period of leave without pay.

■ 4. In § 894.507, revise paragraph (a) to read as follows:

**§ 894.507 After I'm enrolled, may I change from one dental or vision plan or plan option to another?**

(a) You may change from one dental and/or vision plan to another plan or one plan option to another option in that same plan during the annual open season, when you get married, or when you return to Federal employment after being on leave without pay if you did not have Federal dental or vision coverage prior to going on leave without pay, or your coverage was terminated or canceled during your period of leave without pay.

\* \* \* \* \*

■ 5. In § 894.508, revise paragraph (e) to read as follows:

**§ 894.508 When may I increase my type of enrollment?**

\* \* \* \* \*

(e) You may not change from one dental or vision plan to another, except as stated in § 894.507.

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**DEPARTMENT OF AGRICULTURE**

**7 CFR Part 15d**

**RIN 0503-AA52**

**Nondiscrimination in Programs or Activities Conducted by the United States Department of Agriculture**

**AGENCY:** United States Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** The United States Department of Agriculture (USDA or Department) is amending its regulation on nondiscrimination in programs or activities conducted by the Department. The changes clarify the roles and responsibilities of USDA's Office of the Assistant Secretary for Civil Rights (OASCR) and USDA agencies in enforcing nondiscrimination in programs or activities conducted by the Department and strengthens USDA's civil rights compliance and complaint processing activities to better protect the rights of USDA customers. OASCR's compliance activities are detailed, and a

requirement is included that each agency shall, for civil rights compliance purposes, collect, maintain and annually compile data on the race, ethnicity, and gender (REG) of all conducted program applicants and participants by county and State. Applicants and program participants will provide the race, ethnicity, and gender data on a voluntary basis. The amendment also provides that OASCR shall offer Alternative Dispute Resolution (ADR) services to complainants where appropriate. This amendment is intended to encourage the early resolution of customer complaints. Finally, USDA is amending its regulation to add protection from discrimination in programs or activities conducted by the Department with respect to two new protected bases, political beliefs, and gender identity. The Secretary has decided to establish gender identity as a separate protected basis for USDA's conducted programs and activities. This amendment is meant to make explicit protections against discrimination based on USDA program customers' political beliefs or gender identity. Gender identity includes USDA program customers' gender expression, including how USDA program customers act, dress, perceive themselves, or otherwise express their gender.

**DATES:** Effective July 16, 2014.

**FOR FURTHER INFORMATION CONTACT:** Anna Stroman at 202-205-5953 or [anna.stroman@ascr.usda.gov](mailto:anna.stroman@ascr.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

This rule follows the USDA proposed rule published on December 27, 2013, (78 FR 78788-249). The USDA is amending its regulation on nondiscrimination in programs or activities conducted by the Department. In 1964, USDA adopted Title VI principles to its federally conducted activities by prohibiting discrimination on the basis of race, color, and national origin. (See 29 FR 16966, creating 7 CFR part 15, subpart b, referring to nondiscrimination in direct USDA programs and activities, now found at 7 CFR part 15d). Subsequently, USDA expanded the protected bases for its conducted programs to include religion, sex, age, marital status, familial status, sexual orientation, disability, and whether any portion of a person's income is derived from public assistance programs. The intention is to hold the Department to a higher standard than our recipients.

The regulation was last revised in 1999 (64 FR 66709, Nov. 30, 1999). The

changes will clarify the roles and responsibilities of OASCR and USDA agencies in enforcing nondiscrimination in programs or activities conducted by the Department ("conducted programs") and strengthen USDA's civil rights compliance and complaint processing activities to better protect the rights of USDA customers. This regulation does not address those programs for which the Department provides Federal financial assistance<sup>1</sup> ("assisted programs").

*Highlights of Changes to the Regulation*

The final regulation outlines three specific changes to current activities. First, the final regulation includes a requirement that each agency shall, for civil rights compliance purposes, collect, maintain, and annually compile data on the race, ethnicity, and gender of all applicants and participants of programs and activities conducted by USDA by county and State. Applicants and program participants of these programs will provide this data on a voluntary basis. Although USDA first established a policy for collecting data on race, ethnicity, and gender in 1969, there is currently no uniform requirement for reporting and tabulating this data across USDA's diverse program areas. The three USDA agencies that administer the majority of USDA's conducted programs—the Farm Services Agency (FSA), the Natural Resources Conservation Service (NRCS), and the Forest Service (FS) and Rural Development (RD)—already collect this data from individuals. FSA, NRCS, and RD (the "field based agencies") collect this data under the requirements of section 14006 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), which requires collection of this data for each program that serves agricultural producers and landowners. This data allows USDA to track application and participation rates for socially disadvantaged and limited resources applicants and participants. Together, these four agencies capture more than 90 percent of the contacts USDA has with the public through its conducted programs. This final regulation will standardize the recordkeeping requirement across the Department to all programs conducted by USDA that deliver benefits to the

<sup>1</sup> Federally assisted programs are programs and activities receiving financial assistance through a third party such as a State or municipal government, university, or organization. Federally conducted programs, which are those programs covered in this regulation, are programs and activities for which program services, benefits or resources are delivered directly to the public by USDA.