

(3) Carriers will account separately for health benefits charges paid using demonstration project funds and regular FEHB funds. Direct administrative costs attributable solely to the demonstration project will be fully chargeable to the demonstration project. Indirect administrative costs associated with the demonstration project will be allocated to the demonstration project based on the percentage obtained by dividing the dollar amount of claims processed under the demonstration project by the dollar amount of total claims processed for FEHB Program activity.

(4) The same percentage used to determine indirect cost allocation will also be used to determine the amount of an experience-rated carrier's service charge that will be allocated to the demonstration project.

(5) Experience-rated carriers participating in the demonstration project will draw funds from their Letter of Credit (LOC) account to pay demonstration project benefits costs in the same manner as they do for benefits costs incurred by regular FEHB members.

(6) Carriers will report on demonstration project revenues, health benefits charges, and administrative expenses as directed by OPM.

(7) Experience-rated carriers will perform a final reconciliation of revenue and costs for the demonstration group at the end of the demonstration project. OPM will reimburse carrier costs in excess of the premiums first from the carrier's demonstration project Contingency Reserve and then from the Employees Health Benefits Fund Administrative Reserve. After the final accounting, OPM will place any surplus demonstration project premiums in the regular Contingency Reserves of all carriers continuing in the FEHB Program for the contract year following the year in which the demonstration project ends. Credit will be in proportion to the amount of subscription charges paid and accrued to each carrier's plan for the last year of the demonstration project.

(8) Community-rated carriers may, at their discretion, request funds from the Employees Health Benefits Fund to mitigate excessive costs in relation to

premiums. If a community-rated carrier requests funds from the Employees Health Benefits Fund to mitigate risk, it will be required to perform annual reconciliations for the duration of the demonstration project. OPM will reimburse carrier costs significantly in excess of the premiums first from the carrier's demonstration project Contingency Reserve and then from the Employees Health Benefits Fund Administrative Reserve. After the final accounting, OPM will place any surplus demonstration project premiums in the regular Contingency Reserves of all carriers continuing in the FEHB Program for the contract year following the year in which the demonstration project ends. Credit will be in proportion to the amount of subscription charges paid and accrued to each carrier's plan for the last year of the demonstration project.

(9) Should the program be extended beyond the 3 year demonstration project period, OPM will regulate to address any necessary changes to these provisions.

[57 FR 14360, Apr. 20, 1992, as amended at 63 FR 55338, Oct. 15, 1998; 64 FR 36272, July 6, 1999; 65 FR 36386, June 8, 2000]

**1632.171 Clause—community-rated contracts.**

The clause at 1652.232-70 shall be inserted in all community-rated FEHBP contracts.

[57 FR 14360, Apr. 20, 1992]

**1632.172 Clause—experience-rated contracts.**

The clause at 1652.232-71 shall be inserted in all experience-rated FEHBP contracts.

[57 FR 14360, Apr. 20, 1992]

**Subpart 1632.6—Contract Debts**

**1632.607 Tax credit.**

FAR 32.607 has no practical application to FEHBP contracts. The statutory provisions at 5 U.S.C. 8906(c) and (d) authorize joint enrollee and Government contributions to the FEHBP Fund. Because the Fund is comprised of contributions by enrollees as well as the Government, carriers may not offset debts to the Fund by a tax credit

**1632.617**

which is solely a Government obligation.

**1632.617 Contract clause.**

The clause at (FAR) 48 CFR 52.232-17 will be modified in all FEHBP contracts to exclude the words "net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)."

[59 FR 14765, Mar. 30, 1994]

**Subpart 1632.7—Contract Funding**

**1632.770 Contingency reserve payments.**

(a) Payments from the contingency reserve shall be made in accordance with 5 CFR 890.503.

(b) A carrier for an FEHB plan may apply to OPM at any time for a payment from the contingency reserve that is in addition to those amounts, if any, paid under 5 CFR 890.503(c)(1) through (c)(4), if the carrier can show good cause, such as, unexpected adverse claims experience. OPM will decide whether to allow the request in whole or in part and will advise the carrier of its decision. However, OPM shall not unreasonably withhold approval for amounts requested that exceed the plan's preferred minimum balance for the contingency reserve.

**1632.771 Non-commingling of FEHBP funds.**

(a) This section applies to contracts based on cost analysis.

(b) Carrier or underwriter commingling of FEHBP funds with those from other sources makes it difficult to precisely determine FEHBP cash balances at any given time or to precisely determine investment income attributable to FEHBP invested assets.

(c) FEHBP funds shall be maintained separately from other cash and invest-

**48 CFR Ch. 16 (10-1-03 Edition)**

ments of the carrier or underwriter. Cash and investment balances reported on FEHBP Annual Accounting Statements must agree with the carrier's books and records.

(d) This requirement may be waived by the contracting officer in accordance with the clause at 1652.232-70 when adequate accounting and other controls are in effect. If the requirement is waived, the waiver will remain in effect until it is withdrawn by OPM. The waiver shall be withdrawn if OPM determines that the accounting controls are no longer adequate to properly account for FEHBP funds.

**1632.772 Contract clause.**

The clause at 1652.232-70 shall be included in all contracts that are based on cost analysis.

**Subpart 1632.8—Assignment of Claims**

**1632.806-70 Contract clause.**

The clause set forth in 1652.232-73 shall be inserted in all FEHBP contracts.

[55 FR 27415, July 2, 1990]

**PART 1633—PROTESTS, DISPUTES, AND APPEALS**

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

**1633.070 Designation of the Board of Contract Appeals.**

The Armed Services Board of Contract Appeals (ASBCA) serves as the Board of Contract Appeals for the FEHBP. The rules of procedure followed in a dispute shall be those prescribed by the ASBCA.

[52 FR 16043, May 1, 1987]