OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

FORCE MANAGEMENT
POLICY

17 MAY 2002

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Human Resources Policy to Assist DoD Civilian Employees Called to Active Military Duty

By memorandum dated March 8, 2001, (attachment 1) the Deputy Secretary of Defense established the policy that the Department of Defense (DoD) would pay the employee's share, in addition to the government's share, of the Federal Employees Health Benefits Program (FEHBP) premium for any covered employee who is called to active duty in support of a contingency operation.

Attached are the procedures to implement this policy for employees now on active duty and those who will be called to active duty in the future to support a contingency operation (attachment 2). These procedures are based on the policy guidance in the Deputy Secretary's memorandum and the provisions of section 519 of the National Defense Authorization Act for Fiscal Year 2002.

To ensure consistent treatment for DoD Nonappropriated Fund (NAF) employees called to support a contingency operation, NAF employers will pay premiums for employees covered by the DoD NAF Health Benefits Program in the same manner as required for DoD civil service appropriated fund employees.

Section 519 also provides the authority to make retroactive payments to eligible employees who were called to active duty on or after December 8, 1995. Procedures covering retroactive reimbursement to DoD civilian employees for premiums paid for their FEHB coverage while on active duty in support of a contingency operation are being developed separately.

My point of contact on this matter is Sandra Hoffmann at (703) 696-6301, extension 221.

Ginger Groeber
Deputy Assistant Secretary
Civilian Personnel Policy

Attachments:
As stated

DISTRIBUTION: DEPUTY ASSISTANT SECRETARY OF THE ARMY
(CIVILIAN PERSONNEL POLICY)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
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BUREAU
COMMANDER, HEADQUARTERS, ARMY AND AIR FORCE
EXCHANGE SERVICE

THE DEPUTY SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

MAR 8 2001

MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE
UNDER SECRETARIES OF DEFENSE
GENERAL COUNSEL, DOD
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Human Resources Policy to Assist DoD Civilian Employees Called to Active Military Duty

To assist Reserve component members in maintaining affordable healthcare options, my staff has been working with the Office of Personnel Management (OPM) to establish a policy that encourages federal agencies to pay the employee's share, in addition to the government's share, of the Federal Employees Health Benefit Program (FEHBP) premium for any covered employee who is called to active duty in support of a contingency operation. This is similar to the policy OPM established for federal civilian employees who were called to active duty during the Persian Gulf War. In response to our request, the Director of OPM issued the attached memorandum to the Heads of Executive Departments and Agencies encouraging them to provide this benefit to federal employees who serve in the National Guard or Reserve.

As the largest single employer of federal civilian employees who serve in the National Guard or Reserve, the Department of Defense (DoD) must set the example as a model employer in supporting Reserve component members. Therefore, I am implementing the policy described in the OPM memorandum for DoD civilian employees who were called to active duty in support of the contingency operations in Kosovo, Bosnia and Iraq, as well as for those who are called to active duty to support ongoing and future contingency operations.

In order to develop standardized procedures among the Services, I have asked the Under Secretary of Defense for Personnel and Readiness to establish a joint team to develop implementing procedures consistent with the attached overarching policy guidance. These procedures must address reimbursement to DoD civilian employees who retained their FEHBP coverage while on active duty in support of operations in Bosnia, Kosovo and Iraq and payment of the employee's share of the FEHBP premium for employees now on active duty and those who will be called to active duty in the future to support a contingency operation.

With our increased reliance on the Guard and Reserve to support military commitments, we must find non-traditional ways that ensure our Reserve component members and their families have the full support of the Department in return for their service. This new policy recognizes the sacrifices they make to serve our country.

Paul Wolfowitz

Attachments:
As stated

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UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-0001

OFFICE OF THE DIRECTOR

JUN -2 2000

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Janice R Lachance
JANICE R. LACHANCE
DIRECTOR

SUBJECT: **Human Resources Policy to Assist Federal Employees Called to Active Military Duty**

The Department of Defense (DoD) has asked the Office of Personnel Management (OPM) to encourage Federal employing agencies to pay both the employee and government share of the Federal Employees Health Benefits (FEHB) premiums for enrolled employees who are in leave-without-pay status under certain conditions. The conditions cover Kosovo, Bosnia, and 1998 Iraq operations, as well as future contingency operations under Title 10 of the U. S. Code. I have carefully considered the Department's request. As the President's chief human resources officer, I wholeheartedly support the DoD request. The Heads of Executive Departments and Agencies should implement a uniform policy in support of DoD contingency operations by waiving the requirement that employees pay their share of the FEHB premiums incurred when they are called to active military duty for more than 30 days.

Providing support for these employees is an important issue. The Federal Government is the largest single employer of members of the uniformed services reserves, and we are proud of the dedication and commitment of our employees in a time of international crisis. Our first obligation as an employer is to make sure that those who perform active military duty are able to leave their employment temporarily with the knowledge that their affairs are in order and their rights protected.

I know I can count on your support in this area. If your staff has any questions about this policy and how to administer it, they can call OPM's Office of Insurance Policy at (202) 606-0004.

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# POLICY GUIDANCE

**Purpose**

Establish policy guidance for the payment/reimbursement of the employee's share of the Federal Employee Health Benefit Plan (FEHBP) premiums for DoD civilian employees called to active duty in support of a contingency operation.

**Eligibility**

- Civilian employees of the Department of Defense who serve in the National Guard or Reserve and are called to active duty (voluntarily or involuntarily) in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.
- The employee must retain his or her FEHBP coverage during the employee's absence while performing active military service.

**Active Duty Criteria**

- The employee must be on active duty for more than 30 consecutive days in support of a contingency operation.
- Maximum period of eligibility for each period of active duty is 18 months.

**Designated Contingency Operations (to date)**

| Operation | Authority | Effective date | Status |
|---|---|---|---|
| Bosnia | Executive Order 12982 | December 8, 1995 | Ongoing |
| Iraqi Crisis | Executive Order 13076 | February 24, 1998 | Ongoing |
| Kosovo | Executive Order 13120 | April 27, 1999 | Ongoing |

**Procedures for Paying**
**Federal Employees Health Benefits (FEHB) Premiums for**
**DoD Civilian Employees Called to Active Duty**
**in Support of Contingency Operations**

These procedures apply to Federal Employees Health Benefits (FEHB) premiums paid prospectively for employees who are currently in an active duty status and those who are called to active duty in the future. Procedures to make retroactive payments to employees for premiums previously paid will be issued separately.

## Eligibility

In order to be eligible for payment of the employee's share of the FEHB premium, the employee must:

- Be enrolled in FEHB and elect to continue that enrollment.
- Be a member of a Reserve component of the armed forces. The Reserve components are: The Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve.
- Be called or ordered to active duty (voluntarily or involuntarily) in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.
- Be placed on leave without pay or separated from service to perform active duty.
- Serve on active duty for a period of more than 30 consecutive days.

(Section 519, 2002 National Defense Authorization Act)

The maximum period of eligibility for each period of active duty is 18 months.

## Designated Contingency Operations

The current contingencies and operations that are included in each are provided below. Due to mission changes, this list may not be comprehensive over time.

| Contingency | Authority | Effective date | Status |
|---|---|---|---|
| Bosnia<br>• Operation Joint Endeavor<br>• Operation Joint Guard<br>• Operation Joint Forge | Executive Order 12982 | December 8, 1995 | Ongoing |
| Iraqi Crisis<br>• Operation Southern Watch<br>• Operation Northern Watch | Executive Order 13076 | February 24, 1998 | Ongoing |
| Kosovo<br>• Operation Allied Force | Executive Order 13120 | April 27, 1999 | Ongoing |
| 911 Terrorist Attacks<br>• Operation Enduring Freedom<br>• Operation Noble Eagle | Executive Order 13223 | September 14, 2001 | Ongoing |

**Employee Responsibilities**

The employee must provide proof of qualifying service by providing a copy of written orders which specify that he or she has been called to active duty in support of a contingency operation. Examples of acceptable written orders include:

- If the statutory authority listed on the orders is section 12301(a), 12302, or 12304 of title 10, United States Code, the employee has provided proof of qualifying service.
- If the orders state that the duty is in support of one of the named contingencies/operations and the statutory authority is a provision of title 10, United States Code, the employee has provided proof of qualifying service.

Members of the Army National Guard or Air National Guard ordered to duty under title 32, United States Code, or any provision of state, territorial, or District of Columbia code are not eligible.

**DoD Component Human Resources Offices Responsibilities**

In accordance with Component guidelines, human resources offices will:

- Notify employees concerning the benefit and the eligibility requirements.
- Give eligible employees the opportunity to elect to continue FEHB and submit the required documents.
- Send the following information, via fax, e-mail, or Remedy, to the designated payroll office contact for each eligible employee:
    - Name
    - Social Security number
    - Enrollment code
    - A statement that the written orders indicate the active duty is in support of a contingency operation
    - Beginning date employee is eligible to have the agency pay the employee share of the FEHB premium
    - Ending date employee is eligible to have the agency pay the employee share of the FEHB premium
    - If the information is sent via e-mail or Remedy, name and phone number of the human resources office representative
- If advised by the payroll office that an eligible employee is currently making direct payments for health benefits premiums, notify the employee to stop making payments. Reimbursing the employee for premiums already paid will be covered under the separate procedures for retroactive payments to employees.

**Payroll Office Responsibilities**

Payroll offices will:

- Designate contacts to receive the information required to pay the benefit.
- Upon receipt of the human resources office's certification, pay the employees share of the FEHB premium, in addition to the government share, for eligible employees.
- For those employees who remain in a pay status prior to being placed on leave without pay, or return to a pay status intermittently while on leave without pay, deduct FEHB premiums from the employee's pay during any period pay is sufficient to cover the cost of the premiums. Employees will not be eligible to be reimbursed for premiums deducted while in a pay status.
- Advise the human resources office if an eligible employee is currently making direct payments for health benefits premiums.

**Questions and Answers**

Q1. What are the tax consequences of this benefit?

A1. The FEHB premiums paid prospectively on behalf of employees serving in support of contingency operations are not considered taxable wages and will have no additional tax withholding liability.

Q2. What if an eligible employee dies while on active duty?

A2. The employee share of the FEHB premiums will be paid through the date of death. The human resources office should notify the designated payroll office contact of the death as soon as possible.

Q3. When does the 18-month period of eligibility begin if an employee uses paid leave, either before being placed on leave without pay or intermittently with leave without pay?

A3. The 18-month period begins when the employee is separated or placed on leave of absence to perform active military duty, even if part of the military service is covered by paid leave.

Q4. Does the use of paid leave, either before leave without pay or intermittently with leave without pay, extend the 18-month period of eligibility?

A4. No. The maximum period of eligibility ends 18 months after it began.

Q5. Are there any restrictions on the 18-month period for continuing FEHB enrollment when an employee is called to active military service? For example, could an employee serve on active duty for 14 months, exercise restoration rights under part 353 of title 5 of the Code of Federal Regulations, return as a civilian for 2 weeks, and then go back out and be entitled to continue FEHB for an additional 18 months? Or would the 4-month rule apply? (Requiring that the employee have at least 4 consecutive months in pay status to begin a new 18-month period.)

A5. No. There are no restrictions and the 4-month rule does not apply.