

Office of Personnel Management
Retirement and Insurance Service



1920



1954



1959



1986

Benefits Administration Letter

Number: 96-208

Date: December 4, 1996

SUBJECT: Waivers of the FEHB participation requirement for employees accepting voluntary incentive payments under P.L. 104-208 or other statutes and certain employees retiring under early optional or discontinued service provisions during the buyout period

Purpose

This letter explains how OPM intends to apply its waiver authority for retiring employees who accept buyouts under Public Law 104-208 or other statutes and certain employees retiring under early optional or discontinued service provisions during the buyout period.

General

Public Law 103-226, the Federal Workforce Restructuring Act of 1994 (FWRA), enacted March 30, 1994, authorized certain Federal agencies to offer voluntary incentive payments to their employees who separated during an established period beginning with the date of enactment. In support of this effort and in view of the legislative history of P.L. 103-226, OPM decided to grant waivers of the FEHB participation requirement to Executive agency employees who received voluntary incentive payments under P.L. 103-226 if the employee retired during the period beginning March 30, 1994 (the effective date of P.L. 103-226), and ending March 31, 1995 (or if the agency retained the employee due to the agency need, not later than March 31, 1997). In addition, OPM decided to grant waivers to employees authorized voluntary incentive payments by similar legislation, such as the program for the Department of Defense, for a period beginning March 30,

1994, and ending at the termination of the statutory buyout authority applicable to the agency.

Concurrently, OPM granted waivers of the FEHB participation requirement to employees who took early optional retirement as a result of early out authority for their agency, and to employees who took discontinued service retirement based on an involuntary separation due to RIF, directed reassignment, reclassification to a lower grade, or abolishment of position.

Since OPM had already established its waiver policy on these cases, we instituted a procedure for agencies to give effect to the OPM decision in processing retirement claims for affected employees. This obviated the need for each retiree to send OPM a written request for a waiver. However, to qualify for these special procedures, the retiring employee had to have been enrolled under the FEHB Program on March 30, 1994, and to have been enrolled continuously thereafter.

On September 30, 1996, a law very similar to P.L. 103-226 was passed. Public Law 104-208 provides for voluntary separation incentives for all Executive branch agencies other than those who have such authority under other statutes (which would include Defense, Agriculture, and AID), effective October 1, 1996. Thus, we have determined that it is appropriate to revise our waiver policy to take cognizance of P.L. 104-208 and its October 1, 1996 effective date.

**OPM's revised
waiver policy**

OPM's revised policy for granting waivers to retiring employees who receive buyouts under P.L. 104-208 or who take early optional retirement or a discontinued service retirement on and after October 1 1996, is as follows.

OPM will grant waivers to Executive agency employees, who separate for retirement on or after October 1, 1996, who were covered under the FEHB Program on and after

October 1, 1996, and who:

- receive a voluntary incentive payment under P.L. 104-208; or
- during the statutory buyout period (October 1, 1996, through December 30, 1997), take early optional retirement as a result of early out authority in the agency; or
- during the statutory buyout period (October 1, 1996, through December 30, 1997), take a discontinued service retirement based on an involuntary separation due to RIF, directed reassignment, reclassification to a lower grade, or abolishment of position.

As in the past, since OPM has already established its waiver policy, employees who meet these requirements do not need to write a letter requesting a waiver. Instead, agencies must attach a memorandum to the employee's retirement application stating that the employee meets the requirements for waiver by OPM as set forth in this BAL 96-208.

**Statutory buyout
authority other than
P.L. 104-208**

Some agencies have separate buyout authority. For example, the Department of Defense has separate statutory buyout authority that has continued since 1994 and the Department of Agriculture received new statutory buyout authority in August 1996. The policy set forth in IOIB No. 296 and subsequent Benefit Administration Letters (that is, continuous FEHB coverage since March 30, 1994) applies to employees of these agencies who separate for retirement before October 1, 1996. The policy set forth in this letter applies to employees of these agencies who separate for retirement on and after October 1, 1996.

To the extent that these statutes allow the agency to postpone an employee's departure beyond the expiration of the statutory buyout period, employees who separated after the statutory buyout period and who actually receive buyouts

will be eligible for waivers under the policy set forth in this letter. Employees who separate after the statutory buyout period who do not receive buyouts will not be eligible for waivers under this policy.

Employees who do not meet requirements for an automatic waiver

Retiring employees who do not meet the requirements for an automatic waiver may ask OPM to waive the participation requirement in their case. They should send their waiver requests to the following address:

Office of Personnel Management
Retirement and Insurance Service
Office of Retirement Programs
P.O. Box 14172
Washington, D.C. 20044-4172

Unusual circumstances

If Insurance Officers become aware of a class of employees who do not meet the requirements for an automatic waiver as outlined in this letter, but should be considered for a waiver, they should contact OPM's Insurance Policy and Information Division on 202-606-0191.

Inquiries

Employees who need more information about this subject should contact their personnel offices. Personnel office staff should contact their headquarters Retirement Counselor or Insurance Officer. Others may contact OPM's Insurance Policy and Information Division on 202-606-0191.



Abby L. Block, Chief
Insurance Policy and
Information Division