



# Health Benefits for Members of Congress

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## Summary

Members of Congress and retired Members are eligible for private insurance coverage under the same system as other federal employees, the Federal Employees Health Benefits Program (FEHBP). FEHBP is the largest employer-sponsored health plan in the United States, covering more than 8 million federal employees, retirees, and their families.

Retired federal employees, including retired Members, who meet the minimum enrollment period requirements and who are eligible for an immediate annuity may continue to participate in FEHBP in retirement. Current federal employees, including Members of Congress, may also participate in the Federal Flexible Spending Account Program (FSAFEDS) to set up tax-exempt flexible spending accounts for reimbursement of health care, child care, and elder care expenses not otherwise reimbursed or covered by insurance. Current and retired federal employees, including Members of Congress, may enroll in the Federal Employees Dental and Vision Insurance Program (FEDVIP) for supplemental dental and vision insurance coverage. They may also apply for long-term care coverage under the Federal Long Term Care Insurance Program (FLTCIP).

All federal employees, including Members of Congress, pay the same payroll taxes as other workers for Medicare Part A coverage, and they are eligible to enroll in Medicare Part B, Part C, and Part D. Current Members, unlike other federal employees, are also eligible to receive health care services from the Office of the Attending Physician in the U.S. Capitol and at military hospitals.

The Patient Protection and Affordable Care Act (ACA; P.L. 111-148) requires health benefit exchanges to be established in every state by January 1, 2014. A provision in ACA requires that the only health plans available to Members of Congress and certain congressional staff as a benefit of their federal employment are health plans created under the ACA or offered through health insurance exchanges, as created by the ACA. The language implies that Members of Congress and certain congressional staff will no longer be eligible to enroll in FEHBP. The director of OPM concluded that this provision is not effective until the health insurance exchanges become operational. Therefore, the provision does not currently affect Members of Congress or their staff's participation in FEHBP.

This report covers health benefits made available to Members of Congress through federal government employment, including FEHBP, dental and vision insurance, flexible spending accounts, long-term care insurance, services at the Office of the Attending Physician and military hospitals, and Medicare. It also offers a comparison of FEHBP to health benefits offered by the private sector and state and local governments and a discussion of the effect of the ACA on Members' health benefits.

This report will be updated as warranted.

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## Introduction

Current and retired Members of Congress are eligible to participate in the Federal Employees Health Benefits Program (FEHBP) under the same rules as other federal employees. The federal government is the largest employer in the United States, and FEHBP is the largest employer-sponsored health insurance program. FEHBP was authorized under the Federal Employees Health Benefits Act of 1959 (P.L. 86-382), and it is administered by the Office of Personnel Management (OPM).

This report provides a brief description of FEHBP eligibility, participation, health benefit plan options, and premiums. It compares FEHBP to private-sector and state and local government health benefit programs in the United States.<sup>1</sup> It also covers other health benefits made available to Members of Congress through federal government employment, but does not examine other private benefits or veterans benefits that some Members may use. Lastly, this report discusses the effect of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148) on Members' health benefits.

In this report, the terms *current federal employees* or *active federal employees* mean all current federal employees, including current Members of Congress. The terms *annuitants* or *retirees* mean all retired federal employees, including retired Members of Congress.

## Federal Employees Health Benefits Program

### Eligibility and Participation

FEHBP covers over 8 million individuals, including current federal employees, retired federal employees, and eligible dependents. Participation in FEHBP is voluntary, and approximately 90% of federal employees are enrolled in FEHBP through individual or family plans.<sup>2</sup> Participation rates among current and retired Members of Congress are not publicly available.

New federal employees have 60 days to enroll in FEHBP, and they can enroll or change from one plan to another during designated “open season” periods each year. Employees and annuitants with special situations, such as a change in family status, can also enroll in a plan or change plans outside of open season.<sup>3</sup> Enrollees are not subject to medical examinations, waiting periods, or preexisting condition exclusions prior to receiving coverage.

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<sup>1</sup> For more detailed information about FEHBP and OPM's role in administering it, please refer to CRS Report RS21974, *Federal Employees Health Benefits Program (FEHBP): Available Health Insurance Options*, by Annie L. Mach.

<sup>2</sup> Office of Personnel Management, “OPM Announces 2013 Federal Employees Health Benefits Program Premium Rates,” press release, September 20, 2012, <http://www.opm.gov/news/opm-announces-2013-federal-employees-health-benefits-program-premium-rates,1758.aspx> <http://www.opm.gov/news/opm-announces-2012-federal-employees-health-benefits-program-premium-rates,1724.aspx>.

<sup>3</sup> Office of Personnel Management, *Federal Employees Health Benefits Program Handbook*, <http://www.opm.gov/insure/health/reference/handbook/fehb00.asp>.

## Continuation of Health Benefits for Retirees

Upon retirement, federal employees have the opportunity to continue FEHBP coverage if certain requirements are met:

- the employee must be entitled to retire on an immediate annuity; and
- the employee must have been continuously enrolled in FEHBP for five years before the annuity starts, or the full period of service since the first opportunity to enroll in FEHBP (if less than five years).<sup>4</sup>

The eligible retiree may enroll in individual coverage or family coverage, which covers a spouse, dependent children up to the age of 26, and dependents who are incapable of self-support because of a mental or physical disability that existed before the age of 26.<sup>5</sup> For Medicare eligibility, see section below titled “Medicare Eligibility for Current and Former Members of Congress.”

## Plans and Options

There are 230 different health plans available in FEHBP for the 2013 plan year. This number includes both nationally and regionally available plans. There are three categories of participating plans:<sup>6</sup>

- The **government-wide service benefit plan** is the fee-for-service benefit plan that pays providers directly for services (this slot has always been filled by Blue Cross and Blue Shield).
- **Employee organization plans** are fee-for-service plans. All individuals eligible to enroll in FEHBP may choose any employee organization plan, subject to small annual membership dues.
- **Comprehensive medical plans** are the local Health Maintenance Organizations (HMOs). Availability of these plans varies, depending on where the individual resides.

Many FEHBP plans offer various levels of coverage, with different premiums and cost-sharing structures for each option. For example, in 2013, Blue Cross and Blue Shield offers a “standard” option with more extensive coverage and a higher premium than the “basic” option. The

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<sup>4</sup> OPM has the authority to waive the five-year requirement when it determines that it would be against equity and good conscience to not allow an annuitant to be enrolled in FEHBP (P.L. 99-251). For more information, see <http://www.opm.gov/insure/health/reference/handbook/FEHB22.asp>.

<sup>5</sup> Dependents are allowed to remain in FEHBP until the age of 26 because of a provision in ACA, which became effective in 2011. Certain former spouses may also qualify to enroll in FEHBP. For more information, see the section “Eligibility” in CRS Report RS21974, *Federal Employees Health Benefits Program (FEHBP): Available Health Insurance Options*, by Annie L. Mach

<sup>6</sup> Office of Personnel Management, “OPM Announces 2013 Federal Employees Health Benefits Program Premium Rates,” press release, September 20, 2012, <http://www.opm.gov/news/opm-announces-2013-federal-employees-health-benefits-program-premium-rates,1758.aspx> <http://www.opm.gov/news/opm-announces-2012-federal-employees-health-benefits-program-premium-rates,1724.aspx>.

employee organization and comprehensive plans offer consumer-driven health plans (CDHPs) and high-deductible health plans (HDHPs).<sup>7</sup>

All FEHBP plans cover a range of benefits, including hospital, surgical, physician, mental health, prescription drug, catastrophic, and emergency care. There are variations in the amount the plans pay for each benefit, the coverage of specific services, and the extent to which they protect enrollees from the risk of catastrophic medical bills.

## Premiums

The federal government and enrollees share the cost of the premiums for FEHBP plans. The government’s contribution to premiums is set at 72% of the weighted average premium of all plans in the program, not to exceed 75% of any given plan’s premium.<sup>8</sup> The percentage of premiums paid by the government is calculated separately for individual and family coverage, but each uses the same formula. Annuitants and active employees pay the same premium amounts, although active employees have the option of paying premiums on a pre-tax basis. Refer to **Table 1** below for the average FEHBP premium for annuitants and active employees (non-postal service)<sup>9</sup> in 2013.

**Table 1. Average Biweekly 2013 FEHBP Premiums for Annuitants and Non-Postal Employees: Government Contribution and Enrollee Contribution**

	<b>Government Contribution</b>	<b>Enrollee Contribution</b>	<b>Total Premium</b>
Self	\$184.06	\$80.74	\$264.80
Family	\$410.92	\$178.24	\$589.16

**Source:** 2013 FEHBP Average Premium Tables provided by the Office of Personnel Management.

## Comparability of FEHBP to Health Benefits Offered by Private and State and Local Government Employers

As FEHBP is the largest employer-sponsored health insurance program in the United States, it is difficult to compare FEHBP to health benefits offered by other employers. Any comparison must be limited to large employers in the private sector and state and local governments.

Out of the 230 plans available through FEHBP, an enrollee’s choice is typically limited to 10 to 15 different plans, depending on where the individual resides. In a survey of large firms with more than 200 employees, 55% offered one plan, 37% offered two plans, and 8% offered three or

<sup>7</sup> For more information about HDHPs, see CRS Report R41426, *High-Deductible Health Plans and Health Savings Accounts: An Empirical Review*, by Carol Rapaport.

<sup>8</sup> The Balanced Budget Act of 1997 (BBA 97, P.L. 105-33) established the current formula for determining the government’s contribution to premiums.

<sup>9</sup> The U.S. Postal Service (USPS) is unique within the federal government in regard to contributing to health care benefits for its employees. Historically, the USPS has paid a larger share of employees’ health insurance premiums compared to other federal agencies.

more plans. For firms with more than 5,000 employees, a subset of the aforementioned group of large firms, 26% offered one plan, 49% offered two plans, and 25% offered three or more plans.<sup>10</sup>

As stated previously, the federal government pays 72% of the weighted average premium of all plans in the program, not to exceed 75% of any given plan's premium for federal employees and annuitants. Although premiums are calculated separately for single and family coverage, the formula is the same. In a survey of large firms, on average employers paid 82% of the premium for single plans and 75% of the premium for family plans for current employees.<sup>11</sup> In a survey of state and local government employers of all sizes, on average employers paid 88% of the premium for single coverage and 76% of the premium for family coverage for current employees.<sup>12</sup>

Federal government retirees are eligible for FEHBP coverage with the same benefits and the same cost as active employees.<sup>13</sup> In a survey of large firms that offer health benefits to active employees, only 25% offer health benefits to retirees. In a survey of large state and local government employers with more than 200 employees, a subset of the aforementioned group of large firms, 77% offer health benefits to retirees.<sup>14</sup>

## Other Health Benefits

Beyond FEHBP, active federal employees are also eligible for the Federal Flexible Spending Account Program (FSAFEDS). Both active and retired federal employees are eligible for the Federal Dental and Vision Insurance Program (FEDVIP) and the Federal Long Term Care Insurance Program (FLTCIP). Federal employees and retirees are eligible for the same Medicare benefits as other workers. Current Members of Congress are eligible to receive health care services at the Office of the Attending Physician in the U.S. Capitol and at military treatment facilities.

## Federal Flexible Spending Account Program

OPM also administers a Flexible Spending Account (FSA) program, FSAFEDS. Current federal employees eligible for FEHBP are also eligible to participate in FSAFEDS, whether enrolled in FEHBP or not.<sup>15</sup> There are three options within FSAFEDS:

- **The Health Care Flexible Spending Account (HCFSA)** reimburses eligible health care expenses that are not covered or reimbursed by other insurance coverage, including copayments, over-the-counter drugs, eyeglasses, dental care,

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<sup>10</sup> The Kaiser Family Foundation and the Health Research & Educational Trust, *Employer Health Benefits, 2012 Annual Survey*, September 11, 2012, p. 61, at <http://ehbs.kff.org/>.

<sup>11</sup> *Ibid.*, p. 93.

<sup>12</sup> *Ibid.*, p. 96.

<sup>13</sup> However, unlike active federal employees, annuitants cannot pay premiums with pre-tax dollars.

<sup>14</sup> *Ibid.*, p. 172.

<sup>15</sup> For more details on Flexible Spending Accounts, see CRS Report RL32656, *Health Care Flexible Spending Accounts*, by Janemarie Mulvey.

and infertility treatments. Employees can choose to deposit between \$250 and \$2,500 each year.

- The **Dependent Care Flexible Spending Account (DCFSA)** reimburses eligible non-medical child day care and elder care expenses. A \$5,000 limit applies.
- The **Limited Expense HCFSA (LEX HCFSA)** is for those enrolled in a HDHP with a Health Savings Account, and it reimburses only eligible dental and vision expenses which are not covered or reimbursed by other insurance coverage.

The accounts are funded by the employee from pre-tax salary dollars, with no government contribution. FSA money is lost if it is not spent within 2½ months after the end of the calendar year in which the money was allotted. During the annual FEHBP open season, employees may change the amount to set aside in the upcoming year or may choose not to deposit money in their FSA.<sup>16</sup>

## Federal Employees Dental and Vision Insurance Program

Dental and vision benefits are available to active federal employees and annuitants through the Federal Employees Dental and Vision Insurance Program administered by OPM.<sup>17</sup> Employees and annuitants are not required to enroll in FEHBP to enroll in FEDVIP. Enrollees are responsible for 100% of the premiums. To continue or obtain FEDVIP coverage in retirement, an employee does not have to participate in FEDVIP prior to retirement.

For dental coverage, enrollees have a choice of four nationwide and three regional dental plans covering a variety of preventive and major services, as well as orthodontics for dependents under the age of 19.<sup>18</sup> For vision coverage, enrollees can choose from three nationwide vision plans that cover routine eye exams and glasses or contact lenses. Plans vary in the other types of vision services they cover, such as discounts on Lasik surgery, low vision therapy, prosthetic eyes, and other services.<sup>19</sup>

## Federal Long Term Care Insurance Program

Federal employees and annuitants are eligible to apply for long-term care coverage through the Federal Long Term Care Insurance Program administered by OPM. Long-term care includes services and assistance for those who can no longer perform activities of daily living, such as bathing and dressing, due to chronic illness, injury, disability, or aging. Most health insurance plans, including plans offered through FEHBP, do not include coverage for long-term care services. To apply for coverage under FLTCIP, employees must answer questions about their medical history. Some medical conditions will prevent employees from being approved for

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<sup>16</sup> Office of Personnel Management, *Flexible Spending Accounts (FSAFEDS) FastFacts*, <http://www.opm.gov/insure/fastfacts/fsafeds.pdf>.

<sup>17</sup> For more details on FEDVIP, see CRS Report RS22535, *Federal Employees Dental and Vision Insurance Program (FEDVIP)*, by Hinda Chaikind.

<sup>18</sup> Office of Personnel Management, *FastFacts for Dental Insurance*, <http://www.opm.gov/insure/fastfacts/dental.pdf>.

<sup>19</sup> Office of Personnel Management, *FastFacts for Vision Insurance*, <http://www.opm.gov/insure/fastfacts/vision.pdf>.



coverage. Premiums for FLTCIP may be deducted from an individual's salary or annuity, but they are not pre-tax contributions, and employees pay 100% of the premiums.<sup>20</sup>

## **Medicare Eligibility for Current and Former Members of Congress**

In general, individuals aged 65 and older are eligible for Medicare.<sup>21</sup> Workers, including all federal employees and Members of Congress, must pay a tax on their wages for Medicare Hospital Insurance (Medicare Part A).<sup>22</sup> Workers and their employers each pay a tax of 1.45% of earnings.<sup>23</sup>

Participation in Medicare Part B, Medicare Advantage, and Medicare Part D (coverage for prescription drugs) is voluntary, and enrollees pay a monthly premium.<sup>24</sup> Generally, individuals who do not enroll in Part B or Part D during their initial eligibility period are subject to a penalty. However, individuals covered by FEHBP either through their own or a spouse's active employment (not annuitant coverage), may wait until either they or their spouse retires to enroll in Part B without incurring a penalty. If an individual maintains FEHBP coverage and at a later date decides to enroll in Part D, there is no late enrollment penalty.

## **Office of the Attending Physician**

Members of Congress are eligible to receive limited services from the Office of the Attending Physician (OAP) in the U.S. Capitol for an annual fee, whether or not they are enrolled in FEHBP. The annual fee in 2012 was \$563.<sup>25</sup> Services include routine exams, consultations, and certain diagnostic tests. The office does not provide vision or dental care, and prescriptions can be written but not dispensed.<sup>26</sup>

## **Military Treatment Facilities**

Members of Congress are also authorized to receive medical and emergency dental care at military treatment facilities. There is no charge for outpatient care if it is provided in the National Capital Region.<sup>27</sup> For inpatient care, Members are billed at full reimbursement based on rates set by the Department of Defense. Outside the National Capital Region, charges are at full reimbursement rates for both inpatient and outpatient care provided to Members of Congress.

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<sup>20</sup> Office of Personnel Management, *FastFacts for The Federal Long Term Care Insurance Program (FLTCIP)*, <http://www.opm.gov/insure/fastfacts/fltcip.pdf>.

<sup>21</sup> For more detail on Medicare eligibility and benefits, see CRS Report R40425, *Medicare Primer*, coordinated by Patricia A. Davis.

<sup>22</sup> This tax was initially established under the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248, effective January 1, 1983).

<sup>23</sup> For a full discussion of wage taxes, see CRS Report 94-28, *Social Security and Medicare Taxes and Premiums: Fact Sheet*, by Dawn Nuschler.

<sup>24</sup> For Part B, the 2013 monthly premium is \$104.90 for most Medicare beneficiaries. For Part D, the 2013 base beneficiary premium is \$31.17.

<sup>25</sup> Committee on House Administration.

<sup>26</sup> For background information on the Office of the Attending Physician, see CRS Report RS20305, *The Office of Attending Physician in the U.S. Congress*, by Mildred Amer.

<sup>27</sup> The National Capital Region includes Washington, DC and nearby jurisdictions in Maryland and Virginia.

FEHBP insurance may cover these expenses after a deductible or copayment is met. Members pay out of pocket for expenses not covered by FEHBP or other insurance. Former Members and dependents are not eligible for care at military hospitals.<sup>28</sup>

## **Effect of the ACA on Health Benefits for Members of Congress**

The Patient Protection and Affordable Care Act (ACA; P.L. 111-148) requires health insurance exchanges to be established in every state by January 1, 2014, either by the state itself or by the Secretary of Health and Human Services. The exchanges will not be insurers, but will provide a marketplace for eligible individuals and small businesses to purchase private health insurance plans.<sup>29</sup>

The ACA requires that the only health plans available to Members of Congress and certain congressional staff as a benefit of their federal employment are health plans created under the ACA or offered through health insurance exchanges, as created by the ACA.<sup>30</sup> The language implies that Members of Congress and certain congressional staff will no longer be eligible to enroll in FEHBP. The law does not specify when this requirement is effective, but the Director of OPM concluded that this provision is not effective until the health insurance exchanges become operational.<sup>31</sup> Therefore, the provision does not currently affect Members of Congress or their staff's participation in FEHBP. Regulations on how the provision will be implemented, including definitions of Member of Congress and congressional staff, how the provision will affect annuitants, whether the employer (government) contribution to the premium will apply to coverage purchased outside of FEHBP, and when the provision will be effective, have not yet been promulgated as of the date of this report.<sup>32</sup>

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<sup>28</sup> 32 C.F.R. §728.77.

<sup>29</sup> For more information on the exchanges, see CRS Report R42663, *Health Insurance Exchanges Under the Patient Protection and Affordable Care Act (ACA)*, by Bernadette Fernandez and Annie L. Mach

<sup>30</sup> The Patient Protection and Affordable Care Act, P.L. 111-148, §1312(d)(3)(D).

<sup>31</sup> Letter from John Berry, Director of OPM, to Nancy Pelosi, Speaker of the House of Representatives, April 16, 2010.

<sup>32</sup> For more detail on this provision, see CRS Congressional Distribution (CD) memorandum "Analysis of § 1312(d)(3)(D) of P.L. 111-148, The Patient Protection and Affordable Care Act, and its Potential Impact on Members of Congress and Congressional Staff," by Jennifer A. Staman, Todd B. Tatelman and Ida Brudnick, April 2, 2010, available upon request from the memorandum's authors. This memo was written before the OPM director stated the provision is not effective until the exchanges become operational.

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