FEHB Program Carrier Letter
All Carriers

U.S. Office of Personnel Management
Federal Employee Insurance Operations

Letter No. 2013-20 **Date:** July 3, 2013

Fee-for-service [16] Experience-rated HMO [16] Community-rated HMO [18]

SUBJECT: Coverage of Same-Sex Spouses

Section 3 of the Defense of Marriage Act (DOMA) provided that, when used in a Federal law, the term "marriage" would mean only a legal union between one man and one woman as husband and wife, and that the term "spouse" referred only to a person of the opposite sex who is a husband or a wife. Because of DOMA, the Federal government has been prohibited from recognizing the legal marriages of same-sex couples for purposes of numerous Federal benefits programs.

On June 26, 2013, the Supreme Court ruled that Section 3 of DOMA is unconstitutional. This decision affects coverage under the Federal Employees Health Benefits (FEHB) Program, which is governed by Federal law.

Same-sex spouses of FEHB enrollees will now be eligible for benefits currently available to opposite-sex spouses of FEHB enrollees. When covered, same-sex spouses have the same privileges as opposite-sex spouses covered under FEHB. The purpose of this letter is to provide information that will assist you in implementing this change.

Changes in Eligibility Rules

As a result of the Supreme Court's decision, legally married same-sex spouses will now be eligible family members under a Self and Family enrollment. Coverage will be available to a legally married same-sex spouse of a Federal employee or annuitant, regardless of his or her state of residency. This decision does not extend coverage to registered domestic partners or those employees or annuitants in civil unions.

In addition, the children of same-sex marriages will be treated in the same manner as those of opposite-sex marriages and will be eligible family members according to the same eligibility guidelines. This includes coverage for children of same-sex spouses as stepchildren.

These eligibility changes are effective immediately. Enrollees will have 60 days from June 26, 2013, to make any necessary enrollment changes (i.e., until August 26, 2013). Additionally, OPM has encouraged employing offices to exercise flexibility when enforcing their belated enrollments authority for FEHB eligible employees, annuitants, and compensationers within 6 months of the release of the decision. In cases where a belated enrollment is allowed, an additional 60 days will be provided to make enrollment changes. OPM materials will be updated

to reflect these changes. **Please make any necessary changes to your enrollment systems to allow for these changes.**

Self and Family Enrollees

The effective date of coverage under an existing Self and Family enrollment for a same-sex spouse or child(ren) of a same-sex marriage is June 26, 2013. We remind carriers that you can add a newly eligible family member to a Self and Family enrollment. *An enrollee does NOT need to contact his or her agency or complete an SF 2809 to add a family member.* You *may* ask for documentation such as a valid marriage certificate to confirm eligibility, but are not required to do so. You must follow the same procedures you currently follow when adding an opposite-sex spouse or child(ren) of an opposite-sex marriage to a Self and Family enrollment, and you should not impose any new rules that could be viewed as having either the purpose or effect of creating barriers to enrollment for legally married same-sex couples.

You may initially defer applying benefits for any individuals who do not appear on your enrollment records, i.e., same-sex spouses about whom you are not notified. However, you should attempt to identify whether the individual is a new family member and if you later receive enrollment information on an eligible family member, you must process any claims for services rendered on or after June 26, 2013.

Self Only Enrollees

We expect that you will receive changes to Self and Family from Self Only enrollees under either of 2 events:

- **Change in Family Status:** In general, the enrollee may change enrollment up to 60 days after June 26, 2013, due to a change in family status. If the enrollee is only adding a spouse, the change to Self and Family will take effect on the first day of the first pay period following the date when the employing office receives an enrollee's change request. If the enrollee is adding one or more children, the change may take effect on the first day of the pay period that includes the date of the Supreme Court's decision, but the child and spouse cannot be covered until June 26, 2013.

- **Open Season**: The change to Self and Family will take effect on the first day of the first pay period that begins in January 2014.

  For CSRS/FERS annuitants, Temporary Continuation of Coverage (TCC) enrollees and former spouses, an Open Season change to Self and Family is effective January 1, 2014.

Changes Not Allowed

- **New annuitant enrollments.** Marriage is not a life event that allows annuitants who are currently not enrolled in FEHB to enroll.

- **Changes from a Self and Family to a Self Only enrollment.** In general, an enrollment change should be consistent with the life event. Because the Supreme Court decision only creates an occasion for enrollees to add eligible family members, a reduction in coverage is not allowed for employees who participate in premium conversion.

Annuitants and employees who do not participate in premium conversion may change to Self Only at any time.

- **Cancellation of an FEHB policy.** In general, cancellations will not be permitted based on the change in family status for employees who participate in premium conversion. As an exception, some cancellations may occur in order to avoid dual enrollments. Annuitants and employees who do not participate in premium conversion may cancel enrollment at any time.

We appreciate your assistance. If you have any questions, please contact your Contract Specialist.

Sincerely,

John O'Brien
Director
Healthcare and Insurance