

your employing agency. Your employing agency will transfer in your FEHB coverage from the retirement system, and your employing agency will assume responsibility for contributing the government share of your FEHB coverage. Your coverage, including what FEHB plans you are eligible to enroll in, will be based on your status as an active employee and your employing agency will deduct your premiums from your salary.

(2) If you do not notify your employing agency that you wish to participate in premium conversion, you will keep your FEHB coverage as a survivor annuitant, but your contributions towards your FEHB premiums will be made on an after-tax basis. Your status as an annuitant under the retirement regulations and your right to continue FEHB as a survivor annuitant following your period of employment is unaffected.

[68 FR 56529, Oct. 1, 2003]

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

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SOURCE: 73 FR 50184, Aug. 26, 2008, unless otherwise noted.

### Subpart A—Administration and General Provisions

#### § 894.101 Definitions.

This part is written as if the reader were an applicant or *enrollee*. Accordingly, the terms “you,” “your,” etc., refer, as appropriate, to the applicant or *enrollee*.

*Acquiring an eligible child* means one of the following:

- (1) Birth of a child;
- (2) Adoption of a child;
- (3) Acquisition of a foster child as described in § 890.101(a)(8) of this chapter;
- (4) Acquisition of a stepchild who lives with the *enrollee* in a regular parent-child relationship;
- (5) Establishment of a recognized natural child;
- (6) Residence change of the *enrollee's* stepchild or recognized natural child who moves in with the *enrollee*; and
- (7) An otherwise eligible child becoming unmarried due to divorce or annulment of marriage, or death.

*Administrator* means the entity with which the Office of Personnel Management contracts to manage the enrollment and premium payment process for the Federal Employees Dental and Vision Insurance Program (FEDVIP).

*Annuitant* means an individual defined at 5 U.S.C. 8901(3). Generally, the term means a former *employee* or *employee* of the United States Postal Service who is entitled to an immediate annuity or a disability annuity under a retirement system established for *employees*. The term also generally includes those receiving a survivor annuity due to the death of an *employee* or *employee* of the United States Postal Service or annuitant (survivor annuitants) and those receiving compensation from the Office of Workers' Compensation Programs (compensationers). The term does not include former *employees* who retire with a deferred annuity under 5 U.S.C. 8413, or former spouses of annuitants.

*Carrier* means a company with which the Office of Personnel Management contracts to provide dental and/or vision benefits.

*Child* means:

(1) Except as discussed in paragraph (4) of this definition, a child is one of the following:

- (i) A child born within marriage;
- (ii) An adopted child;
- (iii) A stepchild or foster child who lives with the *enrollee* in a regular parent-child relationship; or
- (iv) A recognized natural child.

(2) This definition does not include a grandchild (unless the grandchild meets all the requirements of a foster child as stated in § 894.101(a)(8) of this chapter).

(3) The child must be unmarried and under age 22. A child age 22 or over is eligible if the child is incapable of self-support because of a physical or mental disability that existed before the child reached age 22.

(4) With respect to a *TEI*, *child* means a *TEI* child.

*Compensation* has the same meaning as found under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

*Compensationner* means an individual who is receiving compensation and who

the Department of Labor determines is unable to return to duty.

*Covered position* means a position in which an *employee* is not excluded from FEDVIP eligibility by law or regulation.

*Days* means calendar days.

*Dependent* means an unmarried child who is living with or receiving regular and substantial support from the *enrollee*.

*Employee* means an individual defined in 5 U.S.C. 8901. For the purposes of this subpart, the term *employee* additionally means an employee of the United States Postal Service and an *employee* of the District of Columbia courts.

*Enrollee* means the individual in whose name the FEDVIP enrollment is carried. There is one FEDVIP enrollment for each *enrollee* in a dental plan, and/or in a vision plan and that enrollment may include *family members* who may be covered by the enrollment. The term *enrollee* includes individuals eligible to enroll based upon a status described at subpart C of this part, who enroll and are covered. With respect to the Federal workforce, an *enrollee* generally means an *employee* or *annuitant*. With respect to the United States Postal Service, an *enrollee* generally means an *employee* or *annuitant* of the United States Postal Service. With respect to a *TEI*, an *enrollee* generally means the *sponsor* who is a *TEI* with respect to a FEDVIP plan; but if the *sponsor* is not a *TEI*, or for FEDVIP dental benefits if the *sponsor* defined at § 894.804 is not enrolled and meets a condition at § 894.309(a)(3)(iii), then enrollee means the *TEI* certifying family member. A *TEI* former spouse may be an enrollee only for a self-only FEDVIP vision plan. An *enrollee* may enroll and elect a FEDVIP dental and/or vision plan, option, and type of enrollment, except as provided at § 894.309.

*Enrollment reconsideration* means the *Administrator's* review of its initial enrollment decision to determine if it followed the law and regulations correctly in making the initial decision concerning FEDVIP eligibility.

*Family member* means a spouse (including a spouse under a valid common

law marriage) and/or unmarried dependent child(ren) under age 22 or beyond age 22, if incapable of self-support because of mental or physical disability which existed before reaching age 22, as defined at 5 U.S.C. 8901(5). With respect to a *TEI*, the term *family member* means a *TEI family member*.

*OPM* means the Office of Personnel Management.

*OWCP* means the Office of Workers' Compensation Programs, U.S. Department of Labor.

*Premium conversion* means the payment of FEDVIP premiums by an *employee* or United States Postal Service employee using pre-tax dollars. See § 892.102 of this chapter for a discussion of how *premium conversion* works.

*QLE* means a qualifying life event.

*Recognized natural child* means a biological child born outside of marriage. A recognized natural child is an eligible family member if the child lives with the *enrollee* or receives financial support from the *enrollee*.

*Regular parent-child relationship* means that the *enrollee* is exercising parental authority, responsibility, and control over the child; is caring for, supporting the child; and is making the decisions about the child's education and medical care.

*Sponsor* generally means the individual who is eligible for medical or dental benefits under 10 U.S.C. chapter 55 based on his or her direct affiliation with the uniformed services (including members of the National Guard and Reserves), in accordance with § 894.804.

*Stepchild* means your spouse's child born within or outside marriage or their adopted child. The child of your spouse shall continue to be considered your stepchild after your divorce from your spouse or the death of your spouse so long as the child continues to live with you in a regular parent-child relationship.

*TEI* means *TRICARE-eligible individual for FEDVIP dental benefits (TEI-D)* or a *TRICARE-eligible individual for FEDVIP vision benefits (TEI-V)*.

*TEI certifying family member* means, where the *sponsor* is not an *enrollee* under § 894.309, the *TEI family member* who may accept responsibility to self-certify as an *enrollee* in accordance with § 894.809.

*TEI child* means an individual who is a *TEI* and who meets the definition of dependent in 10 U.S.C. 1072(2)(D) or (I) with respect to a *sponsor*.

*TEI family member* means a *TEI* who is a dependent with respect to a *sponsor*, as defined in 10 U.S.C. 1072(2)(A) (spouse), 10 U.S.C. 1072(2)(B) (unremarried widow), 10 U.S.C. 1072(2)(C) (unremarried widower), 10 U.S.C. 1072(2)(D) (child), or 10 U.S.C. 1072(2)(I) (unmarried person).

*TEI former spouse* means a *TEI* who is an unremarried former spouse as defined in 10 U.S.C. 1072(2)(F), (G), or (H) and is entitled to medical care under 10 U.S.C. 1086(c) or (d).

*TRICARE-eligible individual (TEI)* means a *TRICARE-eligible individual for FEDVIP dental benefits (TEI-D)* or a *TRICARE-eligible individual for FEDVIP vision benefits (TEI-V)*, as the case may be.

*TRICARE-eligible individual for FEDVIP dental benefits (TEI-D)* means an individual who is eligible for FEDVIP dental coverage based on the individual's eligibility to enroll or be covered under the TRICARE Retiree Dental Program, 10 U.S.C. 1076c(b) in accordance with § 894.802.

*TRICARE-eligible individual for FEDVIP vision benefits (TEI-V)* means an individual who is eligible for FEDVIP vision coverage based on the individual's enrollment in a specified TRICARE health plan in accordance with § 894.803.

*Type of enrollment* means one of the following:

- (1) Self only;
- (2) Self plus one; or
- (3) Self and family.

[73 FR 50184, Aug. 26, 2008, as amended at 78 FR 64879, Oct. 30, 2013; 81 FR 86906, Dec. 2, 2016; 83 FR 32193, July 12, 2018; 83 FR 58177, Nov. 19, 2018; 84 FR 1599, Feb. 5, 2019; 84 FR 26544, June 7, 2019; 88 FR 47745, 47749, July 25, 2023]

#### **§ 894.102 If I have a pre-existing dental or vision condition, may I join FEDVIP?**

Yes. Pre-existing conditions do not exclude you from coverage under FEDVIP. The *Administrator* may not deny an individual the right to enroll solely because of a preexisting dental or vision condition.

## § 894.103

### § 894.103 How do I enroll?

You may enroll through an *Administrator* contracted by OPM to facilitate the enrollment process. Your Federal agency, retirement system, or *OWCP* office will advise you of the enrollment process available to you.

### § 894.104 Who makes enrollment decisions and reconsiderations?

The *Administrator* makes enrollment decisions and the *Administrator* reviews requests for reconsideration of an enrollment decision. The *Administrator's* initial enrollment decision denying enrollment or an opportunity to change coverage must be in writing and must inform you about your right to reconsideration.

### § 894.105 Who may correct an error in my enrollment?

(a) The *Administrator* may correct administrative errors about the processing of your enrollment or changes in enrollment.

(b) OPM may order correction of an administrative error or other non-compliance with FEDVIP rules in this part if it receives evidence that it would be against equity (fairness) and good conscience not to order the correction. Corrections are made at the discretion of OPM and are not subject to review.

(c) If the correction gives you or a *family member* retroactive coverage, you must pay the premiums for all periods of the retroactive coverage. Retroactive premiums will not be on a pre-tax basis (they are not subject to premium conversion).

[73 FR 50184, Aug. 26, 2008, as amended at 88 FR 47746, July 25, 2023]

### § 894.106 Special provisions for TRICARE-eligible individuals (TEI).

Generally, applicable provisions of this part are effective for *TEIs*. Provisions that are specific to Federal *employees*, *annuitants* and their *family members* do not apply to *TEIs*. See § 894.101 for application of defined terms to *TEIs* and subpart H of this part for special provisions for *TEIs*, which governs in the event of ambiguity.

[83 FR 58178, Nov. 19, 2018]

## 5 CFR Ch. I (1–1–24 Edition)

### Subpart B—Coverage and Types of Enrollment

#### § 894.201 What types of enrollments are available under FEDVIP?

FEDVIP has three *types of enrollment*:

(a) Self only, which covers only the *enrollee*;

(b) Self plus one, which covers the *enrollee* plus one *family member*; and

(c) Self and family, which covers the *enrollee* and all *family members*.

[88 FR 47746, July 25, 2023]

#### § 894.202 I am an enrollee; if I enroll for self plus one, may I decide which family member to cover?

Yes, if you enroll for self plus one, you must state at the time you enroll which eligible *family member* you want to cover under your enrollment.

[73 FR 50184, Aug. 26, 2008, as amended at 88 FR 47746, July 25, 2023]

#### § 894.203 May I be enrolled in more than one dental or vision plan at a time?

You may be enrolled or be covered in a FEDVIP dental plan and a separate FEDVIP vision plan at the same time. But no one may enroll or be covered as a family member in a FEDVIP dental or vision plan if he or she is covered under another person's FEDVIP dental or vision self plus one or self and family enrollment, except as provided under § 890.302(a)(2) of this chapter, with respect to dual enrollments. If two parents of a *TEI* child are entitled to be a sponsor, they must choose one parent to be the child's sponsor. Dual enrollments of *TEIs* are permitted as provided under § 890.302(a)(2) of this chapter as applicable to *TEI* family members.

[88 FR 47746, July 25, 2023]

### Subpart C—Eligibility

#### § 894.301 Am I eligible to enroll in FEDVIP as an employee?

You are eligible if—

(a) You meet the definition of *employee* in 5 U.S.C. 8901(1), unless you are in an excluded position;

(b) You are an employee of the United States Postal Service or the District of Columbia courts;

(c)(1) You were employed by the Architect of the Capitol as a Senate Restaurants *employee* the day before the food services operations of the Senate Restaurants were transferred to a private business concern; and

(2) You accepted employment by the business concern and elected to continue your Federal retirement benefits and your FEDVIP coverage. You continue to be eligible for FEDVIP coverage as long as you remain employed by the business concern or its successor; or

(d) You are an *employee* in a position identified by OPM that provides emergency response services for wildland fire protection pursuant to § 890.102(h) of this chapter; or you are an *employee* pursuant to § 890.102(i) of this chapter, under which, upon request by the employing agency, OPM may grant eligibility to employees performing similar types of emergency response services. OPM may limit the coverage of intermittent *employees* to the periods of time during which they are in a pay status pursuant to § 890.102(i) of this chapter.

[75 FR 20514, Apr. 20, 2010, as amended at 88 FR 47746, 47749, July 25, 2023]

#### § 894.302 What is an excluded position?

Excluded positions are described in 5 U.S.C. 8901(1)(i), (ii), (iii), and (iv) and § 890.102(c) of this chapter, except that employees of the United States Postal Service, District of Columbia courts, and employees identified in § 890.102(c)(9)(i) and (ii) of this chapter are not excluded positions. You are in an excluded position if you are:

(a) An *employee* of a corporation supervised by the Farm Credit Administration, if private interests elect or appoint a member of the board of directors.

(b) An *employee* who is not a citizen or national of the United States and your permanent duty station is outside the United States. *Exception:* You are eligible if you met the definition of *employee* on September 30, 1979, by service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area that was then known as the Canal Zone.

(c) An *employee* of the Tennessee Valley Authority.

(d) An individual first employed by the Government of the District of Columbia on or after October 1, 1987, except *employees* of the District of Columbia Courts and those *employees* defined at § 890.102 (c)(8) of this chapter.

(e) Serving under an appointment limited to 1 year or less. *Exceptions:* You are eligible if:

(1) You are an acting postmaster;

(2) You are a Presidential appointee appointed to fill an unexpired term;

(3) You are an *employee* with a provisional appointment, as defined in §§ 316.401 and 316.403 of this chapter;

(4) You have completed 1 year of current continuous employment, excluding any break in service of 5 *days* or less;

(5) You are an *employee* working on a temporary appointment, and if you meet the conditions in § 890.102(j) of this chapter, you are eligible to enroll in a FEDVIP plan upon notification by your employing office; or

(6) You are an employee of the United States Postal Service working on a temporary appointment, and if you meet the conditions of § 890.102(j) of this chapter except the requirement of being a non-Postal employee, you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(f) Expected to work fewer than six months in each year. *Exceptions:* You are eligible if:

(1) You receive an appointment of at least one year's duration as an Intern under § 213.3402(a) of this chapter. To qualify, you must be expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

(2) You are an *employee* working on a seasonal schedule of less than 6 months in a year, and if you meet the conditions in § 890.102(j) of this chapter, you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(3) You are an employee of the United States Postal Service working on a seasonal schedule of less than 6 months

in a year, and if you meet the conditions in § 890.102(j) of this chapter except the requirement of being a non-Postal employee, you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(g)(1) An intermittent *employee* (a non-full-time *employee* without a pre-arranged regular tour of duty). *Exception:* If you are an *employee* working on an intermittent schedule and if you meet the conditions in § 890.102(j) of this chapter you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(2) An intermittent employee of the United States Postal Service (a non-full-time employee without a pre-arranged regular tour of duty). *Exception:* If you are an employee of the United States Postal Service working on an intermittent schedule, and if you meet the conditions of § 890.102(j) of this chapter except the requirement of being a non-Postal employee, you are eligible to enroll in a FEDVIP plan upon notification by your employing office.

(h) A beneficiary or patient *employee* in a Government hospital or home.

(i) Paid on a contract or fee basis. *Exception:* You are eligible if you are a United States citizen, and you are appointed by a contract between you and the Federal employing authority. To qualify, your contract must require your personal service, and you must be paid on the basis of units of time.

(j) Paid on a piecework basis. *Exception:* You are eligible if your work schedule provides for full-time or part-time service, and you have a regularly scheduled tour of duty.

(k) The following positions are not excluded positions:

(1) An *employee* appointed to perform “part-time career employment,” as defined in section 3401 (2) of title 5, U.S.C., and 5 CFR part 430, subpart B; or

(2) An *employee* serving under an interim appointment established under § 772.102 of this chapter.

(l) For purposes of this subpart and as defined in § 890.102(j)(4) of this chapter, *qualifying leave without pay hours* means hours of leave without pay for purposes of taking leave under the Family and Medical Leave Act for per-

formance of duty in the Uniformed Services under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*, for receiving medical treatment under Executive Order 5396 (July 7, 1930), and for periods during which workers compensation is received under the Federal Employees Compensation Act, 5 U.S.C. chapter 81.

(m) Once an *employee* or an employee of the United States Postal Service is properly enrolled under paragraphs (e) through (g) of this section and meets the applicable conditions in § 890.102(j) of this chapter, enrollment will not be terminated, regardless of his or her actual work schedule or employer expectations in subsequent years, unless the *employee* or employee of the United States Postal Service separates from service, receives a new appointment (in which case eligibility will be determined by the rules in this part applicable to the new appointment), or otherwise meets one of the circumstances for termination or cancellation of coverage in §§ 894.601 and 894.602.

[73 FR 50184, Aug. 26, 2008, as amended at 75 FR 20514, Apr. 20, 2010; 79 FR 532, Jan. 6, 2014; 81 FR 58382, Aug. 25, 2016; 88 FR 47746, 47749, July 25, 2023]

#### **§ 894.303 What happens to my enrollment if I transfer to an excluded position?**

(a) If you have FEDVIP coverage and you transfer to a position excluded under § 894.302(a) through (d), your enrollment stops.

(b) If you have FEDVIP coverage and you transfer to a position excluded under § 894.302(e) through (j) with no break in service of more than 3 days, your enrollment is not affected. If you have a break in service of more than 3 days, your enrollment stops.

(c) If you did not elect to enroll in FEDVIP and then transfer to an excluded position, you lose all rights to enroll at that time.

#### **§ 894.304 Am I eligible to enroll if I'm retired or receiving workers' compensation?**

If you are retired, receiving workers' compensation, or are a survivor annuitant, you are eligible if you meet the

definition of *annuitant* in 5 U.S.C. 8901(3).

**§ 894.305 Am I eligible to enroll if I am a former spouse receiving an apportionment of annuity?**

No. Former spouses receiving an apportionment of annuity are not eligible to enroll in FEDVIP. However, a *TEI former spouse* is eligible to enroll in a FEDVIP vision plan as long as he or she remains unremarried.

[83 FR 58178, Nov. 19, 2018]

**§ 894.306 Are foster children eligible as family members?**

Generally, foster children are eligible for coverage as *family members* under FEDVIP. However, a foster child is excluded from the definition of a *TEI family member*, except a foster child who is a ward in the legal custody of a *sponsor*. A pre-adoptive child and an eligible ward in the legal custody of a *sponsor* are eligible as *TEI family members*.

[84 FR 26544, June 7, 2019]

**§ 894.307 Are disabled children age 22 or over eligible as family members?**

(a) Except as provided at paragraph (b) of this section, a *child* age 22 or over is an eligible *family member* if the *child* is incapable of self-support because of a physical or mental disability that existed before the *child* reached age 22.

(b) A *TEI child* is a *TEI family member* as long as the *TEI child* is under the age of 21 or 23 as provided at 10 U.S.C. 1072(2)(D) or (I), and, if disabled during the age of eligibility, the *TEI child* remains a *TEI family member* regardless of age as long as the *TEI child* meets the standard for incapacity and support at 10 U.S.C. 1072(2)(D)(iii) or incapacity and dependency at 10 U.S.C. 1072(2)(I)(ii)(III), (iii), (iv) and (v).

[83 FR 58178, Nov. 19, 2018]

**§ 894.308 How do I establish the dependency of my recognized natural child?**

(a) Dependency is established for a recognized natural child who lives with the *enrollee* in a regular parent-child relationship, a recognized natural child for whom a judicial determination of support has been obtained, or a recognized natural child to whose support

the *enrollee* makes regular and substantial contributions.

(b) The following are examples of proof of regular and substantial support. More than one of the following proofs may be required to show support of a recognized natural child who does not live with the *enrollee* in a regular parent-child relationship and for whom a judicial determination of support has not been obtained:

(1) Evidence of eligibility as a dependent child for benefits under other State or Federal programs;

(2) Proof of inclusion of the child as a dependent on the *enrollee's* income tax returns;

(3) Canceled checks, money orders, or receipts for periodic payments from the *enrollee* for or on behalf of the child.

(4) Evidence of goods or services which show regular and substantial contributions of considerable value;

(5) Any other evidence which OPM shall find to be sufficient proof of support or of paternity or maternity.

[78 FR 64879, Oct. 30, 2013, as amended at 88 FR 47749, July 25, 2023]

**§ 894.309 I am a TEI-D or TEI-V. Am I eligible to enroll in FEDVIP, and cover my TEI family members?**

(a) *FEDVIP dental plan*. (1) A *sponsor* who is a *TEI-D* is eligible to enroll and cover *TEI-D family members* under the enrollment.

(2) A *sponsor* who is a *TEI-D* but who does not enroll even though eligible, is not an *enrollee* and cannot enroll or cover *TEI family members*.

(3) A *TEI certifying family member* who is a *TEI-D* is eligible to enroll and to cover *TEI-D family members* under the enrollment when:

(i) The *sponsor* is not a *TEI-D*;

(ii) The *sponsor* is deceased; or

(iii) The *sponsor* is a *TEI-D* described at § 894.804(b)(1) or (2) who does not enroll (therefore is not an *enrollee* and cannot cover *TEI family members*) and the *sponsor*:

(A) Receives dental services from the Department of Veterans Affairs (VA);

(B) Has employer-sponsored dental coverage without a family coverage option; or



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(C) Has a medical or dental condition that prevents him or her from obtaining dental benefits.

(b) *FEDVIP vision plan.* (1) A *sponsor* who is a *TEI-V* is eligible to enroll and cover *TEI-V family members*.

(2) A *TEI certifying family member* who is a *TEI-V* is eligible to enroll and cover *TEI-V family members* under the enrollment when:

- (i) The *sponsor* is not a *TEI-V*; or
- (ii) The *sponsor* is deceased.

(3) A *TEI former spouse* is eligible to enroll for self only, but may not elect a self plus one or self and family *type of enrollment* and may not cover *family members*, even if they are *TEI family members*.

[83 FR 58178, Nov. 19, 2018]

### Subpart D—Cost of Coverage

#### § 894.401 How do I pay premiums?

(a) *Employees* and employees of the United States Postal Service pay premiums through payroll allotments.

(b) *Annuitants* and survivor *annuitants* pay premiums through annuity allotments.

(c) *Compensationers* pay premiums through allotments from *compensation* payments.

(d) In limited circumstances, individuals may make direct premium payments. See § 894.405.

(e) A *sponsor*, *TEI certifying family member*, *TEI former spouse*, or *TEI* who is an unremarried survivor pays premiums the following ways:

(1) A *sponsor* or *TEI certifying family member* who receives uniformed services pay or uniformed services retirement pay shall pay premiums through deduction from payroll (including uniformed services retirement pay deduction).

(2) A *sponsor* or *TEI certifying family member* who is not described in paragraph (e)(1) of this section, and a *TEI former spouse* or *TEI* who is an unremarried survivor shall pay premiums through:

- (i) Automatic bank withdrawal; or
- (ii) Direct premium payments.

[73 FR 50184, Aug. 26, 2008, as amended at 83 FR 58179, Nov. 19, 2018; 88 FR 47747, July 25, 2023]

#### § 894.402 Do the premiums I pay reflect the cost of providing benefits?

The premiums you pay shall reasonably and equitably reflect the cost of the benefits provided.

#### § 894.403 Are FEDVIP premiums paid on a pre-tax basis?

(a) Your FEDVIP premiums are paid on a pre-tax basis (called premium conversion) if you are an active *employee* or *employee* of the United States Postal Service, your salary is sufficient to make the premium allotments, and your agency will be able to make pre-tax allotments.

(b) Your FEDVIP premiums are *not* paid on a pre-tax basis if:

(1) You are an *employee* or employee of the United States Postal Service in nonpay status or an *employee* or employee of the United States Postal Service whose salary is not high enough to make premium allotments, or your agency is unable to make pre-tax allotments;

(2) You are an *annuitant*, a survivor~~annuitant~~, or a *compensation*er;

(3) Your enrollment change was made effective retroactively which resulted in additional premium withholdings, unless it is as a result of birth or adoption of a *child*;

(4) You have been approved to pay premiums directly to the *Administrator*;

(5) You are a *TEI*; or

(6) You are an employee of the United States Postal Service not eligible to enroll in the FEHB Program under part 890 of this chapter.

[73 FR 50184, Aug. 26, 2008, as amended at 78 FR 64879, Oct. 30, 2013; 83 FR 32193, July 12, 2018; 83 FR 58179, Nov. 19, 2018; 88 FR 47747, July 25, 2023]

#### § 894.404 May I opt out of premium conversion?

No, all enrolled *employees* whose salary is sufficient to make premium allotments and whose agency is able to make pre-tax allotments must participate in premium conversion.

[73 FR 50184, Aug. 26, 2008, as amended at 88 FR 47749, July 25, 2023]

## Office of Personnel Management

## § 894.501

### § 894.405 What happens if I go into nonpay status or if my pay/annuity is insufficient to cover the allotments?

(a) If your pay, *annuity*, or *compensation* is too low to cover the premium allotments, or if you go into a nonpay status, contact the *Administrator* to arrange to pay your premiums directly to the *Administrator*.

(b) If you do not make the premium payments, your FEDVIP coverage will stop. You will not be able to reenroll until the next open season after:

(1) You are in pay status; or

(2) Your pay is sufficient to make the premium allotments.

(c) If you are a FEDVIP *enrollee*, who due to a lapse in appropriations is furloughed or excepted from furlough and working without pay due to such a lapse, your FEDVIP coverage will not stop during such a lapse. Upon the end of such a lapse, premiums will be paid to the Carrier from back pay made available as soon as practicable upon the end of such a lapse.

[73 FR 50184, Aug. 26, 2008, as amended at 86 FR 17274, Apr. 2, 2021; 88 FR 47749, July 25, 2023]

### § 894.406 What happens if my uniformed services pay or uniformed services retirement pay is insufficient to cover my FEDVIP premiums, or I go into a nonpay status?

(a) You must contact the *Administrator* to arrange to pay your premiums by direct premium payment or automatic bank withdrawal to the *Administrator*.

(b) If you do not make the premium payments, your FEDVIP coverage will stop. You will not be able to reenroll until the next open season after:

(1) You are in pay status; or

(2) Your uniformed services pay or uniformed services retirement pay (retired, retainer, or equivalent) is sufficient to make the premium payment.

(c) If you are a FEDVIP *enrollee* who is furloughed or excepted from furlough and working without pay due to such a lapse, your coverage will not stop during such a lapse. Upon the end of such

a lapse, premiums will be paid to the Carrier using back pay.

[83 FR 58179, Nov. 19, 2018, as amended at 86 FR 17274, Apr. 2, 2021; 88 FR 47749, July 25, 2023]

## Subpart E—Enrollment and Changing Enrollment

### § 894.501 When may I enroll?

You may enroll:

(a) During the annual open season;

(b) Within 60 *days* after you first become eligible as:

(1) A new *employee* or employee of the United States Postal Service;

(2) A previously ineligible *employee* or employee of the United States Postal Service who transfers to a covered position;

(3) A new survivor *annuitant*, if not already covered under FEDVIP;

(4) An *employee* or an employee of the United States Postal Service working on a temporary appointment as stated in § 894.302(e)(5); an *employee* or employee of the United States Postal Service working on a seasonal schedule as stated in § 894.302(f); or an *employee* or employee of the United States Postal Service working on an intermittent schedule as stated in § 894.302(g);

(5) An *employee* in a position identified by OPM that provides emergency response services for wildland fire protection pursuant to § 890.102(h) of this chapter; or an *employee* performing similar types of emergency response services pursuant to § 890.102(i) of this chapter for whom OPM grants eligibility to enroll based on a request by the employing agency. In granting eligibility requests, OPM may limit the coverage of intermittent employees to the periods of time during which they are in a pay status;

(6) A *TEI certifying family member*, but only if, on your first date of eligibility to enroll, your *sponsor* is not a *TEI* or is deceased, or for FEDVIP dental coverage, if your *sponsor* is defined at § 894.309(a)(3)(iii); or

(7) A *TEI former spouse*;

(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

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or vision coverage to 60 days after a QLE that allows you to enroll;

(e) For a *sponsor* who becomes eligible as a *TEI*, from 31 days before you lose other dental or vision coverage as an active duty service member to 60 days after you become eligible to enroll as a uniformed services retiree who is a *TEI*;

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

(g) Within 60 days after returning to Federal employment or employment with the United States Postal Service 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;

(h) Within 60 days of your *annuity* or *compensation* being restored after having been terminated; or

(i) For a *TEI*, within 60 days of your uniformed services pay or uniformed services retirement pay being restored after having been reduced, forfeited, or terminated.

[73 FR 50184, Aug. 26, 2008, as amended at 75 FR 20514, Apr. 20, 2010; 79 FR 41405, July 16, 2014; 83 FR 58179, Nov. 19, 2018; 88 FR 47747, July 25, 2023]

### **§ 894.502 What are the Qualifying Life Events (QLEs) that allow me to enroll or become covered in FEDVIP outside of open season?**

You may enroll or become covered outside of open season if you are otherwise eligible to enroll and:

(a) You or a *family member* or *TEI family member* lose other dental/vision coverage;

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

(c) You return to pay status as an *employee* or employee of the United States Postal Service after being on leave without pay due to deployment to active military duty;

(d) You are an *employee* or employee of the United States Postal Service and you get married;

(e) You return to Federal employment or employment of the United States Postal Service 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;

(f) You are a *TEI* and your uniformed services pay or uniformed services retirement pay is restored after having been reduced, forfeited, or terminated; or

(g) You are not a *TEI* and you marry a *TEI* and can be covered as a *TEI family member*; or, you are not a *TEI* and you marry a non-*TEI sponsor* that is on active duty and can be covered as a *TEI certifying family member*. However, upon remarriage, a *TEI former spouse* or *TEI surviving spouse* or widow loses status as a *TEI* with respect to a former or deceased *sponsor*.

[73 FR 50184, Aug. 26, 2008, as amended at 79 FR 41405, July 16, 2014; 83 FR 58179, Nov. 19, 2018; 88 FR 47748, July 25, 2023]

### **§ 894.503 Are belated enrollments or changes allowed?**

(a) The time limit for enrolling or changing your enrollment may be extended up to 3 months after the date you became newly eligible or had a QLE or after the end of an open season. To qualify, you must demonstrate to the *Administrator* that you were not able to enroll or change your enrollment on time for reasons beyond your control.

(b) If the *Administrator* allows you to make a belated enrollment or enrollment change, you must enroll or change within 30 *days* after the *Administrator* notifies you of its determination.

### **§ 894.504 When is my enrollment effective?**

(a) Open season enrollments are effective on the date set by OPM.

(b) If you enroll when you first become eligible your enrollment is effective the 1st *day* of the pay period following the one in which the *Administrator* receives your enrollment, but no earlier than December 31, 2006.

(c) If you are a *TEI* and enroll or are enrolled during the open season, your enrollment is effective no earlier than January 1, 2019.

(d) Outside of open season, if you are an active duty service member who becomes a uniformed services retiree (*TEI*) and enroll or are enrolled 31 days

before you lose other dental or vision coverage, your enrollment is effective no earlier than the date you lost other coverage.

(e) A *QLE* enrollment or change is effective the 1st *day* of the pay period following the date of your *QLE*.)

(f)(1) A belated open season enrollment or change is effective retroactive to the date it would have been effective if you had made a timely enrollment or request for a change.

(2) Any belated enrollment or change outside of open season that goes beyond the allowable 60-day enrollment timeframe is effective retroactive to the 1st *day* of the pay period following the one in which you became newly eligible or the date of your *QLE*.

(3) You must pay any retroactive premiums due to a belated enrollment or request for a change.

[73 FR 50184, Aug. 26, 2008, as amended at 83 FR 58179, Nov. 19, 2018; 88 FR 47748, July 25, 2023]

**§ 894.505 Are retroactive premiums paid with pre-tax dollars (premium conversion)?**

Retroactive premiums are not paid under premium conversion, except when you are changing your enrollment retroactively as a result of birth or adoption of a *child*. Any additional withholdings for retroactive premiums that are due must be made with after-tax dollars. The *Administrator* will bill you directly for any retroactive premiums that must be paid with after-tax dollars.

**§ 894.506 How often will there be open seasons?**

There will be an annual open season for FEDVIP at the same time as the annual Federal Benefits Open Season.

**§ 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 plan to another, and/or from one vision plan to another, or you may change from one plan option to another option in that same plan:

(1) During the annual open season;

(2) When you get married (except for *TEIs* who are unremarried survivors, *TEI* former spouses, and *TEI* children); or

(3) For *employees* or employees of the United States Postal Service, when you return to Federal or Postal 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.

(b)(1) If you are enrolled in a dental or vision plan with a geographically restricted service area, and you or a covered eligible *family member* or *TEI family member* move out of the service area, you may change to a different dental or vision plan that serves that area.

(2) You may make this change at any time before or after the move, once you or a covered eligible *family member* or *TEI family member* has a new address.

(3) The enrollment change is effective the first day of the pay period following the pay period in which you make the change.

(4) You may not change your *type of enrollment* unless you also have a *QLE* that allows you to change your *type of enrollment*.

[83 FR 58179, Nov. 19, 2018, as amended at 88 FR 47748, July 25, 2023]

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

(a) You may increase your *type of enrollment*:

(1) during the annual open season; or

(2) If you have a *QLE* that is consistent with increasing your *type of enrollment*.

(b) Increasing your *type of enrollment* means going from:

(1) Self only to self plus one;

(2) Self only to self and family; or

(3) Self plus one to self and family.

(c) You may increase your *type of enrollment* during the time period beginning 31 *days* before the *QLE* and ending 60 *days* after the *QLE*.

(d) Your new *type of enrollment* is effective the 1st *day* of the pay period following the pay period in which you make the change.

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

[73 FR 50184, Aug. 26, 2008, as amended at 79 FR 41406, July 16, 2014]

## § 894.509

### § 894.509 What are the QLEs that are consistent with increasing my type of enrollment?

(a) Marriage; except for a *TEI* who is an unremarried survivor, widow or widower; *TEI* former spouse; and *TEI* child(ren);

(b) *Acquiring an eligible child or TEI child*; or

(c) Loss of other dental or vision coverage by an eligible *family member* or *TEI family member*.

[83 FR 58179, Nov. 19, 2018]

### § 894.510 When may I decrease my type of enrollment?

(a) You may decrease your *type of enrollment*:

(1) During the annual open season;

(2) If you have a *QLE* that is consistent with decreasing your *type of enrollment*; or

(3) You are an *enrollee*, and under § 894.403(b) your FEDVIP premiums are not paid on a pre-tax basis, and your *family member* or *TEI family member* becomes eligible for dental or vision benefits from the Department of Veterans Affairs. An *enrollee* must submit the request within 60 days after notification that your *family member* or *TEI family member* is eligible for dental or vision benefits from the Department of Veterans Affairs.

(b) Decreasing your *type of enrollment* means going from:

(1) Self and family to self plus one;

(2) Self and family to self only; or

(3) Self plus one to self only.

(c)(1) Except as provided in paragraph (c)(2) of this section, you may decrease your *type of enrollment* only during the period beginning 31 days before your *QLE* and ending 60 days after your *QLE*.

(2) You may make any of the following enrollment changes at any time beginning 31 days before a *QLE* listed in § 894.511(a):

(i) A decrease in your self plus one enrollment;

(ii) A decrease in your self and family enrollment to a self plus one enrollment, when you have only one remaining eligible *family member* or *TEI family member*; or

(iii) A decrease in your self and family enrollment to a self only enrollment, when you have no remaining eli-

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gible *family members* or *TEI family members*.

(d)(1) Except as provided in paragraph (d)(2) of this section, your change in enrollment is effective the first day of the first pay period following the one in which you make the change.

(2) If you are making an enrollment change described in paragraph (c)(2) of this section, your change in enrollment is effective on the first day of the first pay period following the *QLE* on which the enrollment change is based.

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

[73 FR 50184, Aug. 26, 2008, as amended at 75 FR 20514, Apr. 20, 2010; 83 FR 58180, Nov. 19, 2018; 88 FR 47748–47749, July 25, 2023]

### § 894.511 What are the QLEs that are consistent with decreasing my type of enrollment?

(a) Loss of an eligible *family member* or *TEI family member* due to:

(1) Divorce;

(2) Death; or

(3) Loss of eligibility of a previously enrolled *child* or *TEI child*.

(b) You are an *enrollee* and your spouse deploys to active military service.

[83 FR 58180, Nov. 19, 2018, as amended at 88 FR 47748, July 25, 2023]

### § 894.512 What happens if I leave Federal Government and then return?

(a) Your FEDVIP coverage terminates at the end of the pay period in which you separate from government service. *Exception:* If you separate for retirement or while in receipt of workers' *compensation* as defined in § 894.701, your FEDVIP coverage continues.

(b)(1) If you return to Federal service after a break in service of fewer than 30 *days*, and you were not previously enrolled in FEDVIP, you may not enroll until the next open season or unless you have a *QLE* that allows you to enroll.

(2) If you return to Federal service after a break in service of fewer than 30 *days*, and you were previously enrolled in FEDVIP, you may reenroll in the same plan(s) and plan option and with the same *type of enrollment* you had before you separated. *Exceptions:*

(i) If you were enrolled in a dental or vision plan with a restricted geographic service area, and you have since moved out of the plan's service area, you may change to a different dental or vision plan that serves that area.

(ii) If you have since gained or lost an eligible *family member*, you may change your *type of enrollment* consistent with the change in the number of eligible *family members*.

(3) If you return to Federal service as a new hire after a break in service of 30 *days* or more, you may enroll if you were not previously enrolled, change your dental or vision plan, and/or change your *type of enrollment*.

**§ 894.513 Do I have to elect FEDVIP coverage each year in order to remain covered?**

No. If you do not change or cancel your enrollment, and if your enrollment does not terminate pursuant to this part, then your current enrollment will continue into the next year. Before open season, you should review the plan brochure for any changes in benefits and premiums for the next year.

[83 FR 58180, Nov. 19, 2018]

**Subpart F—Termination or Cancellation of Coverage**

**§ 894.601 When does my FEDVIP coverage stop?**

(a) If you no longer meet the definition of an eligible *employee* as set forth in § 894.101 or *annuitant*, or *TEI*, your FEDVIP coverage stops at the end of the pay period in which you were last eligible.

(b) If you go into a period of nonpay or insufficient pay (or insufficient uniformed services pay or uniformed services retirement pay) and you do not make direct premium payments, your FEDVIP coverage stops at the end of the pay period for which your agency, retirement system, *OWCP*, uniformed services or uniformed services retirement system last deducted your premium payment. *Exception:* If you are an *enrollee* who is furloughed or excepted from furlough and working without pay during a lapse in appropriations, your FEDVIP coverage will not stop, and your enrollment may not be can-

celled as a result of nonpayment of premiums or other periodic charges due. Pursuant to the National Defense Authorization Act for Fiscal Year 2020, Public Law 116-92, such continuation of coverage during a lapse in appropriations applies to any dental or vision contract under 5 U.S.C. chapters 89A and 89B entered into before, on, or after December 20, 2019.

(c) If you are making direct premium payments or payments by automatic bank withdrawal, and you stop making the payments, your FEDVIP coverage stops at the end of the pay period for which you last made a payment.

(d) If you cancel your enrollment during an open season, your FEDVIP coverage stops at midnight of the *day* before the effective date of an open season change as set by OPM.

(e) If you are enrolled with a combination dental and vision *carrier* with a restricted service area, and you move outside the *carrier's* service area to a service area that does not offer a combination *carrier* and you change to a dental only or vision only *carrier*, your existing combination plan coverage will stop at midnight of the *day* before the effective date of your new plan coverage.

(f) If your FEDVIP carrier discontinues participation in the program at the end of the contract year, then you must change to another *carrier* during the open season, unless OPM establishes a different time. If the discontinuance is at a time other than the end of the contract year, OPM will establish a time and effective date for you to change your carrier. If you do not change your carrier within the time set by OPM, your coverage will stop at midnight of the *day* before the effective date set by OPM for coverage with another *carrier*.

(g) If your status as a uniformed services retiree discontinues and you become a uniformed services member on active duty, your FEDVIP dental and/or vision plan enrollment terminates and your coverage stops at the end of the last pay period for which the premium payment was made from your uniformed services retirement pay. You will still be the *sponsor* but no

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longer the *enrollee*, and your *TEI certifying family member* would have to re-enroll in vision and cover all *TEI family members*. As *sponsor*, you must notify your *family members* of changes in your eligibility and enrollment status changes. See § 894.815.

(h) If your status as a uniformed services member on active duty discontinues and you become a uniformed services retiree, the FEDVIP vision plan enrollment of your *TEI family members* terminates and coverage for your *TEI family members* will stop at the end of the pay period for which the last premium payment was made. As the *sponsor* who is an *enrollee*, you would have to enroll yourself and re-enroll all *TEI family members*. As *sponsor*, you must notify your *family members* of changes in your eligibility and enrollment status changes. See § 894.815.

(i) If you are an *enrollee* or *sponsor* and cancel your enrollment pursuant to § 894.602(c), your cancellation will become effective at the end of the pay period that you submit your request.

[73 FR 50184, Aug. 26, 2008, as amended at 83 FR 58180, Nov. 19, 2018; 86 FR 17274, Apr. 2, 2021; 88 FR 47748–47749, July 25, 2023]

### § 894.602 May I cancel my enrollment at any time?

Generally, an *enrollee* may only cancel an enrollment during an open season. *Exceptions:* You may cancel your dental and/or vision enrollment if:

(a) You are an *enrollee* and transfer to an eligible position with a Federal agency that provides dental or vision coverage with 50 percent or more employer-paid premiums and you enroll in that program.

(b) You are an *enrollee* and you or your spouse deploy to active military duty.

(c) You are an *enrollee* or *sponsor* who does not pay premiums on a pre-tax basis, identified at § 894.403(b), and during the course of your enrollment, you become eligible for Department of Veterans Affairs (VA) dental or vision benefits. If you cancel a self plus one or self and family enrollment, as *sponsor*, you must notify your *family members* of changes in your enrollment pursuant to § 894.815. You will still be the *sponsor* but no longer the *enrollee*, and pursuant to § 894.811, your family members will

only be eligible for FEDVIP dental coverage since you are a *TEI-D* who is not enrolled in FEDVIP and receives VA dental services and meets one of the conditions in § 894.309(a)(3)(iii). Upon cancellation of the enrollment, pursuant to § 894.811, a *TEI family member* can accept the responsibility to self-certify and enroll in a FEDVIP dental plan as a *TEI certifying family member* and cover other *TEI family members*.

(d) Cancellations under this section will become effective at the end of the pay period that you submit your request.

[88 FR 47748, July 25, 2023]

### § 894.603 Is there a temporary extension of coverage and conversion right when my coverage stops or when a covered family member loses eligibility?

No. There is no temporary extension of coverage, or Temporary Continuation of Coverage (TCC), or right to convert to an individual dental or vision policy when your FEDVIP coverage stops or when a *family member* or *TEI family member* loses eligibility under FEDVIP.

[83 FR 58180, Nov. 19, 2018]

## Subpart G—Annuitants and Compensationers

### § 894.701 May I keep my dental and/or vision coverage when I retire or start receiving workers' compensation?

(a) Your FEDVIP coverage continues if you retire on an immediate annuity or on a disability annuity, or start receiving *compensation* from OWCP.

(b) If you retire on a Minimum Retirement Age +10 annuity that you elect to postpone in accordance with 5 U.S.C. 8412(g), your FEDVIP coverage will stop when you separate from service. However, you may enroll again within 60 *days* of when your annuity starts.

(c) If you retire on a deferred annuity in accordance with 5 U.S.C. 8413, your FEDVIP coverage stops and you are not eligible to enroll.

**§ 894.702 May I participate in open season and make changes to my enrollment as an annuitant or compensationner?**

Yes. *Annuitants* and *compensationners* may participate in open season and make enrollment changes under the same circumstances as active *employees* or employees of the United States Postal Service.

[88 FR 47749, July 25, 2023]

**§ 894.703 How long does my coverage as an annuitant or compensationner last?**

Your coverage as an *annuitant* or *compensationner* continues as long as you continue receiving an annuity or *compensation* and pay your premiums, unless you cancel your coverage during an open season or terminate coverage due to insufficient annuity or *compensation*.

**§ 894.704 What happens if I retire and then come back to work for the Federal Government or the United States Postal Service?**

(a) If you have FEDVIP coverage as an *annuitant*, and you become reemployed in an eligible position in Federal service or United States Postal Service, you must contact the *Administrator* so it can send the request for allotments to your agency so your agency can start making the allotments from your pay.

(b) If you did not enroll in FEDVIP coverage as an *annuitant* and become reemployed in an eligible Federal position or United States Postal Service, you have 60 *days* to enroll in FEDVIP.

(c) If you enroll as an *employee* the *Administrator* will stop sending requests for allotments from your annuity.

(d) If your reemployment terminates, you must notify the *Administrator* within 30 days to have your allotments withheld from your annuity payments. Otherwise, your FEDVIP coverage will terminate due to non-payment of premiums.

[73 FR 50184, Aug. 26, 2008, as amended at 88 FR 47749, July 25, 2023]

**Subpart H—Special Provisions for TRICARE-Eligible Individuals (TEI)**

SOURCE: 83 FR 58180, Nov. 19, 2018, unless otherwise noted.

**§ 894.801 Am I eligible for FEDVIP based on my eligibility to enroll in a TRICARE dental or health plan?**

(a) The U.S. Department of Defense (DOD) is responsible for regulating eligibility for obtaining medical and dental care under the TRICARE Program, pursuant to 10 U.S.C. chapter 55. The FEDVIP laws at 5 U.S.C. chapter 89A was amended by the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, to allow individuals who were eligible for coverage under the TRICARE Retiree Dental Program (TRDP) in accordance with DOD rules to obtain dental coverage in a FEDVIP dental plan. Public Law 114-328 also added a provision allowing certain individuals who are concurrently enrolled for medical care in specified TRICARE health plans to obtain FEDVIP vision coverage.

(b) Categories of individuals who were eligible for TRDP and who are eligible to be covered under a FEDVIP dental plan are set forth in § 894.802. Categories of individuals who may be covered under specified TRICARE health plans and, if so covered, are eligible to be covered under a FEDVIP vision plan, are set forth in § 894.803. Individuals eligible for FEDVIP coverage are referred to as *TRICARE eligible individuals (TEI)*.

(c)(1) FEDVIP rules provide an *enrollee* with the right to select:

- (i) A dental and/or a vision plan; and
- (ii) *Type of enrollment* that may cover the eligible individual in a self only enrollment or the eligible individual with one or more *family members* in a self plus one or self and family enrollment.

(2) For *TRICARE eligible individuals (TEI)*, this means that:

(i) If the *sponsor* is both a *TEI* and enrolled, the *sponsor* may be an *enrollee* and may cover the *sponsor* and *TEI family members* under the plan.

(ii) If a *sponsor* is not eligible to enroll (or pursuant to § 894.309(a)(3)(iii) is not enrolled), a *TEI* who is a *TEI family*



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*member* may self-certify to serve as *enrollee* instead, and may cover other *TEI family members*.

(d) If a FEDVIP dental or vision plan has a specific geographic enrollment area, *TEI family members* must live or work in that area in order to be enrolled for coverage. An *enrollee* whose *TEI family members* are located in different geographic locations may select a plan that is nationwide/international in scope in order to obtain accessible coverage.

### **§ 894.802 Am I a TEI for a FEDVIP dental plan (TEI-D) if I am eligible to enroll or be covered under the TRICARE Retiree Dental Program?**

A *TRICARE-eligible individual for FEDVIP dental benefits (TEI-D)* means an individual who is eligible to be enrolled and/or who may be covered under the TRICARE Retiree Dental Program (TRDP) pursuant to 10 U.S.C. 1076c(b) as set forth in 32 CFR 199.3 and 199.22. Individuals covered under any of the following programs are excluded and are *not TEI-D*: TRICARE Young Adult provisions of 10 U.S.C. 1110b; Transitional Assistance Management Program (TAMP), 10 U.S.C. 1145(a); Continued Health Care Benefit Program (CHCBP), 10 U.S.C. 1078a; or Foreign Military (including NATO) sponsor/family coverage.

### **§ 894.803 Am I a TEI for a FEDVIP vision plan (TEI-V) based on my concurrent enrollment in a TRICARE health plan?**

(a) Except as provided in paragraphs (b) and (c) of this section, a *TEI-V* is an individual who is concurrently enrolled in and/or covered pursuant to:

- (1) 10 U.S.C. 1076d (TRICARE Reserve Select (TRS));
- (2) 10 U.S.C. 1076e (TRICARE Retired Reserve (TRR));
- (3) 10 U.S.C. 1079(a) (uniformed services active duty family members concurrently enrolled in TRICARE Select or TRICARE Prime);
- (4) 10 U.S.C. 1086(c) (uniformed services retirees and retiree family members or former spouses concurrently enrolled in TRICARE Select or TRICARE Prime); or
- (5) 10 U.S.C. 1086(d) (TRICARE for Life (TFL)), as set forth in 32 CFR 199.3. The provisions of TFL require

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Medicare eligible retirees and individual Medicare eligible retiree family members or former spouses to enroll in Medicare Part B (requires payment of applicable premiums), otherwise they are not a *TEI-V*.

(b) An individual covered under any of the following programs is *not a TEI-V*:

- (1) TRICARE Young Adult provisions of 10 U.S.C. 1110b;
  - (2) Transitional Assistance Management Program (TAMP), 10 U.S.C. 1145(a);
  - (3) Continued Health Care Benefit Program (CHCBP), 10 U.S.C. 1078a; or
  - (4) Foreign Military (including NATO) sponsor/family coverage.
- (c) An active duty member of the uniformed services under 10 U.S.C. 1074(a) is *not a TEI-V*.

### **§ 894.804 Am I a sponsor for a FEDVIP dental or vision plan?**

(a) Generally, the sponsor is the individual who is eligible for medical or dental benefits under 10 U.S.C. chapter 55 based on his or her direct affiliation with the uniformed services, including military members of the National Guard and Reserves. Relationship to a sponsor conveys *TEI* status to a *TEI* family member. If two parents of a *TEI* child are entitled to be a sponsor, see restriction on dual enrollment at § 894.204.

(b) *Sponsor* for a FEDVIP dental plan means:

- (1) Retiree. A member or former member of a uniformed service who is entitled to uniformed services retirement pay. To determine a *sponsor's enrollee* status for a FEDVIP dental plan, see § 894.309 and the definition of *TEI-D*;
- (2) Retired Reserve member under the age of 60 (“Gray Area Retiree”). To determine *sponsor's enrollee* status for a FEDVIP dental plan, see § 894.309 and the definition of *TEI-D*;
- (3) Medal of Honor recipient who is not otherwise entitled to dental benefits; or
- (4) Deceased Member described in paragraph (b)(1) or (2) of this section who died after retiring from active duty and a deceased member who was a Medal of Honor recipient described in paragraph (b)(3) of this section.

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(c) *Sponsor* for a FEDVIP vision plan includes:

(1) Retiree. A member or former member of a uniformed service who is entitled to uniformed services retirement pay.

(2) Retired Reserve member under the age of 60 (“Gray Area Retiree”);

(3) Medal of Honor recipient who is enrolled in TRICARE Select or TRICARE

Prime and who is not on active duty;

(4) Member of the uniformed services (active or Reserve Component) on active duty for more than 30 days. An active duty member of the uniformed services under 10 U.S.C. 1074(a) is not a *TEI-V* and is not an *enrollee* for a FEDVIP vision plan, see § 894.309 and definition of *TEI-V*;

(5) Ready Reserve member;

(6) Deceased member described at paragraphs (c)(1) through (5) of this section; or

(7) Deceased Reserve Component member (deceased in the line of duty).

[83 FR 58180, Nov. 19, 2018, as amended at 84 FR 1599, Feb. 5, 2019]

### § 894.805 I am not a *TEI-D* or *TEI-V*, but I am a sponsor. Am I eligible to cover my *TEI* family members?

(a) *FEDVIP dental plan*. (1) No, a *sponsor* must be both a *TEI-D* and an *enrollee*, in order to cover *TEI* family members in a FEDVIP dental plan.

(2) However, a *TEI certifying family member* may enroll and cover *TEI* family members in a FEDVIP dental plan if the *sponsor* described at § 894.804 is a retiree or Retired Reserve Member who is a *TEI-D*, but who is not enrolled and the retiree or Retired Reserve Member:

(i) Receives VA dental services;

(ii) Has employer-sponsored dental coverage without a family coverage option; or

(iii) Has a medical or dental condition that prevents him or her from obtaining dental benefits. *See* § 894.309.

(b) *FEDVIP vision plan*. (1) No, a *sponsor* must be both a *TEI-V* and an *enrollee* in order to enroll and cover *TEI* family members in his or her FEDVIP vision plan.

(2) However, a *TEI certifying family member* may enroll *TEI* family members. A uniformed services member (active or Reserve Component) on active duty

for more than 30 days described in § 894.804(c)(4) is not a *TEI-V* and is not eligible to enroll and cover *TEI* family members. *See* § 894.309.

### § 894.806 Can a retiree or Retired Reserve member enroll and cover *TEI* family members in a FEDVIP dental plan?

Generally, yes, since a retiree or Retired Reserve member who is a *sponsor* is also a *TEI-D*. However, if a retiree or Retired Reserve member who is eligible to enroll does not in fact enroll, then the member is not an *enrollee* and cannot cover *TEI* family members. A *TEI certifying family member* may serve as *enrollee* only if the member does not enroll and meets at least one of the following conditions:

(a) Receives VA dental services;

(b) Has employer-sponsored dental coverage without a family coverage option; or

(c) Has a medical or dental condition that prevents him or her from obtaining dental benefits. *See* description of eligibility in § 894.309(a)(3)(iii).

### § 894.807 Can an active duty member enroll or be covered under a FEDVIP vision plan?

No, a uniformed services member on active duty is not a *TEI-V* and may not enroll or be covered under a FEDVIP vision plan. However, an active duty member is a *sponsor*, therefore their *TEI* family members may be eligible to enroll in a vision plan. *See* definition of *TEI* for FEDVIP vision benefits (*TEI-V*) in § 894.101.

### § 894.808 I am a *TEI* family member. Can I enroll myself in FEDVIP?

Generally, you are not eligible to enroll yourself as a *TEI* family member. Only an *enrollee* designated at subpart C of this part may enroll in FEDVIP and select a plan, option, and *type of enrollment* (self only, self plus one, or self and family) that may cover *TEI* family members. There is only one FEDVIP dental enrollment and one FEDVIP vision enrollment associated with a *sponsor* and either the *sponsor* or a *TEI certifying family member* may be the *enrollee*, who may enroll, and cover *TEI* family members under the enrollment, in accordance with § 894.309.

**§ 894.809 Who is a TEI certifying family member, and may I be the enrollee if I accept this responsibility?**

(a) *TEI certifying family member* means, where the *sponsor* is not an *enrollee* under § 894.309, the *TEI family member* in order of precedence, as set forth in paragraph (b) of this section, who may accept responsibility to self-certify as the *enrollee* by enrolling and, if appropriate, covering the *sponsor's TEI family members* by electing a self plus one or self and family *type of enrollment*. Accepting responsibility to self-certify as the *enrollee* includes consulting all *TEI family members* regarding their preference for coverage under the enrollment, electing an appropriate plan, option, and *type of enrollment*.

(b) The following order of precedence governs which *TEI family member* may self-certify as the *enrollee*:

(1) An unremarried surviving spouse of a retiree or Medal of Honor recipient, if any, is the *TEI certifying family member* who may enroll and cover surviving *TEI child(ren)* of the retiree.

(2) If there is no unremarried surviving spouse of a retiree or Medal of Honor recipient, the surviving *TEI child* of a retiree who accepts responsibility to self-certify as the *enrollee* is the *TEI certifying family member* who may enroll and cover other surviving child(ren) who are *TEI family member(s)* of the deceased retiree.

(3) The *TEI family member* who is a spouse is the *TEI certifying family member* who may enroll and cover other *TEI family member(s)*.

(4) If there is no spouse, the *TEI family member* who accepts responsibility to self-certify as the *enrollee* is the *TEI certifying family member* who may enroll and cover other *TEI family member(s)*.

(c) In the event that the *TEI family member* or *TEI certifying family member* is a minor child or a disabled adult dependent, a legal guardian may exercise the *TEI's* rights on his or her behalf.

(d) Accepting responsibility to self-certify as the *enrollee* means that you accept the *Administrator's* authority to make reconsideration decisions under § 894.104 and OPM's authority to correct enrollments under § 894.105.

**§ 894.810 If I enroll for self plus one, may I decide which TEI family member to cover?**

Generally, yes, as specified in § 894.202. However, if you are an *enrollee* and you do not elect a *type of enrollment* that covers a *TEI family member*, that *TEI family member* will not have FEDVIP coverage or benefits. A *TEI family member* who is not a *TEI certifying family member* may not self-certify and enroll himself or herself as a *TEI family member* in a FEDVIP plan. Note however, that a *TEI family member* may seek reconsideration of an erroneous enrollment under § 894.104, and the *Administrator* and OPM retain authority to correct enrollments under § 894.105.

**§ 894.811 I am a TEI family member of a sponsor who is a retiree or Retired Reserve member who is not on active duty. My sponsor is a TEI-D but is not enrolled in a FEDVIP dental plan. Can I enroll in a FEDVIP dental plan even though my sponsor is eligible to enroll but is not enrolled?**

Generally, if your *sponsor* is a *TEI-D*, he or she must enroll in a FEDVIP dental plan in order to cover *TEI family members*. As an exception, however, a *TEI family member* can accept the responsibility to self-certify and enroll in a FEDVIP dental plan as a *TEI certifying family member*, and cover other *TEI family members*, if the *sponsor* who is a *TEI-D* (eligible for FEDVIP dental benefits) is not enrolled and the *sponsor* meets at least one of the following conditions identified in § 894.309(a)(3)(iii):

(a) The retiree *sponsor* receives VA dental services;

(b) The retiree *sponsor* has employer-sponsored dental coverage without a family coverage option; or

(c) The retiree *sponsor* has a medical or dental condition that prevents him or her from obtaining dental benefits.

**§ 894.812 I am a widow or widower TEI family member. Can I enroll my TEI child who is a TEI family member without enrolling myself in FEDVIP?**

No. A widow or widower who is a *TEI family member* is the *TEI certifying family member*. Because there is no available *sponsor*, you are the *enrollee*, and must either:

(a) Enroll yourself and the *TEI child* in a self plus one enrollment; or

(b) Enroll all *TEI family members* in a self and family enrollment, in order for the *TEI child* to receive FEDVIP coverage.

**§ 894.813 I am a TEI former spouse. Am I eligible to enroll in a FEDVIP vision plan?**

Yes, you are eligible to enroll in a FEDVIP vision plan only. A *TEI former spouse* is not eligible to enroll in a FEDVIP dental plan. You are a *TEI-V*, and you are an *enrollee*, however your *type of enrollment* is limited to self only. You may not enroll a child, even if the child is a *TEI child*. The *TEI child* will have his or her opportunity for FEDVIP dental and/or vision coverage through your ex-spouse *sponsor*, or *TEI certifying family member* as the case may be. It is possible for a minor *TEI child* to be the *TEI certifying family member* eligible to enroll as an *enrollee*. If this is the case, you (or the *TEI child's* legal guardian if not you) may effectuate that enrollment by accepting responsibility on behalf of the *TEI child* to self-certify as *enrollee* by enrolling and, if appropriate, covering other *TEI family members* of the *sponsor*. Accepting responsibility to self-certify as *enrollee* on behalf of the *TEI child* includes consulting all of the *TEI family members of the TEI certifying family member* regarding their preference for coverage under the enrollment, electing an appropriate plan, option and *type of enrollment*, and paying the premium on behalf of the *TEI child* and other *TEI family members* for the enrollment.

**§ 894.814 Is a foster child included in the definition of TEI family member?**

Generally, a foster child is excluded from coverage as they are not defined to be a *TEI family member*. However, a pre-adoptive child, adopted child, and an eligible ward in the legal custody of a *sponsor*, including a foster child who is a ward in the legal custody of a *sponsor*, are considered *TEI family members*.

[84 FR 26544 June 7, 2019]

**§ 894.815 I am a sponsor. Am I responsible to notify the Administrator and my TEI family members when my FEDVIP dental or vision eligibility and/or enrollment status changes?**

Yes, as *sponsor*, you must notify the *Administrator* and your *TEI family members* of changes in your eligibility and enrollment status. Status as an *enrollee*, with a right to the enrollment, depends upon your *sponsor* status and eligibility as a *TEI*, and the enrollment action you have taken. Failure to notify the *Administrator* and your *TEI family members* of a change in status within the uniformed services that affects your eligibility to enroll may result in invalid continued enrollment, or an unexpected termination of enrollment, for your *TEI family members*, for which you will be responsible.

(a) *Example 1.* (1) Status change from non-enrollee to *enrollee*.

(2) You are on active duty (not *TEI* and not an *enrollee* in a dental or vision plan). Your *TEI certifying family member* may enroll and cover *TEI family members* in a FEDVIP plan. Upon a change in your status to a retiree or Retired Reserve member (who is not on active duty), you become a *TEI* and may enroll yourself and *TEI family members* in a FEDVIP plan. Your *TEI certifying family member* is no longer the *enrollee*, and you must notify the *Administrator* of your change in status. The *Administrator* will send the *TEI certifying family member* notice that his or her enrollment is terminated, and notify them that their *sponsor* (i.e. you), may enroll, and may cover *TEI family members* on the new enrollment.

(b) *Example 2.* (1) Status change from non-enrollee to *enrollee*.

(2) You are a retiree or a retired Reserve member and as a *TEI-D* you are eligible for, but not enrolled in, a FEDVIP dental plan and you satisfy at least one of the conditions at § 894.309(a)(3)(iii). You are not an *enrollee* because you are not enrolled, and therefore cannot cover *TEI family members*. Your *TEI certifying family member* may enroll and cover *TEI family members* in a FEDVIP dental plan. Upon a change in your status causing you to no longer satisfy one of the conditions, your *TEI certifying family member* is no

longer the *enrollee*, and you must notify the *Administrator*. The *Administrator* will send your *TEI certifying family member* notice that their enrollment is terminated, and notify them that their *sponsor* (i.e. you), may enroll, and may cover *TEI family members* on the new enrollment.

(c) *Example 3.* (1) Status change from *enrollee* to non-enrollee.

(2) You are a retiree or Retired Reserve member (who is not on active duty), and you go on active duty. You lose *TEI* status and you are no longer eligible to be an *enrollee*. You must notify the *Administrator* of your change in status. The *Administrator* will terminate your enrollment and notify you that a *TEI certifying family member* may accept responsibility to self-certify as *enrollee* by enrolling and, if appropriate, covering other *TEI family members* by electing self plus one or self and family type of enrollment for only a FEDVIP vision plan. You are responsible to notify your covered *TEI family members* that your enrollment will terminate, and of their opportunity to accept responsibility to self-certify as *enrollee*.

**§ 894.816 If I return from active duty and retire, what happens to my TEI family members' enrollment in their FEDVIP vision plan?**

As a uniformed services member on active duty, you are the *sponsor* but you are not eligible to enroll in a FEDVIP vision plan and you cannot be the *enrollee*. A *TEI certifying family member* may be the *enrollee* while you are on active duty. Upon your retirement, however, you become eligible to enroll as a *TEI-V* and *TEI-D*, and the current *enrollee* status of your *TEI certifying family member* ends. As *sponsor*, you are responsible for notifying the *Administrator* and your *TEI family members* of your change in status. The *TEI family members'* enrollment will be terminated and as a *TEI-V* and *TEI-D* who is both *sponsor* and *enrollee*, you may enroll yourself and cover *TEI family members*. See § 894.601.

**§ 894.817 If I am a retiree who is a TEI-V and I return to active duty, what happens to my TEI family members' enrollment in their FEDVIP vision plan?**

If you and your *TEI family members* are enrolled in a FEDVIP vision plan while you are retired, and you return to active duty, you will no longer be eligible to enroll in a FEDVIP vision plan and cannot continue to be the *enrollee* even though you are the *sponsor*. The current enrollment for you and your *TEI family members* will terminate and your coverage stops at the end of the pay period for which the premium payment was made from your uniformed services retirement pay. A *TEI certifying family member* may accept responsibility to self-certify as the *enrollee* by enrolling and, if appropriate, covering other *TEI family members*. You are responsible for notifying your covered *TEI family members* that your enrollment will terminate and of their opportunity to accept responsibility to self-certify as the *enrollee*. Once the *TEI certifying family member* enrolls, and covers your *TEI family members*, they can remain enrolled in a FEDVIP vision plan for the duration of your active duty service. See § 894.601.

**Subpart I—Benefits in Underserved Areas**

SOURCE: 83 FR 58180, Nov. 19, 2018, unless otherwise noted.

**§ 894.901 Will benefits be available in underserved areas?**

(a) Dental and vision plans under FEDVIP will include underserved areas in their service areas and provide benefits to *enrollees* in underserved areas.

(b) In any area where a FEDVIP dental or vision plan does not meet OPM access standards, including underserved areas, *enrollees* may receive services from non-network providers.

(c) Contracts under FEDVIP shall include access standards as defined by OPM and payment levels for services to non-network providers in areas that do not meet access standards.

[83 FR 58180, Nov. 19, 2018, as amended at 88 FR 47749, July 25, 2023]