

Subsec. (b). Pub. L. 98-615, §3(5)(B)(i), substituted “enrollee” for “employee enrolled” in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-615, §3(5)(B)(ii), substituted “enrollee or the enrollee and any eligible family members” for “employee or the employee and members of his family”.

Subsec. (b)(3). Pub. L. 98-615, §3(5)(B)(iii), substituted “the enrollee and any eligible family members” for “the employee or members of his family”.

1978—Subsec. (a). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-615 effective May 7, 1985, with enumerated exceptions, and applicable to any individual who is married to an employee or annuitant on or after that date, see section 4(a)(2) of Pub. L. 98-615, as amended, set out as a note under section 8341 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

### § 8908. Coverage of restored employees and survivor or disability annuitants

(a) An employee enrolled in a health benefits plan under this chapter who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified or unwarranted may, at his option, enroll as a new employee or have his coverage restored, with appropriate adjustments made in contributions and claims, to the same extent and effect as though the removal or suspension had not taken place.

(b) A surviving spouse whose survivor annuity under this title was terminated because of remarriage and is later restored may, under such regulations as the Office of Personnel Management may prescribe, enroll in a health benefits plan described by section 8903 or 8903a of this title if such spouse was covered by any such plan immediately before such annuity was terminated.

(c) A disability annuitant whose disability annuity under section 8337 of this title was terminated and is later restored under the second or third sentence of subsection (e) of such section may, under regulations prescribed by the Office, enroll in a health benefits plan described by section 8903 or 8903a of this title if such annuitant was covered by any such plan immediately before such annuity was terminated.

(d) A surviving child whose survivor annuity under section 8341(e) or 8443(b) was terminated and is later restored under paragraph (4) of section 8341(e) or the last sentence of section 8443(b) may, under regulations prescribed by the Office, enroll in a health benefits plan described by section 8903 or 8903a if such surviving child was covered by any such plan immediately before such annuity was terminated.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 94-342, §1(a), July 6, 1976, 90 Stat. 808; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 99-53, §§2(a), 3(a)(1), (2)(A), June 17, 1985, 99 Stat. 94, 95; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §633(a)(3)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-363.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3009(c).	Sept. 28, 1959, Pub. L. 86-382, §10(c), 73 Stat. 715. Mar. 17, 1964, Pub. L. 88-284, §1 (less (1)-(13)), 78 Stat. 165.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-208 added subsec. (d).

1985—Pub. L. 99-53, §3(a)(2)(A), inserted “or disability” after “and survivor” in section catchline.

Subsec. (b). Pub. L. 99-53, §2(a), inserted reference to section 8903a of this title.

Subsec. (c). Pub. L. 99-53, §3(a)(1), added subsec. (c).

1978—Subsec. (b). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1976—Pub. L. 94-342 designated existing provisions as subsec. (a), added subsec. (b), and substituted “employees and survivor annuitants” for “employee” in section catchline.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 applicable with respect to termination of marriage taking effect before, on, or after Sept. 30, 1996, except that benefits are payable only with respect to amounts accruing for periods beginning on first day of month beginning after the later of termination of marriage or Sept. 30, 1996, see section 101(f) [title VI, §633(b)] of Pub. L. 104-208, set out as a note under section 8341 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-342, §2, July 6, 1976, 90 Stat. 808, provided that: “The amendments made by the first section of this Act [amending this section] shall take effect on October 1, 1976, or on the date of the enactment of this Act [July 6, 1976], whichever date is later. Such amendments shall apply with respect to individuals whose survivor annuities are restored before, on, or after such date.”

#### INSURANCE COVERAGE FOR RESTORED DISABILITY ANNUITANTS

For provisions directing that subsec. (c) of this section shall apply with respect to any individual whose disability annuity is or was restored under section 8337(e) of this title after December 31, 1983, directing that the Office of Personnel Management notify each individual of any rights which such individual may have under subsec. (c) of this section, including any procedures or deadlines which might apply with respect to the exercise of those rights, directing that such notification be provided to any individual who, as of the 90th day after June 17, 1985, is receiving a disability annuity which was restored to such individual under section 8337(e) of this title after December 31, 1983, directing that nothing in subsec. (c) of this section be construed to authorize coverage under this chapter in the case of any individual who becomes enrolled in a health benefits plan under subsec. (c) of this section for any period before the date as of which such individual becomes so enrolled, and directing that such rule of construction apply with respect to any individual receiving a disability annuity which is or was restored under section 8337(e) of this title after December 31, 1983, and before the expiration of the 90-day period beginning on

June 17, 1985, see section 3(c) of Pub. L. 99-53, set out as a note under section 8706 of this title.

### § 8909. Employees Health Benefits Fund

(a) There is in the Treasury of the United States an Employees Health Benefits Fund which is administered by the Office of Personnel Management. The contributions of enrollees and the Government described by section 8906 of this title shall be paid into the Fund. The Fund is available—

- (1) without fiscal year limitation for all payments to approved health benefits plans; and
- (2) to pay expenses for administering this chapter within the limitations that may be specified annually by Congress.

Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made, to the maximum extent practicable, on a checks-presented basis (as defined under regulations of the Department of the Treasury).

(b) Portions of the contributions made by enrollees and the Government shall be regularly set aside in the Fund as follows:

- (1) A percentage, not to exceed 1 percent of all contributions, determined by the Office to be reasonably adequate to pay the administrative expenses made available by subsection (a) of this section.
- (2) For each health benefits plan, a percentage, not to exceed 3 percent of the contributions toward the plan, determined by the Office to be reasonably adequate to provide a contingency reserve.

The Office, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves of the plans then under contract with the Office. When funds are so transferred, each contingency reserve shall be credited in proportion to the total amount of the subscription charges paid and accrued to the plan for the contract term immediately before the contract term in which the transfer is made. The income derived from dividends, rate adjustments, or other refunds made by a plan shall be credited to its contingency reserve. The contingency reserves may be used to defray increases in future rates, or may be applied to reduce the contributions of enrollees and the Government to, or to increase the benefits provided by, the plan from which the reserves are derived, as the Office from time to time shall determine.

(c) The Secretary of the Treasury may invest and reinvest any of the money in the Fund in interest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations become a part of the Fund.

(d) When the assets, liabilities, and membership of employee organizations sponsoring or underwriting plans approved under section 8903(3) or 8903a of this title are merged, the assets (including contingency reserves) and liabilities of the plans sponsored or underwritten by the merged organizations shall be transferred at

the beginning of the contract term next following the date of the merger to the plan sponsored or underwritten by the successor organization. Each employee, annuitant, former spouse, or person having continued coverage under section 8905a of this title affected by a merger shall be transferred to the plan sponsored or underwritten by the successor organization unless he enrolls in another plan under this chapter. If the successor organization is an organization described in section 8901(8)(B) of this title, any employee, annuitant, former spouse, or person having continued coverage under section 8905a of this title so transferred may not remain enrolled in the plan after the end of the contract term in which the merger occurs unless that individual is a full member of such organization (as determined under section 8903a(d) of this title).

(e)(1) Except as provided by subsection (d) of this section, when a plan described by section 8903(3) or (4) or 8903a of this title is discontinued under this chapter, the contingency reserve of that plan shall be credited to the contingency reserves of the plans continuing under this chapter for the contract term following that in which termination occurs, each reserve to be credited in proportion to the amount of the subscription charges paid and accrued to the plan for the year of termination.

(2) Any crediting required under paragraph (1) pursuant to the discontinuation of any plan under this chapter shall be completed by the end of the second contract year beginning after such plan is so discontinued.

(3) The Office shall prescribe regulations in accordance with which this subsection shall be applied in the case of any plan which is discontinued before being credited with the full amount to which it would otherwise be entitled based on the discontinuation of any other plan.

(f)(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to any payment made from the Fund.

(2) Paragraph (1) shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.

(g) The fund described in subsection (a) is available to pay costs that the Office incurs for activities associated with implementation of the demonstration project under section 1108 of title 10.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 98-615, §3(6), Nov. 8, 1984, 98 Stat. 3204; Pub. L. 99-53, §2(e), (f), June 17, 1985, 99 Stat. 94; Pub. L. 99-251, title I, §101, Feb. 27,