

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 45

To amend title 5, United States Code, to reform the program under which health benefits are provided to Federal employees.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ACKERMAN (for himself and Mrs. MORELLA) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

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## A BILL

To amend title 5, United States Code, to reform the program under which health benefits are provided to Federal employees.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employees  
5 Health Benefits Reform Act of 1993”.

6 **SEC. 2. REVISED PROGRAM.**

7 Chapter 89 of title 5, United States Code, is amended  
8 to read as follows:

“CHAPTER 89—HEALTH INSURANCE

“Sec.

“8901. Definitions.

- “8902. Eligibility requirements for individual coverage.
- “8903. General program description.
- “8904. Benefits under the Governmentwide plan.
- “8905. Contributions under the Governmentwide plan.
- “8906. Utilization review under the Governmentwide plan.
- “8907. Administration of the Governmentwide plan.
- “8908. Prepayment plans.
- “8909. Supplementary plans.
- “8910. Contract requirements.
- “8911. Automatic coverage; elections of coverage.
- “8911a. Continued coverage for certain individuals.
- “8911b. Coverage for certain other employees.
- “8911c. Coverage of restored employees and survivor or disability annuitants.
- “8911d. Double coverage; change in family status.
- “8911e. Clarifying provisions.
- “8912. Flexible spending plan.
- “8913. Federal Employees Health Benefits Board.
- “8914. Employees Health Benefits Fund.
- “8915. Debarment and other sanctions against providers.
- “8916. Open enrollment periods; informational requirements.
- “8917. Studies, reports, and audits.
- “8918. Jurisdiction of courts.
- “8919. Regulations.
- “8920. Effect of other statutes.

1 **“§ 8901. Definitions**

2 “For the purpose of this chapter—

3 “(1) the term ‘employee’ means—

4 “(A) the President;

5 “(B) a Member of Congress;

6 “(C) a Congressional employee;

7 “(D) an individual first employed by the  
 8 government of the District of Columbia before  
 9 October 1, 1987;

10 “(E) an individual employed by Gallaudet  
 11 College;

12 “(F) an individual employed by a county  
 13 committee established under section 8(b) of the  
 14 Soil Conservation and Domestic Allotment Act;

1           “(G) an individual appointed to a position  
2           on the office staff of a former President under  
3           section 1(b) of the Act of August 25, 1958;

4           “(H) an individual appointed to a position  
5           on the office staff of a former President or a  
6           former Vice President under section 4 of the  
7           Presidential Transition Act of 1963 who, imme-  
8           diately before the date of such appointment,  
9           was an employee as defined under any other  
10          subparagraph of this paragraph; and

11          “(I) an employee (as defined by section  
12          2105) not otherwise specified in any of the pre-  
13          ceding subparagraphs;

14          but does not include—

15          “(i) an employee of a corporation super-  
16          vised by the Farm Credit Administration if pri-  
17          vate interests elect or appoint a member of the  
18          board of directors;

19          “(ii) an individual who is not a citizen or  
20          national of the United States and whose perma-  
21          nent duty station is outside the United States,  
22          unless, on September 30, 1979, the individual  
23          was an employee for the purpose of this chapter  
24          (as then in effect), by reason of service in an  
25          Executive agency, the United States Postal

1 Service, or the Smithsonian Institution in the  
2 area which was then known as the Canal Zone;

3 “(iii) an employee of the Tennessee Valley  
4 Authority; or

5 “(iv) an employee excluded by regulation of  
6 the Office of Personnel Management under sec-  
7 tion 8919(b);

8 “(2) the term ‘Government’ means the Govern-  
9 ment of the United States and the government of  
10 the District of Columbia;

11 “(3) the term ‘annuitant’ means—

12 “(A) an employee who retires—

13 “(i) on an immediate annuity under  
14 subchapter III of chapter 83, or another  
15 retirement system for employees of the  
16 Government, after 5 or more years of serv-  
17 ice;

18 “(ii) under section 8412 or 8414; or

19 “(iii) for disability under subchapter  
20 III of chapter 83, chapter 84, or another  
21 retirement system for employees of the  
22 Government;

23 “(B) a family member who receives an im-  
24 mediate annuity as the survivor of an employee  
25 (including a family member entitled to an

1 amount under section 8442(b)(1)(A), whether  
2 or not such family member is entitled to an an-  
3 nuity under section 8442(b)(1)(B)) or of a re-  
4 tired employee described by subparagraph (A);

5 “(C) an employee who receives monthly  
6 compensation under subchapter I of chapter 81  
7 and who is determined by the Secretary of  
8 Labor to be unable to return to duty; and

9 “(D) a family member who receives month-  
10 ly compensation under subchapter I of chapter  
11 81 as the surviving beneficiary of—

12 “(i) an employee who dies as a result  
13 of injury or illness compensable under that  
14 subchapter; or

15 “(ii) a former employee who is sepa-  
16 rated after having completed 5 or more  
17 years of service and who dies while receiv-  
18 ing monthly compensation under that sub-  
19 chapter and who has been held by the Sec-  
20 retary to have been unable to return to  
21 duty;

22 “(4) the term ‘service’, as used by paragraph  
23 (3), means service which is creditable under sub-  
24 chapter III of chapter 83 or chapter 84;

1           “(5) a reference to the family, or members of  
2 the family, of an individual shall be considered to be  
3 a reference to—

4                   “(A) the spouse of such individual; and

5                   “(B) each child of such individual;

6           “(6) the term ‘health benefits plan’ means a  
7 group insurance policy or contract, medical or hos-  
8 pital service agreement, membership or subscription  
9 contract, or similar group arrangements provided by  
10 a carrier for the purpose of providing, paying for, or  
11 reimbursing expenses for health services;

12           “(7) the term ‘carrier’ means a voluntary asso-  
13 ciation, corporation, partnership, or other non-  
14 governmental organization which is lawfully engaged  
15 in providing, paying for, or reimbursing the cost of,  
16 health services under group insurance policies or  
17 contracts, medical or hospital service agreements,  
18 membership or subscription contracts, or similar  
19 group arrangements, in consideration of premiums  
20 or other periodic charges payable to the carrier, in-  
21 cluding a health benefits plan duly sponsored or un-  
22 derwritten by an employee organization;

23           “(8) the term ‘employee organization’ means  
24 any association or other organization which satisfies  
25 the definition given that term under the provisions

1 of this chapter (as last in effect before the date of  
2 enactment of the Federal Employees Health Bene-  
3 fits Reform Act of 1993);

4 “(9) the term ‘dependent’, in the case of any  
5 child, means that the employee, annuitant, or other  
6 enrollee involved is either living with or contributing  
7 to the support of such child, as determined in ac-  
8 cordance with regulations prescribed by the Office;

9 “(10) the term ‘former spouse’ means a former  
10 spouse of an employee, former employee, or annu-  
11 itant—

12 “(A) who has not remarried before age 55  
13 after the marriage to the employee, former em-  
14 ployee, or annuitant was dissolved;

15 “(B) who was enrolled in a basic plan  
16 under this chapter (or an approved health bene-  
17 fits plan under this chapter, as previously in ef-  
18 fect) as a family member at any time during  
19 the 18-month period before the date of the dis-  
20 solution of the marriage to the employee,  
21 former employee, or annuitant; and

22 “(C)(i) who is receiving any portion of an  
23 annuity under section 8345(j) or 8467 or a sur-  
24 vivor annuity under section 8341(h) or 8445  
25 (or benefits similar to either of the aforemen-

1 tioned annuity benefits under a retirement sys-  
2 tem for Government employees other than the  
3 Civil Service Retirement System or the Federal  
4 Employees' Retirement System);

5 “(ii) as to whom a court order or a decree  
6 referred to in section 8341(h), 8345(j), 8445,  
7 or 8467 (or similar provision of law under any  
8 such retirement system other than the Civil  
9 Service Retirement System or the Federal Em-  
10 ployees' Retirement System) has been issued, or  
11 for whom an election has been made under sec-  
12 tion 8339(j)(3) or 8417(b) (or similar provision  
13 of law); or

14 “(iii) who is otherwise entitled to an annu-  
15 ity or any portion of an annuity as a former  
16 spouse under a retirement system for Govern-  
17 ment employees;

18 except that such term shall not include any such  
19 unremarried former spouse of a former employee  
20 whose marriage was dissolved after the former em-  
21 ployee's separation from the service (other than by  
22 retirement);

23 “(11) the term ‘child’ means—

24 “(A) an unmarried dependent child under  
25 22 years of age, including—

1           “(i) an adopted child or recognized  
2           natural child; and

3           “(ii) a stepchild or foster child, but  
4           only if the child lives with the employee,  
5           annuitant, or other enrollee in a regular  
6           parent-child relationship;

7           “(B) an unmarried dependent child, as de-  
8           scribed in subparagraph (A) (except for being  
9           22 years of age or older), who is incapable of  
10          self-support because of mental or physical dis-  
11          ability which existed before age 22; and

12          “(C) an unmarried dependent child, as de-  
13          scribed in subparagraph (A) (except for being  
14          at least 22 but less than 23 years of age, ex-  
15          cluding any child under subparagraph (B)),  
16          who is a student regularly pursuing a full-time  
17          course of study or training in residence in a  
18          high school, trade school, technical or vocational  
19          institute, junior college, college, university, or  
20          comparable recognized educational institution;

21          “(12) the term ‘basic health benefits plan’ or  
22          ‘basic plan under this chapter’ means—

23                 “(A) the Governmentwide plan (as de-  
24                 scribed in sections 8904 through 8907); and

1           “(B) an approved health benefits plan de-  
2           scribed in section 8908;

3           “(13) the term ‘supplementary health benefits  
4           plan’ or ‘supplementary plan under this chapter’  
5           means an approved health benefits plan described in  
6           section 8909;

7           “(14) the term ‘enrollee’, as used with respect  
8           to a plan, means an individual enrolled in such plan;

9           “(15) the term ‘covered individual’, as used  
10          with respect to a plan, means—

11                   “(A) an enrollee in such plan; and

12                   “(B) each individual covered by such plan  
13           as a member of the enrollee’s family;

14           “(16) the term ‘Board’ means the Federal Em-  
15           ployees Health Benefits Board under section 8913;

16           “(17) the term ‘Fund’ means the Employees  
17           Health Benefits Fund under section 8914;

18           “(18) the term ‘provider of health care services  
19           or supplies’ or ‘provider’ means a physician, hos-  
20           pital, or other individual or entity which furnishes  
21           health care services or supplies;

22           “(19) the term ‘administrative year’ means a  
23           fiscal year;

24           “(20) the term ‘provider-agreement program’  
25           means a program under which participating provid-



1 **“§ 8903. General program description**

2 “Benefits under this chapter shall be provided  
3 under—

4 “(1) the Governmentwide plan (as described in  
5 sections 8904 through 8907);

6 “(2) group-practice or individual-practice pre-  
7 payment plans (or any combination thereof), as de-  
8 scribed in section 8908; and

9 “(3) supplementary health benefits plans, as de-  
10 scribed in section 8909.

11 **“§ 8904. Benefits under the Governmentwide plan**

12 “(a) The Governmentwide plan shall offer benefits  
13 under a standard option and high option, respectively.

14 “(b)(1) Under the standard option, the following  
15 types of benefits shall be covered to the following extent  
16 (subject to any term or condition under this paragraph  
17 or subsection (c)):

18 “(A) Hospital benefits—80 percent (subject to  
19 a \$200 per admission deductible).

20 “(B) Surgical-medical benefits—80 percent.

21 “(C) X-rays and laboratory tests—80 percent.

22 “(D) Emergency and accidental benefits—100  
23 percent.

24 “(E) Prescribed drugs—75 percent (subject to  
25 a \$10 copayment per prescription or refill, if ob-

1       tained through a mail order prescription drug pro-  
2       gram under section 8907(b)(2)(C)(ii)(III)).

3             “(F) Well-baby benefits—80 percent.

4             “(G) Mammography—80 percent.

5       “(2)(A) Benefits under the high option shall be as  
6       set forth in subparagraph (B) or (C), as applicable, de-  
7       pending on whether or not they are obtained through a  
8       provider-agreement program under section  
9       8907(b)(2)(C)(ii)(I).

10       “(B) If not obtained through such a provider-agree-  
11       ment program, the following types of benefits shall be cov-  
12       ered to the following extent (subject to any term or condi-  
13       tion under this subparagraph or subsection (c)):

14             “(i) Hospital benefits—90 percent (subject to a  
15       \$100 per admission deductible).

16             “(ii) Surgical-medical benefits—85 percent.

17             “(iii) X-rays and laboratory tests—85 percent.

18             “(iv) Emergency and accidental benefits—100  
19       percent.

20             “(v) Prescribed drugs—80 percent (subject to a  
21       \$5 copayment per prescription or refill, if obtained  
22       through a mail order prescription drug program  
23       under section 8907(b)(2)(C)(ii)(III)).

24             “(vi) Well-baby benefits—85 percent.

25             “(vii) Mammography—85 percent.

1 “(C) If obtained through such a provider-agreement  
2 program, the following types of benefits shall be covered  
3 to the following extent (subject to any term or condition  
4 under this subparagraph or subsection (c)):

5 “(i) Hospital benefits—100 percent.

6 “(ii) Surgical-medical benefits—100 percent.

7 “(iii) X-rays and laboratory tests—100 percent.

8 “(iv) Emergency and accidental benefits—100  
9 percent.

10 “(v) Prescribed drugs—85 percent (subject to a  
11 \$5 copayment per prescription or refill, if obtained  
12 through a mail order prescription drug program  
13 under section 8907(b)(2)(C)(ii)(III)).

14 “(vi) Well-baby benefits—100 percent.

15 “(vii) Mammography—100 percent.

16 “(3)(A) In addition to the respective benefits de-  
17 scribed in paragraph (1) and paragraph (2) (B) and (C),  
18 mental health and substance abuse benefits—

19 “(i) shall be provided under the standard and  
20 high options to the extent set forth in subparagraphs  
21 (B) and (C), respectively (subject to clause (ii) and  
22 any term or condition under subparagraph (B) or  
23 (C) or subsection (c)); and

24 “(ii) shall not be available except to the extent  
25 that the benefit is received through an exclusive pro-

1 vider-agreement program under section  
2 8907(b)(2)(C)(ii)(II).

3 “(B) Mental health and substance abuse benefits  
4 under the standard option shall be as follows:

5 “(i) Inpatient basis—75 percent (subject to a  
6 \$200 per admission deductible).

7 “(ii) Outpatient basis—75 percent (up to 30  
8 visits per individual per administrative year).

9 “(C) Mental health and substance abuse benefits  
10 under the high option shall be as follows:

11 “(i) Inpatient basis—80 percent.

12 “(ii) Outpatient basis—75 percent (up to 100  
13 visits per individual per administrative year, but  
14 with any visits beyond 50 in an administrative year  
15 subject to a specific determination under section  
16 8906 that more than 50 visits are necessary).

17 “(4) The Federal Employees Health Benefits Board  
18 may submit to Congress recommendations for any addi-  
19 tional benefits, or changes in benefits, under the Govern-  
20 mentwide plan which the Board considers appropriate.  
21 Any such recommendations—

22 “(A) shall be consistent with the intent that the  
23 same types of benefits shall be covered under both  
24 options; and

1           “(B) shall include the Board’s estimate of any  
2           resulting costs or savings anticipated during each of  
3           the first 5 administrative years of their implementa-  
4           tion.

5           “(c)(1) Subject to paragraph (2), benefits under the  
6           Governmentwide plan shall be specifically defined, and  
7           shall be subject to such maximums, limitations, exclusions,  
8           and other terms or conditions as the Board, in consulta-  
9           tion with the Office of Personnel Management, shall by  
10          regulation prescribe.

11          “(2) Such regulations shall provide that—

12                  “(A)(i) a deductible of \$250 per administrative  
13                  year under the standard option, and \$150 per ad-  
14                  ministrative year under the high option, must be  
15                  met by a covered individual before any benefits shall  
16                  be payable by the plan on such individual’s behalf;  
17                  except that

18                  “(ii) in the case of a family enrollment, once  
19                  the deductible is met by any 2 family members, the  
20                  deductible shall be waived for any other members of  
21                  the family for the rest of the administrative year;

22                  “(B) any payment made to or on behalf of an  
23                  individual for a covered charge shall be based on the  
24                  lesser of—

1           “(i) the actual charge for the service or  
2           item involved; or

3           “(ii) the reasonable and customary charge  
4           for such service or item, as determined by the  
5           Board in consultation with the Office; and

6           “(C) if, in any administrative year, after the  
7           appropriate deductible has been met, total out-of-  
8           pocket expenses (excluding any to the extent that  
9           they exceed reasonable and customary levels, as de-  
10          termined under subparagraph (B)(ii)) for the indi-  
11          vidual (or, in the case of a family enrollment, for the  
12          family) exceed the catastrophic limit established  
13          under paragraph (3) for individual coverage (or, in  
14          the case of a family enrollment, for family coverage),  
15          the plan shall pay 100 percent of all covered charges  
16          incurred by the individual (or, in the case of a fam-  
17          ily enrollment, each covered individual in such fam-  
18          ily).

19          “(3)(A) Except as provided in subparagraph (B), the  
20          catastrophic limit—

21                 “(i) under the standard option shall be—

22                         “(I) \$2,000 per administrative year for in-  
23                         dividual coverage; and

24                         “(II) \$4,000 per administrative year for  
25                         family coverage; and

1 “(ii) under the high option shall be—

2 “(I) \$1,000 per administrative year for in-  
3 dividual coverage; and

4 “(II) \$2,000 per administrative year for  
5 family coverage.

6 “(B)(i) The Office shall prescribe regulations under  
7 which, in any case in which the enrollee is an employee,  
8 the catastrophic limit under this paragraph shall be estab-  
9 lished using a formula which makes the catastrophic limit  
10 commensurate with the rate of basic pay payable to such  
11 employee, except that no limit determined under this sub-  
12 paragraph may exceed the catastrophic limit which would  
13 otherwise apply under subparagraph (A).

14 “(ii) In the case of a family enrollment, if the employ-  
15 ee’s spouse is also an employee and such spouse is receiv-  
16 ing a higher rate of basic pay, the formula shall instead  
17 use the spouse’s rate of basic pay.

18 “(4) The following rules apply with respect to a ‘per  
19 admission’ deductible under section 8904:

20 “(A) The per admission deductible shall be in  
21 addition to any deductible requirement under para-  
22 graph (2)(A).

23 “(B) No amount applied toward meeting a per  
24 admission deductible may be taken into account for

1 purposes of meeting an administrative year deduct-  
2 ible.

3 “(d) A provider shall not be eligible for payments  
4 under this section unless it agrees to comply with the re-  
5 quirements of section 8906 (if applicable), relating to utili-  
6 zation review.

7 “(e) Any amount payable by the Governmentwide  
8 plan for any covered charge shall be paid to the provider  
9 of the item or service involved, unless the enrollee elects  
10 to be reimbursed for such amount instead.

11 **“§ 8905. Contributions under the Governmentwide**  
12 **plan**

13 “(a)(1) The Office of Personnel Management shall  
14 determine the enrollment charges for coverage in the Gov-  
15 ernmentwide plan in accordance with this subsection.

16 “(2)(A) The enrollment charges shall reasonably and  
17 equitably reflect—

18 “(i) the cost of providing benefits under the  
19 Governmentwide plan (taking into account any sav-  
20 ings anticipated through any provider-agreement  
21 program or any other cost-control or cost-reduction  
22 measure under the plan);

23 “(ii) the cost of administering such plan; and

24 “(iii) any amounts necessary to maintain an  
25 adequate contingency reserve.

1 Enrollment charges shall be determined on a basis which,  
2 in the judgment of the Office, is consistent with the lowest  
3 schedule of basic rates generally charged for group health  
4 benefit plans issued to large employers. In so determining  
5 such charges, costs under clauses (i) and (ii) shall be allo-  
6 cated to each option in a manner which is reasonable and  
7 equitable.

8       “(B) The enrollment charges determined for the first  
9 administrative year shall be continued for later adminis-  
10 trative years, except that they may be readjusted for a  
11 later year, based on past experience and benefit adjust-  
12 ments taking effect in such later year. Any readjustment  
13 in such charges shall be made on a basis which, in the  
14 judgment of the Office, is consistent with the general prac-  
15 tice of carriers which issue group health benefit plans to  
16 large employers.

17       “(3) Enrollment charges under this subsection—

18               “(A) shall be established not later than 6  
19 months before the beginning of the administrative  
20 year to which they apply;

21               “(B) shall be established in consultation with  
22 the Board; and

23               “(C) shall, with respect to any administrative  
24 year, be effective—

1           “(i) for an employee, beginning on the first  
2           day of the employee’s first pay period of such  
3           administrative year; and

4           “(ii) for an annuitant, beginning on the  
5           first day of the first period of such administra-  
6           tive year for which an annuity payment is  
7           made.

8           “(4) Any enrollment charges established under this  
9           subsection shall be published in the Federal Register and  
10          the Code of Federal Regulations not later than 5 months  
11          before the beginning of the administrative year to which  
12          they apply.

13          “(5) In establishing enrollment charges under this  
14          subsection, projected administrative costs for the Govern-  
15          mentwide plan may not exceed 1 percent of the projected  
16          cost of providing benefits under such plan.

17          “(b)(1)(A) For the first administrative year during  
18          which the Governmentwide plan is in effect, the biweekly  
19          contribution required of an employee enrolled in such plan  
20          shall be—

21                 “(i) if enrolled in the standard option—

22                         “(I) for self alone, \$10 per pay period; or

23                         “(II) for self and family, \$22 per pay pe-  
24                         riod; or

25                 “(ii) if enrolled in the high option—

1           “(I) for self alone, \$20 per pay period; or

2           “(II) for self and family, \$44 per pay pe-  
3           riod.

4           “(B) For each subsequent administrative year, the bi-  
5 weekly contribution required of an employee enrolled in  
6 the Governmentwide plan shall be the amount last re-  
7 quired (under subparagraph (A) or pursuant to adjust-  
8 ment under this subparagraph, as applicable) before the  
9 start of such year, increased by the lesser of—

10           “(i) the percentage by which the medical care  
11 component of the consumer price index (as deter-  
12 mined by the Bureau of Labor Statistics) for the  
13 last base quarter before the start of such year ex-  
14 ceeds such component of such index (as so deter-  
15 mined) for the second to last base quarter before the  
16 start of such year (if at all); or

17           “(ii) the percentage by which the average of the  
18 enrollment charges determined under subsection (a)  
19 for such year exceeds the average of the enrollment  
20 charges determined under such subsection for the  
21 previous administrative year (if at all).

22 For purposes of this subparagraph, the term ‘base quar-  
23 ter’ means the 3-month period ending on December 31st  
24 of a year.

1       “(2) The Office shall provide for conversion of bi-  
2 weekly rates of contribution under this subsection to rates  
3 for employees paid on other than a biweekly basis and for  
4 annuitants, and for this purpose may provide for the ad-  
5 justment of the converted rate to the nearest cent.

6       “(3)(A) Except as otherwise provided in subpara-  
7 graph (B) or section 8912(3), contributions under this  
8 subsection shall be made through withholdings from the  
9 pay of the enrolled employee or the annuity of the enrolled  
10 annuitant, as the case may be.

11       “(B) An annuitant whose annuity is insufficient to  
12 cover the full amount of the withholdings required under  
13 this subsection may enroll (or remain enrolled) in the Gov-  
14 ernmentwide plan, notwithstanding any other provision of  
15 this section, if the annuitant elects, under conditions pre-  
16 scribed by regulations of the Office, to pay currently into  
17 the Fund, through the retirement system that administers  
18 the annuitant’s health benefits enrollment, an amount  
19 equal to the withholdings that would otherwise be required  
20 under this subsection.

21       “(c)(1) The amount necessary to pay the total enroll-  
22 ment charge (as determined under subsection (a)), after  
23 the enrollee’s contribution is deducted, shall be paid  
24 through Government contributions.

1       “(2) Such Government contributions, in any instance  
2 in which they are being made on behalf of an employee,  
3 shall be made at the same time as the employee contribu-  
4 tion is made.

5       “(3) Government contributions under this subsection  
6 for an employee shall be paid—

7           “(A) in the case of employees generally, from  
8 the appropriation or fund which is used to pay the  
9 employee;

10          “(B) in the case of an elected official, from an  
11 appropriation or fund available for payment of other  
12 salaries of the same office or establishment;

13          “(C) in the case of an employee of the legisla-  
14 tive branch who is paid by the Clerk of the House  
15 of Representatives, from the contingent fund of the  
16 House; and

17          “(D) in the case of an employee in a leave with-  
18 out pay status, from the appropriation or fund  
19 which would be used to pay the employee if such em-  
20 ployee were in a pay status.

21       “(4)(A) Except as provided in subparagraph (B),  
22 Government contributions under this subsection for an an-  
23 nuitant shall be paid from annual appropriations which  
24 are authorized to be made for that purpose and which may  
25 be made available until expended.

1       “(B) Government contributions under this subsection  
2 for an individual who first becomes an annuitant by reason  
3 of retirement from employment with the United States  
4 Postal Service on or after October 1, 1986, or for a survi-  
5 vor of such an individual or of an individual who died on  
6 or after October 1, 1986, while employed by the United  
7 States Postal Service, shall be paid by the United States  
8 Postal Service.

9       “(5)(A) In the case of an employee holding a position  
10 on a part-time career employment basis (as defined in sec-  
11 tion 3401(2)), the Government contribution shall be equal  
12 to—

13               “(i) the amount which would be payable by the  
14 Government if the employee were employed on a full-  
15 time career basis, multiplied by

16               “(ii) the percentage derived by—

17                       “(I) dividing the average number of hours  
18 in such employee’s regularly scheduled work-  
19 week by the average number of hours in the  
20 regularly scheduled workweek of an employee  
21 serving in a comparable position on a full-time  
22 career basis (as determined under regulations  
23 prescribed by the Office); and

24                       “(II) multiplying the quotient under  
25 subclause (I) by 100.

1       “(B) Any shortfall in Government contributions shall,  
2 to the extent attributable to subparagraph (A), be made  
3 up through a corresponding increase in the amount of the  
4 employee contribution.

5       **“§ 8906. Utilization review under the Government-**  
6                               **wide plan**

7       “(a) In order to help prevent excessive or otherwise  
8 inappropriate types or levels of hospital, medical, or men-  
9 tal-health care, and the costs associated therewith, the  
10 Board shall establish procedures to ensure that cost- and  
11 utilization-control measures (consistent with those com-  
12 mon to group health benefits plans offered by large em-  
13 ployers) are implemented under the Governmentwide plan.

14       “(b) Any second opinion, certification, or other form  
15 of review required under this section shall be obtained  
16 from the appropriate carrier under section 8907 (or per-  
17 son under contract with such carrier for that purpose).  
18 The Office of Personnel Management shall establish the  
19 qualification requirements for any person performing any  
20 such review for purposes of this section.

21       “(c) With respect to mental health and substance  
22 abuse benefits, a carrier (or other qualified reviewing en-  
23 tity) may, when medically appropriate, recommend alter-  
24 natives to inpatient care.

1 **“§ 8907. Administration of the Governmentwide plan**

2       “(a)(1) The Governmentwide plan shall be adminis-  
3 tered on a regional basis. To that end, the Office of Per-  
4 sonnel Management, in consultation with the Board, shall  
5 establish such number of geographic regions as the Office  
6 considers appropriate in order that each individual who  
7 is covered by the plan shall be included within the adminis-  
8 trative jurisdiction of 1 of those regions.

9       “(2) The Office may modify the number or bound-  
10 aries of the regions established under this subsection only  
11 as of the start of a contract term (described in subsection  
12 (b)(2)(B)) or at such other times as the Office may by  
13 regulation prescribe.

14       “(b)(1) The processing of claims, implementation of  
15 utilization review requirements, and other functions relat-  
16 ing to the administration of the plan (as identified by the  
17 Office) shall be the responsibility of the carrier designated  
18 under paragraph (2) with respect to such region.

19       “(2)(A) The Office, in accordance with competitive  
20 bidding procedures established by the Office, may contract  
21 with a carrier to carry out the functions required under  
22 paragraph (1) with respect to a region.

23       “(B) Each contract shall be for a uniform term of  
24 at least 3 administrative years, but may be made auto-  
25 matically renewable from term to term in the absence of  
26 notice of termination by either party.

1       “(C) To be eligible for consideration, a carrier  
2 must—

3           “(i) be licensed to issue group health insurance  
4 in each State (including the District of Columbia, if  
5 applicable) which is included, in whole or in part,  
6 within the region involved, except that an organiza-  
7 tion which at any time during the 24-month period  
8 ending on the date of enactment of the Federal Em-  
9 ployees Health Benefits Reform Act of 1993 was  
10 under contract with the Office under the provisions  
11 of this title then designated as section 8902 for a  
12 health plan that was self-insured shall be eligible for  
13 consideration regardless of the number of States in  
14 which it is licensed to issue group insurance; and

15           “(ii) demonstrate that it has or will have (by  
16 the start of the contract term)—

17           “(I) a provider-agreement program suffi-  
18 cient to provide the benefits described in section  
19 8904(b)(2)(C);

20           “(II) an exclusive provider-agreement pro-  
21 gram relating to mental health and substance  
22 abuse benefits; and

23           “(III) a mail order prescription drug pro-  
24 gram.

1       “(D) Subsections (c), (e), and (f) of section 8910  
2 shall apply to a contract under this section in the same  
3 way as if it were a contract under section 8908.

4       “(E) An employee organization shall not be subject  
5 to the requirement under subparagraph (C)(i).

6       “(3) If no carrier is selected with respect to a region,  
7 the Office shall carry out the functions described in para-  
8 graph (1) with respect to such region.

9       “(c) Notwithstanding any other provision of this sec-  
10 tion, an employee organization which, at any time during  
11 the 24-month period before the date of enactment of the  
12 Federal Employees Health Benefits Reform Act of 1993,  
13 was under contract with the Office under the provisions  
14 of this title then designated as section 8902 for a health  
15 benefits plan that was self-insured, may be selected to ad-  
16 minister the Governmentwide plan with respect to—

17               “(1) an employee within that organization’s  
18 bargaining unit (as determined under applicable pro-  
19 visions of law);

20               “(2) an annuitant under section 8901(3) (A) or  
21 (C) who, immediately before becoming such an an-  
22 nuitant, was an employee within that organization’s  
23 bargaining unit (as so determined); and

1           “(3) any individual who is covered by such plan  
2           as a family member of any such employee or annu-  
3           itant.

4 Any selections under this subsection shall be made by the  
5 Office.

6 **“§ 8908. Prepayment plans**

7           “(a)(1) The Office of Personnel Management may  
8 contract for (without regard to section 5 of title 41 or  
9 other statute requiring competitive bidding) or approve  
10 one or more of the following health benefits plans:

11           “(A) GROUP-PRACTICE PREPAYMENT PLANS.—  
12           Group-practice prepayment plans which offer health  
13           benefits of the types referred to in paragraph (2), in  
14           whole or substantial part on a prepaid basis, with  
15           professional services thereunder provided by physi-  
16           cians practicing as a group in a common center or  
17           centers. The group shall include at least 3 physi-  
18           cians who receive all or a substantial part of their  
19           professional income from the prepaid funds and who  
20           represent 1 or more medical specialties appropriate  
21           and necessary for the population proposed to be  
22           served by the plan.

23           “(B) INDIVIDUAL-PRACTICE PREPAYMENT  
24           PLANS.—Individual-practice prepayment plans which  
25           offer health benefits of the types referred to in para-

1 graph (2), in whole or substantial part on a prepaid  
2 basis, with professional services thereunder provided  
3 by individual physicians who agree, under certain  
4 conditions approved by the Office, to accept the pay-  
5 ments provided by the plans as full payment for cov-  
6 ered services given by them including, in addition to  
7 in-hospital services, general care given in their of-  
8 fices and the patients' homes, out-of-hospital diag-  
9 nostic procedures, and preventive care, and which  
10 plans are offered by organizations which have suc-  
11 cessfully operated similar plans before approval by  
12 the Office of the plan in which employees may en-  
13 roll.

14 “(C) MIXED-MODEL PREPAYMENT PLANS.—  
15 Mixed-model prepayment plans are a combination of  
16 the type of plans described in subparagraph (A) and  
17 the type of plans described in subparagraph (B).

18 “(2) The plans described in paragraph (1) shall offer,  
19 at a minimum, the same types of benefits as are offered  
20 under the standard option of the Governmentwide plan.

21 “(b)(1) The Government contribution on behalf of  
22 any individual enrolled in a plan under this section—

23 “(A) shall be equal to an amount which bears  
24 the same relationship to the total enrollment charge

1 for the coverage involved as the ratio under para-  
2 graph (2); and

3 “(B) shall be paid from the same source as  
4 would be required under paragraph (3) or (4) of sec-  
5 tion 8905(c) (as applicable).

6 “(2) The ratio to be used for purposes of paragraph  
7 (1)(A) is equal to—

8 “(A) the sum of the biweekly Government con-  
9 tribution under the Governmentwide plan for the  
10 standard and high options, respectively (for self or  
11 self and family, as applicable), as determined under  
12 section 8905(c), divided by

13 “(B) the sum of the total biweekly enrollment  
14 charge under the Governmentwide plan for the  
15 standard and high options, respectively (for self or  
16 self and family, as applicable), as determined under  
17 section 8905(a).

18 “(c)(1) Except as otherwise provided in paragraph  
19 (2) or section 8912(3), there shall be withheld from the  
20 pay of an enrolled employee or the annuity of an enrolled  
21 annuitant (as the case may be) the amount necessary to  
22 pay the total enrollment charge for a plan under this sec-  
23 tion, after taking into account the amount of the Govern-  
24 ment contribution.

1       “(2) In the case of an annuitant whose annuity is  
2 insufficient to cover the full amount of the withholding  
3 required under paragraph (1), the same election as pro-  
4 vided for under section 8905(b)(3)(B) shall be available.

5       **“§ 8909. Supplementary plans**

6       “(a) The Office of Personnel Management may con-  
7 tract for (without regard to section 5 of title 41 or other  
8 statute requiring competitive bidding) or approve one or  
9 more health benefits plans which offer benefits of the  
10 types referred to in subsection (b), which are sponsored  
11 or underwritten, and administered, in whole or substantial  
12 part, by employee organizations, and which are available  
13 only to individuals who at the time of enrollment are mem-  
14 bers of the organization (and family members).

15       “(b) Any such plan may offer dental benefits, vision-  
16 care benefits, and any other type of benefit, mutually  
17 agreed to by the employee organization and the Office, not  
18 offered by the Governmentwide plan.

19       “(c)(1)(A) Except as provided in subparagraph (B),  
20 an individual shall be eligible to enroll (or remain enrolled)  
21 in any plan under this section during any period of time  
22 during which such individual is enrolled in a basic health  
23 benefits plan.

24       “(B) An individual shall not be eligible to enroll (or  
25 remain enrolled) in any plan under this section if—

1           “(i) such individual’s eligibility for coverage in  
2           a basic health benefits plan is under section 8911a;  
3           or

4           “(ii) such individual has nongroup coverage  
5           under the basic health benefits plan.

6           “(2) Coverage under this section for family members  
7           may not be provided during any period of time during  
8           which they are not also covered under a basic health bene-  
9           fits plan.

10          “(d)(1) The enrollee shall pay the full enrollment  
11          charge for coverage under this section. Except as other-  
12          wise provided in paragraph (2) or section 8912(3), pay-  
13          ments under this subsection shall be made through  
14          withholdings from the pay of the enrolled employee or the  
15          annuity of the enrolled annuitant (as the case may be).

16          “(2) In the case of an annuitant whose annuity is  
17          insufficient to cover the full amount of the withholding  
18          required under paragraph (1), the same election as pro-  
19          vided for under section 8905(b)(3)(B) shall be available.

20          **“§ 8910. Contract requirements**

21          “(a) Each contract under section 8908 or 8909—

22                  “(1) shall be for a uniform term of at least 1  
23                  administrative year, but may be made automatically  
24                  renewable from term to term in the absence of no-  
25                  tice of termination by either party; and

1           “(2) shall contain a detailed statement of bene-  
2           fits offered and shall include such maximums, limi-  
3           tations, exclusions, and other definitions of benefits  
4           as the Office considers necessary or desirable.

5           “(b) The Office of Personnel Management may pre-  
6           scribe reasonable minimum standards for any plan under  
7           section 8908 or 8909 and for carriers offering the plans.  
8           Approval of a plan may be withdrawn only after notice  
9           and opportunity for hearing to the carrier concerned with-  
10          out regard to subchapter II of chapter 5 and chapter 7.  
11          The Office may terminate the contract of a carrier, effec-  
12          tive at the end of the contract term, if the Office finds  
13          that at no time during the preceding two contract terms  
14          did the carrier have 300 or more employees and annu-  
15          itants (exclusive of family members) enrolled in the plan.

16          “(c)(1) A contract may not be made, or a plan ap-  
17          proved, under section 8908 or 8909 which excludes an in-  
18          dividual because of race, sex, health status, annuitant sta-  
19          tus, or, at the time of the first opportunity to enroll, be-  
20          cause of age.

21          “(2)(A) A contract may not be made, or a plan ap-  
22          proved, under section 8908 which does not offer to each  
23          employee, annuitant, family member, former spouse, or  
24          person having continued coverage under section 8911a  
25          whose enrollment in the plan is ended, except by a can-

1 cellation of enrollment, a temporary extension of coverage  
2 during which that individual may exercise the option to  
3 convert, without evidence of good health, to a nongroup  
4 contract providing health benefits; an employee, annu-  
5 itant, family member, former spouse, or person having  
6 continued coverage under section 8911a who exercises this  
7 option shall pay the full periodic charges of the nongroup  
8 contract.

9       “(B) The benefits and coverage made available under  
10 subparagraph (A) are noncancelable by the carrier except  
11 for fraud, over-insurance, or nonpayment of periodic  
12 charges.

13       “(d) With respect to any contract under section 8908  
14 or 8909, the rates determined for the first contract term  
15 may be redetermined, for any later administrative year,  
16 in the same manner as provided for under section  
17 8905(a)(2)(B).

18       “(e) Each contract under section 8908 or 8909 shall  
19 require the carrier to agree to pay for or provide a health  
20 service or supply in any case in which the Office finds that  
21 the employee, annuitant, family member, or other individ-  
22 ual is entitled thereto under the terms of the contract.

23       “(f) The provisions of any contract under section  
24 8908 or 8909 which relate to the nature or extent of cov-  
25 erage or benefits (including payments with respect to ben-

1 efits) shall supersede and preempt any State or local law,  
2 or any regulation issued thereunder, which relates to  
3 health insurance or plans to the extent that such law or  
4 regulation is inconsistent with such contractual provisions.

5 **“§ 8911. Automatic coverage; elections of coverage**

6 “(a)(1) Subject to paragraph (2)(A), an employee  
7 shall, as of the date of first becoming eligible for coverage  
8 under this chapter, be covered under the Governmentwide  
9 plan’s standard option for self alone.

10 “(2)(A) Instead of the coverage provided for under  
11 paragraph (1), an employee may elect—

12 “(i) a different level or type of coverage under  
13 the Governmentwide plan;

14 “(ii) coverage under a different basic health  
15 benefits plan; or

16 “(iii) exclusion from coverage under this chap-  
17 ter.

18 “(B) In addition to or instead of any election under  
19 subparagraph (A), an employee (excluding any employee  
20 who makes an election under subparagraph (A)(iii)) may  
21 elect—

22 “(i) to be covered under a supplementary health  
23 benefits plan;

24 “(ii) to participate in the flexible spending plan  
25 under section 8912; or

1           “(iii) any other option which would be available  
2           to such employee during an open enrollment period  
3           (described in section 8916).

4           “(C) Any election under subparagraph (A) or (B)—

5           “(i) must be submitted to the employing office  
6           of the individual involved, in writing, in such form  
7           and within such time as the Office of Personnel  
8           Management shall by regulation prescribe; and

9           “(ii) shall, if it is submitted in accordance with  
10          clause (i) but after coverage commences, become ef-  
11          fective at the beginning of the next applicable pay  
12          period.

13          “(3) An election of noncoverage under this subsection  
14          shall not prevent the employee from subsequently making  
15          any election for which such employee is eligible during an  
16          open enrollment period or at any other time otherwise al-  
17          lowable under this chapter.

18          “(b) An annuitant who, at the time of becoming an  
19          annuitant, was enrolled in a basic plan under this chap-  
20          ter—

21                  “(1) as an employee for a period of not less  
22                  than—

23                          “(A) the 5 years of service immediately be-  
24                          fore retirement; or

1           “(B) the full period or periods of service  
2           between the last day of the first period, as pre-  
3           scribed by regulations of the Office, in which  
4           that individual is eligible to enroll in the plan  
5           and the date on which such individual becomes  
6           an annuitant;

7           whichever is shorter; or

8           “(2) as a member of the family of an employee  
9           or annuitant;

10          may continue that individual’s enrollment under the condi-  
11          tions of eligibility prescribed by regulations of the Office.  
12          The Office may, in its sole discretion, waive the require-  
13          ments of this subsection in the case of an individual who  
14          fails to satisfy such requirements if the Office determines  
15          that, due to exceptional circumstances, it would be against  
16          equity and good conscience not to allow such individual  
17          to be enrolled as an annuitant in a basic plan under this  
18          chapter.

19          “(c)(1) A former spouse may—

20                 “(A) within 60 days after the dissolution of the  
21                 marriage, or

22                 “(B) in the case of a former spouse of a former  
23                 employee whose marriage was dissolved after the  
24                 employee’s retirement, within 60 days after the dis-  
25                 solution of the marriage or, if later, within 60 days

1 after an election is made under section 8339(j)(3) or  
2 8417(b) for such former spouse by the retired em-  
3 ployee,  
4 enroll in a basic plan under this chapter as an individual  
5 or for self and family (as provided in paragraph (2)), sub-  
6 ject to agreeing to pay the employee and Government con-  
7 tributions which would be payable in the case of an em-  
8 ployee enrolled in the same plan and level of benefits. The  
9 former spouse shall submit an enrollment application and  
10 make payments to the agency which, at the time of divorce  
11 or annulment, employed the employee to whom the former  
12 spouse was married or, in the case of a former spouse who  
13 is receiving annuity payments under section 8341(h),  
14 8345(j), 8445, or 8467, to the Office.

15 “(2) Coverage for self and family under this sub-  
16 section shall be limited to—

17 “(A) the former spouse; and

18 “(B) unmarried dependent natural or adopted  
19 children of the former spouse and the employee who  
20 are—

21 “(i) under 22 years of age;

22 “(ii) 22 years of age or older, but incapa-  
23 ble of self-support because of mental or physical  
24 disability which existed before age 22; or

1           “(iii) students (as described in section  
2           8901(6)(C)) at least 22 but less than 23 years  
3           of age (excluding anyone under clause (ii)).

4   **“§8911a. Continued coverage for certain individuals**

5           “(a) Any individual described in paragraph (1) or (2)  
6 of subsection (b) may elect to continue coverage under this  
7 chapter (including under the Governmentwide plan) in ac-  
8 cordance with this section.

9           “(b) This section applies with respect to—

10           “(1) any employee who—

11                   “(A) is separated from service either vol-  
12 untarily or involuntarily, excluding an employee  
13 involuntarily separated for gross misconduct (as  
14 defined under regulations prescribed by the Of-  
15 fice of Personnel Management); and

16                   “(B) would not otherwise be eligible for  
17 any benefits under this chapter (determined  
18 without regard to any temporary extension of  
19 coverage and without regard to any benefits  
20 available under a nongroup contract); and

21           “(2) any individual who—

22                   “(A) ceases to meet the requirements for  
23 being considered an unmarried dependent child  
24 under this chapter;

1           “(B) on the day before so ceasing to meet  
2           the requirements referred to in subparagraph  
3           (A), was covered under a basic plan under this  
4           chapter as a member of the family of an em-  
5           ployee or annuitant; and

6           “(C) would not otherwise be eligible for  
7           any benefits under this chapter (determined  
8           without regard to any temporary extension of  
9           coverage and without regard to any benefits  
10          available under a nongroup contract).

11          “(c)(1) The Office shall prescribe regulations and  
12          provide for the inclusion of appropriate terms in contracts  
13          with carriers to provide that—

14                 “(A) with respect to an employee who becomes  
15                 (or will become) eligible for continued coverage  
16                 under this section as a result of separation from  
17                 service, the separating agency shall, before the end  
18                 of the 30-day period beginning on the date as of  
19                 which coverage (including any temporary extensions  
20                 of coverage) would otherwise end, notify the individ-  
21                 ual of such individual’s rights under this section;  
22                 and

23                 “(B) with respect to a child of an employee or  
24                 annuitant who becomes eligible for continued cov-  
25                 erage under this section as a result of ceasing to

1 meet the requirements for being considered a mem-  
2 ber of the employee's or annuitant's family—

3 “(i) the employee or annuitant may pro-  
4 vide written notice of the child's change in sta-  
5 tus (complete with the child's name, address,  
6 and such other information as the Office may  
7 by regulation require)—

8 “(I) to the employee's employing  
9 agency; or

10 “(II) in the case of an annuitant, to  
11 the Office; and

12 “(ii) if the notice referred to in clause (i)  
13 is received within 60 days after the date as of  
14 which the child involved first ceases to meet the  
15 requirements involved, the employing agency or  
16 the Office (as the case may be) must, within 14  
17 days after receiving such notice, notify the child  
18 of such child's rights under this section.

19 “(2) In order to obtain continued coverage under this  
20 section, an appropriate written election (submitted in such  
21 manner as the Office by regulation prescribes) must be  
22 made—

23 “(A) in the case of an individual seeking contin-  
24 ued coverage based on a separation from service, be-

1 fore the end of the 60-day period beginning on the  
2 later of—

3 “(i) the effective date of the separation; or

4 “(ii) the date the separated individual re-  
5 ceives the notice required under paragraph  
6 (1)(A); or

7 “(B) in the case of an individual seeking con-  
8 tinued coverage based on a change in circumstances  
9 making such individual ineligible for coverage as an  
10 unmarried dependent child, before the end of the 60-  
11 day period beginning on the later of—

12 “(i) the date as of which such individual  
13 first ceases to meet the requirements for being  
14 considered an unmarried dependent child; or

15 “(ii) the date such individual receives no-  
16 tice under paragraph (1)(B)(ii);

17 except that if a parent fails to provide the notice re-  
18 quired under paragraph (1)(B)(i) in timely fashion,  
19 the 60-day period under this subparagraph shall be  
20 based on the date under clause (i), irrespective of  
21 whether or not any notice under paragraph  
22 (1)(B)(ii) is provided.

23 “(d)(1)(A) An individual receiving continued coverage  
24 under this section shall be required to pay currently into

1 the Fund, under arrangements satisfactory to the Office,  
2 an amount equal to the sum of—

3 “(i) the employee and Government contribu-  
4 tions which would be required in the case of an em-  
5 ployee enrolled in the same plan and level of bene-  
6 fits; and

7 “(ii) an amount, determined under regulations  
8 prescribed by the Office, necessary for administra-  
9 tive expenses, but not to exceed 2 percent of the  
10 total amount under clause (i).

11 “(B) Payments under this section to the Fund  
12 shall—

13 “(i) in the case of an individual whose contin-  
14 ued coverage is based on such individual’s separa-  
15 tion, be made through the agency which last em-  
16 ployed such individual; or

17 “(ii) in the case of an individual whose contin-  
18 ued coverage is based on a change in circumstances  
19 referred to in subsection (c)(2)(B), be made  
20 through—

21 “(I) the Office if, at the time coverage  
22 would (but for this section) otherwise have been  
23 discontinued, the individual was covered as the  
24 child of an annuitant; or

1           “(II) the employee’s employing agency as  
2           of the time referred to in subclause (I) if the  
3           individual was covered as the child of an em-  
4           ployee at such time.

5           “(2) If an individual elects to continue coverage  
6           under this section before the end of the applicable period  
7           under subsection (c)(2), but after such individual’s cov-  
8           erage under this chapter (including any temporary exten-  
9           sions of coverage) expires, coverage shall be restored retro-  
10          actively, with appropriate contributions (determined in ac-  
11          cordance with paragraph (1)) and claims (if any), to the  
12          same extent and effect as though no break in coverage  
13          had occurred.

14          “(3)(A) An individual making an election under sub-  
15          section (c)(2)(B) may, at such individual’s option, elect  
16          coverage either as an individual or for self and family.

17          “(B) For the purpose of this paragraph, members of  
18          an individual’s family shall be determined in the same way  
19          as would apply under this chapter in the case of an en-  
20          rolled employee.

21          “(C) Nothing in this paragraph shall be considered  
22          to limit an individual making an election under subsection  
23          (c)(2)(A) to coverage for self alone.

24          “(e)(1) Continued coverage under this section may  
25          not extend beyond—

1           “(A) in the case of an individual whose contin-  
2           ued coverage is based on separation from service,  
3           the date which is 18 months after the effective date  
4           of the separation; or

5           “(B) in the case of an individual whose contin-  
6           ued coverage is based on ceasing to meet the re-  
7           quirements for being considered an unmarried de-  
8           pendent child, the date which is 36 months after the  
9           date on which the individual first ceases to meet  
10          those requirements, subject to paragraph (2).

11          “(2)(A) In the case of an individual described in sub-  
12          paragraph (B), extended coverage under this section may  
13          not extend beyond the date which is 36 months after the  
14          separation date referred to in subparagraph (B)(iii).

15          “(B) This paragraph applies with respect to any indi-  
16          vidual who—

17                 “(i) ceases to meet the requirements for being  
18                 considered an unmarried dependent child;

19                 “(ii) as of the day before so ceasing to meet the  
20                 requirements referred to in clause (i), was covered  
21                 as the child of a former employee receiving contin-  
22                 ued coverage under this section based on the former  
23                 employee’s separation from service; and

24                 “(iii) so ceases to meet the requirements re-  
25                 ferred to in clause (i) before the end of the 18-

1 month period beginning on the date of the former  
2 employee's separation from service.

3 “(f)(1) The Office shall prescribe regulations under  
4 which, in addition to any individual otherwise eligible for  
5 continued coverage under this section, and to the extent  
6 practicable, continued coverage may also, upon appro-  
7 priate written application, be afforded under this sec-  
8 tion—

9 “(A) to any individual who—

10 “(i) if subparagraphs (A) and (C) of para-  
11 graph (10) of section 8901 were disregarded,  
12 would be eligible to be considered a former  
13 spouse within the meaning of such paragraph;  
14 but

15 “(ii) would not, but for this subsection, be  
16 eligible to be so considered; and

17 “(B) to any individual whose coverage as a  
18 family member would otherwise terminate as a result  
19 of a legal separation.

20 “(2) The terms and conditions for coverage under the  
21 regulations shall include—

22 “(A) consistent with subsection (c), any nec-  
23 essary notification provisions, and provisions under  
24 which an election period of at least 60 days' dura-  
25 tion is afforded;

1           “(B) terms and conditions identical to those  
2           under subsection (d), except that contributions to  
3           the Fund shall be made through such agency as the  
4           Office by regulation prescribes;

5           “(C) provisions relating to the termination of  
6           continued coverage, except that continued coverage  
7           under this section may not (subject to paragraph  
8           (3)) extend beyond the date which is 36 months  
9           after the date on which the qualifying event under  
10          this subsection (the date of divorce, annulment, or  
11          legal separation, as the case may be) occurs; and

12          “(D) provisions designed to ensure that any  
13          coverage pursuant to this subsection does not ad-  
14          versely affect any eligibility for coverage which the  
15          individual might otherwise have under this chapter  
16          (including as a result of any change in personal cir-  
17          cumstances) if this subsection had not been enacted.

18          “(3) In the case of an individual—

19                 “(A) who becomes eligible for continued cov-  
20                 erage under this subsection based on a divorce, an-  
21                 nulment, or legal separation from a person who, as  
22                 of the day before the date of the divorce, annulment,  
23                 or legal separation (as the case may be) was receiv-  
24                 ing continued coverage under this section for self

1 and family based on such person's separation from  
2 service; and

3 "(B) whose divorce, annulment, or legal separa-  
4 tion (as the case may be) occurs before the end of  
5 the 18-month period beginning on the date of the  
6 separation from service referred to in subparagraph  
7 (A),

8 extended coverage under this section may not extend be-  
9 yond the date which is 36 months after the date of the  
10 separation from service, as referred to in subparagraph  
11 (A).

12 **"§ 8911b. Coverage for certain other employees**

13 "(a)(1) An employee enrolled in a basic plan under  
14 this chapter who is placed in a leave without pay status  
15 may have such employee's coverage and the coverage of  
16 members of such employee's family continued under the  
17 plan for not to exceed 12 months under regulations pre-  
18 scribed by the Office of Personnel Management. The regu-  
19 lations may provide for the waiving of contributions by  
20 the employee.

21 "(2) An employee who enters on approved leave with-  
22 out pay to serve as a full-time officer or employee of an  
23 organization composed primarily of employees within 60  
24 days after entering on that leave without pay, may file  
25 with such employee's employing agency an election to con-

1   tinue such employee’s health benefits enrollment and ar-  
2   range to pay currently into the Fund, through such em-  
3   ployee’s employing agency, both employee and agency con-  
4   tributions from the beginning of leave without pay. The  
5   employing agency shall forward the enrollment charges so  
6   paid to the Fund. If the employee does not so elect, such  
7   employee’s enrollment will continue during nonpay status  
8   and end as provided by paragraph (1) and implementing  
9   regulations.

10       “(b)(1)(A) The Office shall prescribe regulations  
11   under which temporary employees (who meet the require-  
12   ments of paragraph (2)) may enroll, either as an individ-  
13   ual or for self and family, in a basic plan under this chap-  
14   ter.

15       “(B) To be eligible to enroll under this subsection,  
16   a temporary employee must have completed 12 months of  
17   current continuous employment, excluding any break in  
18   service of 5 days or less.

19       “(2) Any temporary employee enrolled in a basic plan  
20   under this subsection shall be responsible for paying,  
21   through withholdings from pay, both employee and Gov-  
22   ernment contributions.

1 **“§8911c. Coverage of restored employees and survi-**  
2 **vor or disability annuitants**

3 “(a) An employee enrolled in a basic plan under this  
4 chapter who is removed or suspended without pay and  
5 later reinstated or restored to duty on the ground that  
6 the removal or suspension was unjustified or unwarranted  
7 may, at such employee’s option, enroll as a new employee  
8 or have such employee’s coverage restored, with appro-  
9 priate adjustments made in contributions and claims, to  
10 the same extent and effect as though the removal or sus-  
11 pension had not taken place.

12 “(b) A surviving spouse whose survivor annuity under  
13 this title was terminated because of remarriage and is  
14 later restored may, under such regulations as the Office  
15 of Personnel Management may prescribe, enroll in a basic  
16 plan under this chapter if such spouse was covered by any  
17 such plan immediately before such annuity was termi-  
18 nated.

19 “(c) A disability annuitant whose disability annuity  
20 under section 8337 was terminated and is later restored  
21 under the second or third sentence of subsection (e) of  
22 such section may, under regulations prescribed by the Of-  
23 fice, enroll in a basic plan under this chapter if such annu-  
24 itant was covered by any such plan immediately before  
25 such annuity was terminated.

1 **“§ 8911d. Double coverage; change in family status**

2 “(a) If an employee, annuitant, or other individual  
3 eligible to enroll in a basic plan under this chapter has  
4 a spouse who is also eligible to enroll, either spouse, but  
5 not both, may enroll for self and family, or each spouse  
6 may enroll as an individual. However, an individual may  
7 not be covered both as an enrollee and as a family mem-  
8 ber.

9 “(b) An employee, annuitant, or other individual en-  
10 rolled in a basic plan under this chapter may change such  
11 individual’s coverage or that of the individual and mem-  
12 bers of such individual’s family by an application filed  
13 within 60 days after a change in family status or at other  
14 times and under conditions prescribed by regulations of  
15 the Office of Personnel Management.

16 **“§ 8911e. Clarifying provisions**

17 “The following rules shall apply in administering the  
18 provisions of sections 8911 through 8911d:

19 “(1) In administering a provision which re-  
20 quires that an individual currently be, or previously  
21 have been, enrolled in (or covered under) a basic  
22 health benefits plan, as a condition for continued en-  
23 rollment or other treatment under this chapter, en-  
24 rollment in (or coverage under) a plan under this  
25 chapter (as previously in effect) shall be treated as  
26 if it had been under a basic health benefits plan.

1           “(2) In order to compute any remaining period  
2 of eligibility for continued coverage (where eligibility  
3 is limited to a specific term), any period of contin-  
4 ued coverage under this chapter (as previously in ef-  
5 fect) shall be treated as a period of continued cov-  
6 erage under a basic health benefits plan.

7           “(3) The Office of Personnel Management shall  
8 prescribe rules relating to procedures for continuing  
9 the coverage of an individual who is last covered (be-  
10 fore first starting continued coverage under a basic  
11 health benefits plan, as an annuitant or otherwise)  
12 under a health benefits plan under this chapter (as  
13 previously in effect). The rules shall include provi-  
14 sions to provide that if continued coverage is elected,  
15 but no basic plan under this chapter is indicated,  
16 coverage shall be under the Governmentwide plan.

17           “(4) The Office shall prescribe any other rules  
18 which may be necessary to carry out the purposes of  
19 this section.

20 **“§ 8912. Flexible spending plan**

21           “The Office of Personnel Management shall by regu-  
22 lation provide for the establishment of a flexible spending  
23 plan. Such plan—

24           “(1) shall be available to employees with health  
25 insurance coverage under this chapter;

1           “(2) shall be designed and maintained in a  
2 manner that ensures that benefits—

3           “(A) meet the requirements for exclusion  
4 from gross income under section 105(b) of the  
5 Internal Revenue Code of 1986; and

6           “(B) are provided pursuant to salary re-  
7 duction agreements meeting the requirements of  
8 section 125 of the Internal Revenue Code of  
9 1986 for exclusion from gross income;

10          “(3) shall require, as a condition for participa-  
11 tion, that the employee agree that the amounts de-  
12 ducted or withheld from pay under the plan—

13          “(A) shall be sufficient to pay the full  
14 amount of the employee contributions for any  
15 basic or supplementary health benefits plan in  
16 which the employee is enrolled; and

17          “(B) shall be used for that purpose;

18          “(4) shall provide that any amounts in excess  
19 of those required under paragraph (3) may be used  
20 for any deductible, copayment, coinsurance, or other  
21 amount for which the employee is liable under a  
22 basic or supplementary health benefits plan; and

23          “(5) shall provide that any amounts forfeited  
24 under the plan shall be transferred to a separate ac-  
25 count—

1           “(A) which shall be within the Employees  
2           Health Benefits Fund; and

3           “(B) which shall be used for purposes of  
4           the programs under section 8919(e).

5   **“§ 8913. Federal Employees Health Benefits Board**

6           “(a) There shall be established a Federal Employees  
7           Health Benefits Board.

8           “(b)(1) The Board shall be composed of 6 members,  
9           all of whom shall be appointed by the President, except  
10          that—

11           “(A) 2 shall be appointed taking into consider-  
12          ation any recommendations made by the Speaker of  
13          the House of Representatives after consultation with  
14          the minority leader of the House of Representatives;  
15          and

16           “(B) 2 shall be appointed taking into consider-  
17          ation any recommendations made by the majority  
18          leader of the Senate after consultation with the mi-  
19          nority leader of the Senate.

20          “(2) A member of the Board shall be appointed for  
21          a term of 4 years, except that of the members first ap-  
22          pointed—

23           “(A) 2 shall be appointed for a term of 3 years;  
24          and

25           “(B) 2 shall be appointed for a term of 2 years.

1 Terms of the members first appointed shall be specified  
2 by the President at the time of appointment.

3 “(3)(A) A vacancy on the Board shall be filled in the  
4 manner in which the original appointment was made.

5 “(B) An individual chosen to fill a vacancy shall be  
6 appointed for the unexpired term of the member replaced.

7 “(4) A member may continue to serve after the expi-  
8 ration of such member’s term until a successor is ap-  
9 pointed, but for not more than 12 months.

10 “(5) A chairman shall be elected by the members of  
11 the Board.

12 “(6) Any appointment or recommendation under this  
13 subsection shall be made from among individuals who—

14 “(A) represent organizations representing sub-  
15 stantial numbers of employees or annuitants; and

16 “(B) are generally recognized for their knowl-  
17 edge and experience in the field of health insurance,  
18 health care, or employee compensation.

19 “(c) In carrying out their responsibilities under this  
20 chapter, members of the Board shall act solely in the in-  
21 terest of individuals participating in the Governmentwide  
22 plan.

23 “(d) The Board may—

24 “(1) appoint such personnel as may be nec-  
25 essary; and

1           “(2) procure the services of experts or consult-  
2           ants in accordance with section 3109.

3   **“§ 8914. Employees Health Benefits Fund**

4           “(a) There is in the Treasury of the United States  
5   an Employees Health Benefits Fund which is adminis-  
6   tered by the Office of Personnel Management. All con-  
7   tributions of enrollees and the Government made under  
8   this chapter shall be paid into the Fund. The Fund is  
9   available—

10           “(1) without fiscal year limitation for benefits  
11   payable under the Governmentwide plan and all pay-  
12   ments to approved health benefits plans under sec-  
13   tion 8908 or 8909; and

14           “(2) to pay expenses for administering this  
15   chapter within the limitations that may be specified  
16   annually by Congress.

17           “(b)(1) Portions of the contributions made by enroll-  
18   ees in any of the basic health benefits plans and by the  
19   Government on their behalf shall be regularly set aside  
20   in the Fund as follows:

21           “(A) From contributions for the Government-  
22   wide plan, those portions allocable to defraying the  
23   cost of administering such plan and maintaining a  
24   contingency reserve for such plan, respectively, as  
25   determined under section 8905(a).

1           “(B) From the contributions for each of the  
2 other basic plans under this chapter, a percentage  
3 (not to exceed the percentage of the total enrollment  
4 charge under the Governmentwide plan allocable to  
5 defraying administrative costs attributable to such  
6 plan) determined by the Office to be reasonably ade-  
7 quate to pay the administrative costs attributable to  
8 the basic plan involved.

9           “(2) The Office, from time to time and in amounts  
10 it considers appropriate, may transfer unused funds for  
11 administrative expenses of the Governmentwide plan to  
12 the contingency reserve of such plan. Such contingency re-  
13 serve may be used to defray increases in future rates  
14 under, or may be applied to reduce the contributions of  
15 enrollees and the Government to, the Governmentwide  
16 plan, as the Office shall from time to time determine.

17           “(3)(A) Of any amounts paid into the Fund for ad-  
18 ministrative expenses, 90 percent shall be available for ex-  
19 penses incurred by the Office and 10 percent shall be  
20 available for expenses incurred by the Board.

21           “(B) The Office, from time to time and in amounts  
22 it considers appropriate, may transfer any unused funds  
23 for administrative expenses of the respective basic health  
24 benefits plans to the account established under section  
25 8912(5) to subsidize the programs under section 8919(e).

1       “(c) The Secretary of the Treasury may invest and  
2 reinvest any of the money in the Fund in interest-bearing  
3 obligations of the United States, and may sell these obliga-  
4 tions for the purposes of the Fund. The interest on and  
5 the proceeds from the sale of these obligations become a  
6 part of the Fund.

7       “(d) When the assets, liabilities, and membership of  
8 employee organizations sponsoring or underwriting plans  
9 approved under section 8909 are merged, the assets and  
10 liabilities of the plans sponsored or underwritten by the  
11 merged organizations shall be transferred at the beginning  
12 of the contract term next following the date of the merger  
13 to the plan sponsored or underwritten by the successor  
14 organization. Each employee, annuitant, former spouse, or  
15 person having continued coverage under section 8911a af-  
16 fected by a merger shall be transferred to the plan spon-  
17 sored or underwritten by the successor organization unless  
18 he enrolls in another supplementary plan under this chap-  
19 ter.

20 **“§8915. Debarment and other sanctions against pro-**  
21 **viders**

22       “(a)(1) For the purpose of this section, an individual  
23 or entity shall be considered to have been convicted of a  
24 criminal offense if—

1           “(A) a judgment of conviction for such offense  
2           has been entered against the individual or entity by  
3           a Federal, State, or local court;

4           “(B) there has been a finding of guilt against  
5           the individual or entity by a Federal, State, or local  
6           court with respect to such offense;

7           “(C) a plea of guilty or nolo contendere by the  
8           individual or entity has been accepted by a Federal,  
9           State, or local court with respect to such offense; or

10          “(D) in the case of an individual, the individual  
11          has entered a first offender or other program pursu-  
12          ant to which a judgment of conviction for such of-  
13          fense has been withheld;

14          without regard to the pendency or outcome of any appeal  
15          (other than a judgment of acquittal based on innocence)  
16          or request for relief on behalf of the individual or entity.

17          “(2)(A) Notwithstanding any other provision of this  
18          chapter, if a provider is barred under subsection (b) or  
19          (c) from participating in the program under this chapter,  
20          no payment may be made by any basic or supplementary  
21          plan under this chapter (to such provider or by reimburse-  
22          ment) for any service or supply furnished by such provider  
23          during the period of the debarment.

1       “(B) Each contract under this chapter shall contain  
2 such provisions as may be necessary to carry out subpara-  
3 graph (A) and the other provisions of this section.

4       “(b) The Office of Personnel Management may bar  
5 the following providers of health care services or supplies  
6 from participating in the program under this chapter:

7           “(1) Any provider that has been convicted,  
8       under Federal or State law, of a criminal offense re-  
9       lating to fraud, corruption, breach of fiduciary re-  
10      sponsibility, or other financial misconduct in connec-  
11      tion with the delivery of a health care service or sup-  
12      ply.

13          “(2) Any provider that has been convicted,  
14      under Federal or State law, of a criminal offense re-  
15      lating to neglect or abuse of patients in connection  
16      with the delivery of a health care service or supply.

17          “(3) Any provider that has been convicted,  
18      under Federal or State law, in connection with the  
19      interference with or obstruction of an investigation  
20      or prosecution of a criminal offense described in  
21      paragraph (1) or (2).

22          “(4) Any provider that has been convicted,  
23      under Federal or State law, of a criminal offense re-  
24      lating to the unlawful manufacture, distribution,  
25      prescription, or dispensing of a controlled substance.

1 “(5) Any provider—

2 “(A) whose license to provide health care  
3 services or supplies has been revoked, sus-  
4 pended, restricted, or not renewed, by a State  
5 licensing authority for reasons relating to the  
6 provider’s professional competence, professional  
7 performance, or financial integrity; or

8 “(B) that surrendered such a license while  
9 a formal disciplinary proceeding was pending  
10 before such an authority, if the proceeding con-  
11 cerned the provider’s professional competence,  
12 professional performance, or financial integrity.

13 “(c) Whenever the Office determines—

14 “(1) in connection with a claim presented under  
15 this chapter, that a provider of health care services  
16 or supplies—

17 “(A) has charged for health care services  
18 or supplies that the provider knows or should  
19 have known were not provided as claimed; or

20 “(B) has charged for health care services  
21 or supplies in an amount substantially in excess  
22 of such provider’s customary charges for such  
23 services or supplies, or charged for health care  
24 services or supplies which are substantially in  
25 excess of the needs of the covered individual or

1           which are of a quality that fails to meet profes-  
2           sionally recognized standards for such services  
3           or supplies;

4           “(2) that a provider of health care services or  
5           supplies has knowingly made, or caused to be made,  
6           any false statement or misrepresentation of a mate-  
7           rial fact which is reflected in a claim presented  
8           under this chapter; or

9           “(3) that a provider of health care services or  
10          supplies has knowingly failed to provide any infor-  
11          mation required by the Office, a carrier, or other  
12          person administering a plan under this chapter to  
13          determine whether a payment or reimbursement is  
14          payable under this chapter or the amount of any  
15          such payment or reimbursement;

16 the Office may, in addition to any other penalties that may  
17 be prescribed by law, and after consultation with the At-  
18 torney General, impose a civil monetary penalty of not  
19 more than \$10,000 for any item or service involved. In  
20 addition, such a provider shall be subject to an assessment  
21 of not more than twice the amount claimed for each such  
22 item or service. In addition, the Office may make a deter-  
23 mination in the same proceeding to bar such provider from  
24 participating in the program under this chapter.

25          “(d) The Office—

1           “(1) may not initiate any debarment proceeding  
2           against a provider, based on such provider’s having  
3           been convicted of a criminal offense, later than 6  
4           years after the date on which such provider is so  
5           convicted; and

6           “(2) may not initiate any action relating to a  
7           civil penalty, assessment, or debarment under this  
8           section, in connection with any claim, later than 6  
9           years after the date the claim is presented, as deter-  
10          mined under regulations prescribed by the Office.

11          “(e) In making a determination relating to the appro-  
12          priateness of imposing or the period of any debarment  
13          under this section, or the appropriateness of imposing or  
14          the amount of any civil penalty or assessment under this  
15          section, the Office shall take into account—

16                 “(1) the nature of any claims involved and the  
17                 circumstances under which they were presented;

18                 “(2) the degree of culpability, history of prior  
19                 offenses or improper conduct of the provider in-  
20                 volved; and

21                 “(3) such other matters as justice may require.

22          “(f)(1) The debarment of a provider under subsection  
23          (b) or (c) shall be effective at such time and upon such  
24          reasonable notice to such provider, covered individuals,

1 carriers, and other persons as may be specified in regula-  
2 tions prescribed by the Office.

3 “(2)(A) Except as provided in subparagraph (B), a  
4 debarment shall be effective with respect to any health  
5 care services or supplies furnished by a provider on or  
6 after the effective date of such provider’s debarment.

7 “(B) A debarment shall not apply with respect to in-  
8 patient institutional services furnished to an individual  
9 who was admitted to the institution before the date the  
10 debarment would otherwise become effective until the pas-  
11 sage of 30 days after such date, unless the Office deter-  
12 mines that the health or safety of the individual receiving  
13 those services warrants that a shorter period, or that no  
14 such period, be afforded.

15 “(3) Any notice referred to in paragraph (1) shall  
16 specify the date as of which debarment becomes effective  
17 and the minimum period of time for which such debarment  
18 is to remain effective.

19 “(4)(A) A provider barred from participating in the  
20 program under this chapter may, after the expiration of  
21 the minimum period of debarment referred to in para-  
22 graph (3), apply to the Office, in such manner as the Of-  
23 fice may by regulation prescribe, for termination of the  
24 debarment.

25 “(B) The Office may—

1           “(i) terminate the debarment of a provider,  
2           pursuant to an application filed by such provider  
3           after the end of the minimum debarment period, if  
4           the Office determines, based on the conduct of the  
5           applicant, that—

6                   “(I) there is no basis under subsection (b)  
7                   or (c) for continuing the debarment; and

8                   “(II) there are reasonable assurances that  
9                   the types of actions which formed the basis for  
10                  the original debarment have not recurred and  
11                  will not recur; or

12           “(ii) notwithstanding any provision of subpara-  
13           graph (A), terminate the debarment of a provider,  
14           pursuant to an application filed by such provider be-  
15           fore the end of the minimum debarment period, if  
16           the Office determines that—

17                   “(I) based on the conduct of the applicant,  
18                   the requirements of subclauses (I) and (II) of  
19                   clause (i) have been met; and

20                   “(II) early termination under this clause is  
21                   warranted based on the fact that the provider  
22                   is the sole community provider or the sole  
23                   source of essential specialized services in a com-  
24                   munity, or other similar circumstances.

25           “(5) The Office shall—

1           “(A) promptly notify the appropriate State or  
2           local agency or authority having responsibility for  
3           the licensing or certification of a provider barred  
4           from participation in the program under this chapter  
5           of the fact of the debarment, as well as the rea-  
6           sons for such debarment;

7           “(B) request that appropriate investigations be  
8           made and sanctions invoked in accordance with ap-  
9           plicable law and policy; and

10           “(C) request that the State or local agency or  
11           authority keep the Office fully and currently in-  
12           formed with respect to any actions taken in re-  
13           sponse to the request.

14           “(6) The Office shall, upon written request and pay-  
15           ment of a reasonable charge to defray the cost of comply-  
16           ing with such request, furnish a current list of any provid-  
17           ers barred from participating in the program under this  
18           chapter, including the minimum period of time remaining  
19           under the terms of each provider’s debarment.

20           “(g)(1) The Office may not make a determination  
21           under subsection (b) or (c) adverse to a provider of health  
22           care services or supplies until such provider has been given  
23           written notice and an opportunity for a hearing on the  
24           record. A provider is entitled to be represented by counsel,

1 to present witnesses, and to cross-examine witnesses  
2 against the provider in any such hearing.

3 “(2) Notwithstanding section 8918 any person ad-  
4 versely affected by a final decision under paragraph (1)  
5 may obtain review of such decision in the United States  
6 Court of Appeals for the Federal Circuit. A written peti-  
7 tion requesting that the decision be modified or set aside  
8 must be filed within 60 days after the date on which  
9 such person is notified of such decision.

10 “(3) Matters that were raised or that could have been  
11 raised in a hearing under paragraph (1) or an appeal  
12 under paragraph (2) may not be raised as a defense to  
13 a civil action by the United States to collect a penalty or  
14 assessment imposed under this section.

15 “(h) A civil action to recover civil monetary penalties  
16 or assessments under subsection (c) shall be brought by  
17 the Attorney General in the name of the United States,  
18 and may be brought in the United States district court  
19 for the district where the claim involved was presented or  
20 where the person subject to the penalty resides. Amounts  
21 recovered under this section shall be paid to the Office  
22 for deposit into the Fund.

23 “(i) The Office shall prescribe regulations under  
24 which, with respect to services or supplies furnished by  
25 a debarred provider to a covered individual during the pe-

1 riod of such provider’s debarment, payment or reimburse-  
2 ment under this chapter may be made, notwithstanding  
3 the fact of such debarment, if such individual did not know  
4 or could not reasonably be expected to have known of the  
5 debarment. In any such instance, the carrier or other ad-  
6 ministrative entity involved shall take appropriate meas-  
7 ures to ensure that the individual is informed of the debar-  
8 ment and the minimum period of time remaining under  
9 the terms of the debarment.

10 **“§8916. Open enrollment periods; informational re-**  
11 **quirements**

12 “(a)(1) Under regulations which it shall prescribe,  
13 the Office of Personnel Management shall, before the start  
14 of each administrative year, provide a period of not less  
15 than 3 weeks during which—

16 “(A) any eligible individual may elect to become  
17 enrolled in a basic or supplementary plan under this  
18 chapter, or begin participating in the flexible spend-  
19 ing plan under section 8912;

20 “(B) an individual enrolled in a basic or supple-  
21 mentary plan under this chapter may elect to termi-  
22 nate the enrollment, transfer to another such plan,  
23 or make any other change in the terms or conditions  
24 of such individual’s enrollment which is allowable;  
25 and

1           “(C) any individual participating in the flexible  
2           spending plan under section 8912 may elect to cease  
3           participating in such plan or make any other change  
4           allowable with respect to such plan.

5           “(2) In addition to any opportunity afforded under  
6           paragraph (1), an individual enrolled in a basic plan under  
7           this chapter shall be permitted to transfer such individ-  
8           ual’s enrollment to another such plan, cancel such enroll-  
9           ment, or make any other election allowable under this  
10          chapter at such other times and subject to such conditions  
11          as the Office may by regulation prescribe.

12          “(b)(1) The Office shall make available to each indi-  
13          vidual eligible to enroll in a basic plan under this chapter  
14          such information, in a form acceptable to the Office (after  
15          consultation with the carrier, if any), as may be necessary  
16          to enable the individual to make an informed choice with  
17          respect to such plans and supplementary plans under this  
18          chapter.

19          “(2) Each enrollee in a basic or supplementary health  
20          benefits plan shall be issued an appropriate document set-  
21          ting forth or summarizing—

22                  “(A) the services or benefits, including maxi-  
23                  mums, limitations, and exclusions, to which the en-  
24                  rollee or the enrollee and any covered family mem-  
25                  bers are entitled thereunder;

1           “(B) the procedure for obtaining benefits; and

2           “(C) the principal provisions of the plan affect-  
3           ing the enrollee and any eligible family members.

4           “(3)(A) In addition to any informational require-  
5           ments otherwise provided for under this subsection, regu-  
6           lations prescribed by the Office shall include provisions to  
7           ensure that each employee eligible to enroll in a basic plan  
8           under this chapter (whether actually enrolled or not) is  
9           notified in writing as to the rights afforded under section  
10          8911a.

11          “(B) Notification under this paragraph shall be pro-  
12          vided by employing agencies at an appropriate point in  
13          time before each period under subsection (b)(1), so that  
14          employees may be aware of their rights under section  
15          8911a when making enrollment decisions during such  
16          period.

17          **“§ 8917. Studies, reports, and audits**

18          “(a) The Office of Personnel Management shall make  
19          a continuing study of the operation and administration of  
20          this chapter, including surveys and reports on basic and  
21          supplementary health benefits plans available to employees  
22          and on the experience of the plans.

23          “(b) In carrying out this section, the Office shall, on  
24          an annual basis, compile statistics and submit to the  
25          Board a written report describing—

1           “(1) the degree to which the basic and supple-  
2           mentary health benefits plans are utilized during the  
3           period covered by the report; and

4           “(2) the overall cost to the Government associ-  
5           ated with providing each of those types of benefits  
6           during that period.

7           “(c) Each contract entered into under this chapter  
8           with a carrier shall contain provisions requiring such car-  
9           rier to—

10           “(1) furnish such reasonable reports as the Of-  
11           fice determines to be necessary to enable it to carry  
12           out its functions under this chapter; and

13           “(2) permit the Office and representatives of  
14           the General Accounting Office to examine records of  
15           the carrier as may be necessary to carry out the pur-  
16           poses of this chapter.

17           “(d) Each Government agency shall keep such  
18           records, make such certifications, and furnish the Office  
19           with such information and reports as may be necessary  
20           to enable the Office to carry out its functions under this  
21           chapter.

22           **“§ 8918. Jurisdiction of courts**

23           “The district courts of the United States have origi-  
24           nal jurisdiction, concurrent with the United States Claims

1 Court, of a civil action or claim against the United States  
2 founded on this chapter.

3 **“§ 8919. Regulations**

4 “(a) The Office of Personnel Management may pre-  
5 scribe regulations necessary to carry out this chapter, ex-  
6 cept to the extent that regulatory authority is specifically  
7 assigned to another agency.

8 “(b) The regulations of the Office may prescribe the  
9 time at which and the manner and conditions under which  
10 an employee is eligible to enroll in a basic or supple-  
11 mentary plan under this chapter. The regulations may ex-  
12 clude an employee on the basis of the nature and type  
13 of his employment or conditions pertaining to it, such as  
14 short-term appointment, seasonal or intermittent employ-  
15 ment, and employment of like nature. The Office may not  
16 exclude—

17 “(1) an employee or group of employees solely  
18 on the basis of the hazardous nature of employment;

19 “(2) a teacher in the employ of the Board of  
20 Education of the District of Columbia, whose pay is  
21 fixed by section 1501 of title 31, District of Colum-  
22 bia Code, on the basis of the fact that the teacher  
23 is serving under a temporary appointment if the  
24 teacher has been so employed by the Board for a pe-

1 riod or periods totaling not less than two school  
2 years;

3 “(3) an employee who is occupying a position  
4 on a part-time career employment basis (as defined  
5 in section 3401(2)); or

6 “(4) an employee who is employed on a tem-  
7 porary basis and is eligible under section 8911b(b).

8 “(c) The regulations of the Office shall provide for  
9 the beginning and ending dates of coverage (including for  
10 family members) under basic and supplementary health  
11 benefit plans. The regulations may permit the coverage to  
12 continue, exclusive of the temporary extension of coverage  
13 under section 8907(b)(3) or 8910(c)(2) and any nongroup  
14 coverage, until the end of the pay period in which an em-  
15 ployee is separated from the service, or until the end of  
16 the month in which an annuitant or former spouse ceases  
17 to be entitled to annuity, and in case of the death of an  
18 employee or annuitant, may permit a temporary extension  
19 of the coverage of members of his family for not to exceed  
20 90 days.

21 “(d) The Secretary of Agriculture shall prescribe reg-  
22 ulations to effect the application and operation of this  
23 chapter to an individual named by section 8901(1)(F).

24 “(e) The regulations of the Office shall provide for  
25 the establishment of—

1           “(1) smoking-cessation and weight-control pro-  
2           grams;

3           “(2) high-blood-pressure and cancer-screening  
4           programs; and

5           “(3) other ‘wellness programs’ for Federal em-  
6           ployees.

7           “(f)(1) The Office shall prescribe such regulations as  
8           may be necessary to ensure that, for any annuitant eligible  
9           to receive benefits both under this chapter and under part  
10          A or B of title XVIII of the Social Security Act,  
11          deductibles and coinsurance or copayment amounts under  
12          this chapter shall be waived to the same extent as occurred  
13          immediately before the date of enactment of the Federal  
14          Employees Health Benefits Reform Act of 1993.

15          “(2) When an individual is eligible for benefits under  
16          this chapter which would be duplicative of benefits under  
17          part A or B of title XVIII of the Social Security Act, the  
18          primary payer shall be the same as would have been the  
19          case in those same circumstances immediately before the  
20          date referred to in paragraph (1).

21          **“§ 8920. Effect of other statutes**

22          “Any provision of law outside of this chapter which  
23          provides coverage or any other benefit under this chapter  
24          to any individuals who (based on their being employed by  
25          an entity other than the Government) would not otherwise

1 be eligible for any such coverage or benefit shall not apply  
2 with respect to any individual appointed, transferred, or  
3 otherwise commencing that type of employment on or after  
4 October 1, 1988.”.

5 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (a) The last sentence of section 1840(d)(1) of the So-  
7 cial Security Act (42 U.S.C. 1395s(d)(1)) is amended—

8 (1) by striking “8903 or 8903a” and inserting  
9 “paragraph (1) or (2) of section 8903”; and

10 (2) by striking “8906” and inserting “8905”.

11 (b) Section 613(c) of the Alaska Railroad Transfer  
12 Act of 1982 (45 U.S.C. 1212(c)) is repealed.

13 (c)(1) Section 832 of the Foreign Service Act of 1980  
14 (22 U.S.C. 4069c) and section 16 of the Central Intel-  
15 ligence Agency Act of 1949 (50 U.S.C. 403p) are each  
16 amended—

17 (A) by amending subparagraph (B) of sub-  
18 section (b)(1) to read as follows:

19 “(B) arranges to pay currently into the Em-  
20 ployees Health Benefits Fund under section 8914 of  
21 title 5, United States Code, an amount equal to the  
22 sum which would be required under section  
23 8911a(d)(1)(A) of such title.”; and

24 (B) by amending subsection (e) to read as fol-  
25 lows:

1 “(e) For purposes of this section, the term ‘health  
2 benefits plan’ means a health benefits plan described in  
3 paragraph (1) or (2) of section 8903 of title 5, United  
4 States Code.”.

5 (2) Section 833 of the Foreign Service Act of 1980  
6 (22 U.S.C. 4069c-1) is repealed.

7 (d) Section 104(e) of the Indian Self-Determination  
8 and Education Assistance Act (25 U.S.C. 450i(e)) is  
9 amended—

10 (1) in the matter before paragraph (1) by strik-  
11 ing “8914” and inserting “8920”; and

12 (2) in paragraph (3) by striking “8909” and in-  
13 serting “8914”.

14 **SEC. 4. EFFECTIVE DATE; SAVINGS PROVISIONS; COORDI-**  
15 **NATION.**

16 (a) EFFECTIVE DATE.—

17 (1) IN GENERAL.—This Act and the amend-  
18 ments made by this Act shall take effect at the be-  
19 ginning of the first fiscal year beginning at least 12  
20 months after the date of enactment of this Act.

21 (2) SPECIAL RULE.—In order to facilitate the  
22 timely implementation of the health benefits pro-  
23 gram provided for by this Act, members of the Fed-  
24 eral Employees Health Benefits Board may be ap-  
25 pointed at any time on or after the first day of the

1 ninth month preceding the effective date under para-  
2 graph (1), and, once constituted, the Board may ex-  
3 ercise any authority which would be available to it  
4 if the amendments made by this Act were then in  
5 effect.

6 (b) SAVINGS PROVISIONS.—

7 (1) CLAIMS.—For purposes of determining the  
8 rights of any individual covered by a health benefits  
9 plan immediately before the effective date of this  
10 Act, and the obligations of the carrier offering such  
11 plan, the provisions of chapter 89 of title 5, United  
12 States Code, and any contract thereunder, as in ef-  
13 fect immediately before such effective date, shall  
14 continue to apply in the same way as if an election  
15 to transfer coverage to another such plan had been  
16 made by or with respect to such individual during  
17 the period last afforded before such effective date  
18 under section 8905(f)(1) of such title (as then in  
19 effect).

20 (2) DEBARMENTS.—

21 (A) ORDERS.—Any debarment order is-  
22 sued under section 8902a of title 5, United  
23 States Code, before this Act takes effect shall  
24 continue in effect, according to its terms, unless  
25 modified, terminated, or superseded in accord-

1           ance with applicable succeeding provisions of  
2           law.

3           (B) PROCEEDINGS.—Nothing in this Act  
4           shall affect any administrative proceeding pend-  
5           ing under such section 8902a at the time this  
6           Act takes effect. Orders shall be issued in such  
7           proceedings and appeals shall be taken there-  
8           from as if this Act had not been enacted.

9           (c) COORDINATION.—The Office of Personnel Man-  
10          agement shall prescribe regulations to ensure that, after  
11          the effective date of this Act, any class of individuals who  
12          would then otherwise have been entitled to any coverage,  
13          rights, or benefits under chapter 89 of title 5, United  
14          States Code, but who (because of this Act) would cease  
15          to be so entitled, shall be allowed to participate in the pro-  
16          gram established by this Act.

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