

Calendar No. 783

108TH CONGRESS }
2d Session }

SENATE

{ REPORT
108-393 }

FEDERAL EMPLOYEE DENTAL AND VISION
BENEFITS ENHANCEMENT ACT OF 2004

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2657



OCTOBER 8, 2004.—Ordered to be printed

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FEDERAL EMPLOYEE DENTAL AND VISION BENEFITS
ENHANCEMENT ACT OF 2004

OCTOBER 8, 2004.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

[To accompany S. 2657]

The Committee on Governmental Affairs, to which was referred the bill (S. 2657) to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 2657, the Federal Employee Dental and Vision Benefits Enhancement Act of 2004, is a bill to provide federal employees, annuitants, and their dependents access to voluntary, supplemental dental and vision coverage on an employee-paid basis. The purpose of the legislation is to grant the Office of Personnel Management the framework and authority to contract with qualified companies to provide the supplemental coverage. The legislation also expresses

the sense of Congress that health insurance benefits available to federal employees should be sufficient to promote the health and productivity of all federal workers and to support the recruitment and retention of a highly qualified workforce, and states that, to help achieve these goals, Congress should evaluate the supplemental plans established under this Act to determine the options for and feasibility of providing an employer contribution. In addition, the legislation would require the Office of Personnel Management to submit to Congress a report describing and evaluating options whereby coverage under the Federal Employees Health Benefits Program could be made available to unmarried dependent children of federal employees and annuitants, under 25 years of age, who are enrolled as full-time students at institutes of higher education.

II. BACKGROUND

WHY SHOULD THE FEDERAL GOVERNMENT—AS AN EMPLOYER—OFFER ENHANCED DENTAL AND VISION BENEFITS?

There are several important considerations that support offering dental and vision benefits to federal employees, including improved recruitment and retention, improved employee health, and improved employee satisfaction.

Improved recruitment and retention

Ensuring the right people, in the right place, at the right time—is a high priority for the federal government as an employer. Therefore, it is important to understand the competitive employment environment when making decisions about benefit offerings. The overwhelming majority of both large private and public sector employers offer some combination of dental or vision benefits to their employees.

In 2003, 96 percent of employers with 500 or more employees, and 98 percent of employers with 20,000 or more employees provided dental benefits to their workforce.¹ For county, city, and state government entities, the survey revealed that 95 percent of the aforementioned government employers with over 500 employees offered dental benefits with median deductible and maximums of \$50 and \$1,000, respectively.² All states, except Kentucky and Mississippi, offer dental coverage to state employees.

Moreover, the government finds itself at a critical juncture in its ability to carry out its work. The Government Accountability Office has identified human capital management as a High Risk area, calling for concerted action in addressing the issue. Various studies have identified the likely retirement of significant numbers of federal employees, leaving some agencies with critical shortages of needed skills in a variety of occupations and important areas of governmental activity. The establishment of a program of dental and vision insurance for the federal workforce can be a significant component in addressing these issues.

¹ Mercer Survey of Employer-Sponsored Health Plans, December 8, 2003.

² Ibid.

Improved employee health

Access to dental and vision care can improve the overall health and well-being of employees. Routine dental and vision services can prevent diseases from developing and identify major diseases in their early stages when they are easier and less expensive to treat. Healthier employees are generally more productive employees.

Oral health is an essential element of over-all health. The 2000 Surgeon General report, "Oral Health in America," estimated that approximately 108 million Americans did not have access to a dental benefit, about 2.5 times the number who do not have medical coverage. The report found that 70.4 percent of individuals with private dental insurance reported seeing a dentist in the past year while only 50.7 percent of those without benefits did.³ The report notes that preventive care is essential to keeping down overall dental and medical costs because early detection of other diseases, including oral cancer, can be found through oral check-ups. The National Institute of Dental and Craniofacial Research estimates that for every dollar spent on dental disease prevention, \$4 is saved in subsequent treatment costs. Research continues to support the association of dental disease with coronary heart disease, stroke, and premature childbirth.⁴ In view of the proven relationship between good oral health and good overall health, promoting access to dental care is essential.

Dental health can be linked directly to the physical health of employees. Each year, adults miss more than 164 million hours (approximately 20.5 million days) of work due to oral health problems or dental treatments.⁵ While the percentage of adult Americans missing all of their teeth has declined significantly over the past 20 years, today, one in every 250 young adults have lost all their teeth.⁶ There is a developing body of medical evidence that correlates severe gum disease in mothers to low-birth-weight babies. Obstetricians and gynecologists are increasingly asking pregnant women about their dental history in the first trimester of their pregnancy to identify and treat potential infections as early as possible. Other researchers have asserted that the link of periodontic disease to heart disease may be as strong as the risks of smoking and high blood lipids. In addition, there is evidence that gum disease makes controlling insulin levels more difficult for diabetics.⁷ Clearly the better an individual's dental health, the better that individual's overall physical health will be.

The links between vision health and physical health are no less strong. Routine eye exams are an ideal opportunity to identify more significant health issues, some of which can be life-threatening such as high blood pressure, arteriosclerosis and diabetes. These are diseases that if left untreated can lead to serious and ex-

³Oral Health in America: A Report of the Surgeon General, U.S. Public Health Service, May 25, 2000.

⁴Dental and Vision Benefits for Federal Employees, hearing before the House Subcommittee on Civil Service and Agency Reorganization, 108th Congress, (February 24, 2004) (testimony by Jon Selteneim, National Association of Dental Plans).

⁵Journal of Dental Education, *Association Report: Trends in Dentistry and Dental Education*, June 2001.

⁶National Center for Chronic Disease Prevention and Health Promotion, "Oral Health for Adults."

⁷Richmond Times Dispatch, "More Reasons To Brush and Floss Research Suggests Severe Gum Disease Can Affect Heart, Pregnancy and Other Body Systems," May 2, 2002, Section F-1.

pensive complications.⁸ More than 5 million Americans have vision problems that are related to diabetes.⁹ Diabetics are 25 times more likely to lose vision than those who do not, and yet, with early intervention, ninety-five percent of people with significant diabetic retinopathy can avoid significant vision loss.¹⁰ In addition, with the use of computers in the workforce becoming increasingly common, “Computer vision syndrome” (CVS) has emerged as a growing issue facing many employees. CVS causes headaches, dry eyes, and other related problems. The availability of basic vision benefits can help minimize the impact of CVS on employees.¹¹ In addition to assuring proper visual correction, a vision benefit can also provide the opportunity for early detection of serious eye and systemic conditions from glaucoma to high blood pressure and diabetes. Early treatment is key to avoiding serious health consequences.¹²

Simply put, employers can offer the advantages of group purchasing of dental and vision benefits to their employees and contribute to improved physical health (and corresponding improvements in productivity) while incurring only minimal administrative costs. Under the Federal Employees Dental and Vision Enhancement Act of 2004, the federal government’s administrative costs would be limited to costs incurred between the date of enactment and the initial contract agreements between OPM and interested companies.

Improved employee satisfaction

Employees value the ability to purchase dental and vision benefits at a group rate from their employer. In addition to having access to these benefits, employees also appreciate having decision tools to support them as they select providers and make critical care decisions.

The U.S. Chamber of Commerce Annual Report on Employee Benefits indicates that employees rank dental benefits as one of the top 5 benefit offerings along with medical, life, long-term disability, and 401(k)’s. Seven of 10 employees want to have a vision plan as a part of their benefits package. One study even suggests that two-thirds of employees would trade a day off for vision benefits.¹³

COMPREHENSIVE DENTAL AND VISION COVERAGE

While some federal government employees have access to limited preventive dental and vision care through their medical plans, many federal employees do not have coverage. By offering an opportunity for all federal government employees to purchase coverage, the government can be assured that all employees and retirees will have access to comprehensive basic coverage.

⁸Dental and Vision Benefits for Federal Employees, hearing before the House Subcommittee on Civil Service and Agency Reorganization, 108th Congress, (February 24, 2004) (testimony of Dr. Howard J. Braverman, O.D., Past President, American Optometric Association).

⁹National Eye Institute, “Vision Problem in the United States,” 2002.

¹⁰American Academy of Ophthalmology, April 2004.

¹¹Dental and Vision Benefits for Federal Employees, hearing before the House Subcommittee on Civil Service and Agency Reorganization, 108th Congress, (February 24, 2004) (testimony of Dr. Howard J. Braverman, O.D., Past President, American Optometric Association).

¹²Letter to the Honorable Susan Collins, American Optometric Association, July 15, 2004.

¹³Dental and Vision Benefits for Federal Employees, hearing before the House Subcommittee on Civil Service and Agency Reorganization, 108th Congress, (February 24, 2004) (testimony of Dr. Howard J. Braverman, O.D., Past President, American Optometric Association).

Today, federal employees have access to comprehensive medical insurance through the Federal Employees Health Benefits Program (FEHBP);¹⁴ however, the FEHBP provides little in the way of dental and vision coverage. While some of the health insurance plans offered under the FEHBP include dental and vision benefits, they typically provide lower levels of coverage when compared to the array of plans available to both the public and private sectors. For example, the Blue Cross and Blue Shield Association plans, which provide coverage to approximately 52 percent of the federal workforce, pays \$8 of a \$24 maximum allowable charge for a periodic oral evaluation.¹⁵ In testimony before the House Government Reform Subcommittee on Civil Service and Agency Organization, CompBenefits Corporation presented a review of dental benefits available through the FEHBP.¹⁶ The review covered 150 of plan documents of carriers participating in the FEHBP. The review found that only one carrier offered specific preventative care for children, approximately one-third offered preventative care for all ages, less than one-third offered minor restorative dental care, one-fifth offered any major restorative dental care, and fourteen offered any orthodontic care.¹⁷

Customer surveys, focus groups, and other feedback indicate the FEHBP enrollees want better dental and vision benefits coverage than is currently available in the FEHBP. Since the 1980s, OPM has not accepted proposals from participating companies to increase dental benefits because either coverage for basic medical services would have to be reduced or premiums increase significantly to cover the cost. The statutory framework in the Federal Employee Dental and Vision Enhancement Act of 2004 will provide federal employees, annuitants, and their dependents with access to separate and improved dental and vision coverage.

As the legislation was developed, some expressed concern that the supplemental benefits created by the bill would serve as a precedent for carving out other benefits the FEHBP insurers provide today. Those concerned believe that segregating core medical benefits, such as prescription drugs, would impair the ability of FEHBP insurers to continue providing federal employees, annuitants, and their dependents with highest-quality health benefits at affordable premiums. The Committee understands that concern. The Federal Employee Dental and Vision Enhancements Act of 2004 should not be viewed as a precedent for segregating treatments or procedures that, unlike dental and vision, are integrally related to the practice of medicine.

ADVANTAGES OF EMPLOYER-SPONSORED DENTAL AND VISION BENEFITS TO EMPLOYEES

Offering employees supplemental dental and vision benefits offers clear advantages to the federal government. But what about advantages to the federal employee? Supplemental dental and vision benefits offer three, clear-cut advantages to the employee: (1)

¹⁴Chapter 89 of title 5, United States Code.

¹⁵2004 Blue Cross and Blue Shield Service Benefit Plan Brochure, www.fepblue.org.

¹⁶"Resource on Optional Dental/Vision Benefits for Federal Employees," A Report to the House Subcommittee on Civil Service and Agency Reorganization, CompBenefits Corporation, February 24, 2004.

¹⁷Ibid.

access to more comprehensive dental and vision benefits coverage; (2) a greater sense of financial security; and (3) tax savings.

The first two employee advantages are linked: whether or not the individual chooses additional levels of dental or vision coverage, the reality is that the coverage is available. Employees feel more secure that the employer is able to provide access to higher levels of coverage. And for those who feel they really need that additional coverage, they feel good about not having to look elsewhere for the coverage they feel they need.

More tangibly, offering additional dental and vision benefits on a pre-tax (or “before-tax”) basis has an immediate, positive impact on the individual: savings. Pre-tax contributions means the individual pays the cost of coverage *before* taxes are calculated on pay. Consequently, the individual lowers his or her taxable pay by the amount they contribute toward the cost of coverage. For the average Federal employee earning \$56,400 per year this means a savings of 25% of premiums. In short, they save money relative to paying for coverage after taxes are taken out.

Finally, beyond the obvious benefit of having to pay less for coverage, pre-tax savings also means the individual has additional dollars (not spent on coverage), that are available for other areas—such as contributions to a flexible spending account which can be applied to a variety of medical expenses like co-pays, doctor visit charges, eyeglasses, etc. Since money contributed to a spending account is also pre-tax, the average Federal employee will have \$1.25 of purchasing power for every dollar placed into the spending account.

To ensure that employees understand the services and benefits available under the various offerings, the bill includes provision requiring OPM to work with the participating companies to provide federal employees and annuitants with the education materials necessary to evaluate the new offerings.

The Committee believes competition among carriers, group discounts, and volumes of sales should keep premiums affordable for federal employees. In recognition of the enormous fiscal pressures faced by the federal government, the legislation is designed to provide a voluntary, employee-paid dental and vision benefit, patterned after the Federal Employees Long-Term Care Insurance Program.

BENEFIT OFFERINGS AND BENEFIT ADMINISTRATION

In designing the future benefit packages, there are several plan design alternatives to be considered. In addition, there are important administration considerations as well. Flexibility in both design and administration is critically important for the employer and the employee. The employer needs the flexibility to respond to the ever changing market and the employee needs flexibility to respond to his or her changing needs. The Federal Employee Dental and Vision Benefits Enhancement Act of 2004 is written to mirror the prevalent practices in the private sector. Therefore, it is important to understand how the private sector has designed their programs in a way that offers both cost efficiency and administrative simplicity.

Design considerations

There are a wide variety of stand-alone dental plans on the market that OPM could adapt in order to meet the demand for enhanced dental coverage, including dental health maintenance organizations, dental preferred provider organizations, dental indemnity plans, and discount dental plans. According to the National Association of Dental Plans, premiums range from a few dollars a month for discount dental plans to an average of \$90 a month for family indemnity plans.¹⁸ An array of vision plans is available as well. The existing variety of plans will allow the Office of Personnel Management wide flexibility in providing employees, annuitants, and their dependents access to a level of dental benefits appropriate for their individual dental care needs.

Administration considerations

How employers deliver benefits is often as important as the benefits delivered. Today's employees have high expectations for fast, high quality service delivery. Consequently, most large employers in the United States have decided to contract with organizations whose core competencies include benefits administration for the delivery of dental and vision benefits. Many of the nation's largest employers have decided to contract with alternate service administrators for the administration of their health and welfare plans, including dental and vision benefits. In addition to managing enrollment, claims processing and regulatory compliance, large administrators have a wealth of decision support tools that help employees make smart choices about how to use their benefits. Examples of such tools include: comparison charts that allow employees to quickly compare costs and coverages of different plans, complete with web links to those plans if more detail is desired, personalized provider directories that allow employees to see which local dentists or eye doctors are aligned to the offered plans, and health content sites that allow employees to learn more about their health conditions. The Committee urges OPM to give strong consideration to companies with decision support tools to assist the federal workforce and annuitant population in becoming better consumers of their vision and dental services.

III. LEGISLATIVE HISTORY

S. 2657 was introduced by Senators Collins and Akaka on July 14, 2004, and was referred to the Committee on Governmental Affairs. Senator Lieberman cosponsored the legislation on July 15, Senator Voinovich cosponsored the legislation on July 22, and Senator Santorum cosponsored the legislation on September 9.

The legislation was referred to the Subcommittee on Financial Management, the Budget, and International Security on July 15, 2004. On July 20, 2004, the Subcommittee on Financial Management, the Budget, and International Security favorably polled out S. 2657 to the full Committee.

On July 21, 2004, the Committee on Governmental Affairs considered S. 2657 and ordered the bill reported by voice vote without

¹⁸ Dental and Vision Benefits for Federal Employees, hearing before the House Subcommittee on Civil Service and Agency Reorganization, 108th Congress, (February 24, 2004) (testimony by Jon Seltenheim, National Association of Dental Plans).

amendment. Senators present: Collins, Voinovich, Specter, Fitzgerald, Lieberman, Akaka, Durbin, Carper, and Lautenberg.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section establishes the title of the legislation as the “Federal Employee Dental and Vision Benefits Enhancement Act of 2004.”

Section 2. Enhanced dental benefits for federal employees

This section amends subpart G of part III of title 5, United States Code, by adding a new chapter 89A to allow the Office of Personnel Management to establish a program under which supplemental dental insurance is made available to federal employees, annuitants, and their dependents.

New section 8951 defines the terms used in chapter 89A, including the definition of employee, annuitant, member of family, dependent, eligible individual, Office, qualified company, employee organization, and State.

New section 8952 requires OPM to establish and administer the dental program. Subsection (a) states that OPM shall establish and administer a program through which an eligible individual may obtain dental coverage to supplement coverage available through the Federal Employees Health Benefits Program codified at chapter 89 of title 5, United States Code. Subsection (b) states that OPM shall use reasonable discretion to determine the financial requirements for qualified companies to participate in the supplemental dental program. Subsection (c) makes clear that nothing in the supplemental dental program shall be construed to prohibit the availability of dental benefits provided by a health benefits plan under chapter 89 of title 5, United States Code.

New section 8953 provides the contracting framework for OPM to use in establishing and operating the program. Subsection (a) states that OPM shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under new section 8954 without regard to section 5 of title 41 or any other statute requiring competitive bidding. In addition, this subsection states that an employee organization may contract with a qualified company to participate with the company in any contract between OPM and that qualified company in order to offer a supplemental dental package under chapter 89A. Subsection (b) requires OPM to ensure that contracts are awarded on the basis of contractor qualifications, price, and reasonable competition. Subsection (c) allows companies to apply additional waiting periods for benefits for individuals who enroll after their initial enrollment opportunity. Subsection (d) requires companies to establish internal dispute resolution procedures as well as alternative dispute resolution procedures involving independent third-party review. This subsection states that the district courts of the United States would have original jurisdiction, concurrent with the United States Court of Federal Claims, over any action described in section (10)(a)(1) of the Contract Disputes Act relating to such a dispute arising under the contract. Subsection (e) states that this section does not authorize OPM or a third-party reviewer to change the terms of any contract under chapter 89A. Subsection (f) states that contracts under

chapter 89A shall be for seven years and may not be renewed automatically.

New section 8954 relates to benefits. Subsection (a) grants OPM the authority to set reasonable minimum standards for enhanced dental benefits plans under chapter 89A and for qualified companies offering those plans. Subsection (b) specifies that contracts may include more than 1 level of benefits. Subsection (c) describes categories of benefits that may be offered under chapter 89A dental plans. Subsection (d) requires contracts to cover geographic service delivery areas specified by OPM, and makes clear that OPM shall require companies to include dentally underserved areas in their service delivery areas. Subsection (e) states that the health benefits plans under chapter 89 of title 5, United States Code, shall be the first payor of any benefit payments for an individual with dental coverage under chapter 89 and chapter 89A.

New section 8955 specifies information requirements. Subsection (a) requires companies to make available to each individual eligible to enroll information on services and benefits that OPM considers necessary to enable the individual to make an informed decision about electing coverage under chapter 89A. Subsection (b) states that OPM shall make available to each individual eligible to enroll in a dental benefits plan information on services and benefits provided by companies participating in the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

New section 8956 governs elections of coverage. Subsection (a) allows eligible individuals to enroll in a dental benefits plan for self-only, self plus one, or for self and family. Subsection (b) requires OPM to prescribe regulations under which eligible individuals may enroll. Subsection (c) permits eligible individuals to cancel or transfer enrollment before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated, or during other times and circumstances as specified by OPM.

New section 8957 states that a surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a dental benefits plan under chapter 89A, subject to OPM regulations.

New section 8958 relates to premiums. Subsection (a) states that each eligible individual obtaining dental coverage under chapter 89A is responsible for 100 percent of the premiums for such coverage. Subsection (b) requires OPM to issue regulations specifying the terms under which individuals are required to pay the premiums for enrollment. Subsection (c) states that the amount necessary to pay the premiums may be withheld from an individual's federal pay or annuity. Subsection (d) specifies that premiums shall be paid directly to the qualified company. Subsection (e) requires participating qualified companies to maintain accounting records as OPM may require. Subsection (f) makes the Employee Health Benefits Fund available for reasonable expenses incurred by OPM in administering chapter 89A before the first day of the first contract period, including reasonable implementation costs. In addition, this subsection establishes a Dental Benefits Administrative Account available to OPM to defray administrative costs after the start of the first contract year. Contracts under chapter 89A would include

appropriate provisions for companies to reimburse the Dental Benefits Administrative Account.

New section 8959 provides that contracts established under chapter 89A preempt any State or local law which relates to dental benefits, insurance, plans, or contracts.

New section 8960 imposes requirements for studies, reports, and audits relating to the dental benefits program. Subsection (a) requires participating companies to both furnish such reasonable reports as OPM determines to be necessary and permit OPM and representatives of the General Accounting Office to examine the records of such companies as necessary. Subsection (b) requires each federal agency to keep records, make certifications, and furnish OPM, the company, or both, with the information and reports OPM requires. Subsection (c) requires OPM to conduct periodic reviews of the plans under chapter 89A, including a comparison of the dental benefits available under chapter 89 of title 5, United States Code, to ensure the competitiveness of plans under new chapter 89A.

New section 8961 grants the district courts of the United States original jurisdiction, concurrent with the United States Court of Federal Claims, for a civil action or claim against the United States under chapter 89A after administrative remedies under chapter 8953(d) have been exhausted.

New section 8962 relates to administrative functions for OPM. Subsection (a) requires OPM to prescribe regulations to carry out new chapter 89A. Subsection (b) requires OPM to provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information must include information relating to the dental benefits available under chapter 89 of title 5, United States Code, and the advantages and disadvantages of additional coverage under chapter 89A.

Section 3. Enhanced vision benefits for federal employees

This section amends subpart G of part III of title 5, United States Code, by adding a new chapter 89B to allow the Office of Personnel Management to establish a program under which supplemental vision insurance is made available to federal employees, annuitants, and their dependents.

New section 8981 defines the terms used in chapter 89B, including the definition of employee, annuitant, member of family, dependent, eligible individual, Office, qualified company, employee organization, and State.

New section 8982 requires OPM to establish and administer the vision program. Subsection (a) states that OPM shall establish and administer a program through which an eligible individual may obtain vision coverage to supplement coverage available through the Federal Employees Health Benefits Program codified at chapter 89 of title 5, United States Code. Subsection (b) states that OPM shall use reasonable discretion to determine the financial requirements for qualified companies to participate in the supplemental vision program. Subsection (c) makes clear that nothing in the supplemental vision program shall be construed to prohibit the availability of vision benefits provided by a health benefits plan under chapter 89 of title 5, United States Code.

New section 8983 provides the contracting framework for OPM to use in establishing and operating the program. Subsection (a) states that OPM shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under new section 8984 without regard to section 5 of title 41 or any other statute requiring competitive bidding. In addition, this subsection states that an employee organization may contract with a qualified company to participate with the company in any contract between OPM and that qualified company in order to offer a supplemental vision package under chapter 89A. Subsection (b) requires OPM to ensure that contracts are awarded on the basis of contractor qualifications, price, and reasonable competition. Subsection (c) allows companies to apply additional waiting periods for benefits for individuals who enroll after their initial enrollment opportunity. Subsection (d) requires companies to establish internal dispute resolution procedures as well as alternative dispute resolution procedures involving independent third-party review. This subsection also states that the district courts of the United States would have original jurisdiction, concurrent with the United States Court of Federal Claims, over any action described in section (10)(a)(1) of the Contract Disputes Act relating to such a dispute arising under the contract. Subsection (e) states that this section does not authorize OPM or a third-party reviewer to change the terms of any contract under chapter 89A. Subsection (f) states that contracts under chapter 89B shall be for seven years and may not be renewed automatically.

New section 8984 relates to benefits. Subsection (a) grants OPM the authority to set reasonable minimum standards for enhanced vision benefits plans under chapter 89B and for qualified companies offering those plans. Subsection (b) specifies that contracts may include more than 1 level of benefits. Subsection (c) describes categories of benefits that may be offered under chapter 89B vision plans. Subsection (d) requires contracts to cover geographic service delivery areas specified by OPM, and makes clear that OPM shall require companies to include underserved vision areas in their service delivery areas. Subsection (e) states that the health benefits plans under chapter 89 of title 5, United States Code, shall be the first payor of any benefit payments for an individual with vision coverage under chapter 89 and chapter 89B.

New section 8985 specifies information requirements. Subsection (a) requires companies to make available to each individual eligible to enroll information on services and benefits that OPM considers necessary to enable the individual to make an informed decision about electing coverage under chapter 89B. Subsection (b) states that OPM shall make available to each individual eligible to enroll in a vision benefits plan information on services and benefits provided by companies participating in the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

New section 8986 governs elections of coverage. Subsection (a) allows eligible individuals to enroll in a vision benefits plan for self-only, self plus one, or for self and family. Subsection (b) requires OPM to prescribe regulations under which eligible individuals may enroll. Subsection (c) permits eligible individuals to cancel or transfer enrollment before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new

plan is offered, or in which an existing plan is terminated, or during other times and circumstances as specified by OPM.

New section 8987 states that a surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a vision benefits plan under chapter 89B, subject to OPM regulations.

New section 8988 relates to premiums. Subsection (a) states that each eligible individual obtaining vision coverage under chapter 89B is responsible for 100 percent of the premiums for such coverage. Subsection (b) requires OPM to issue regulations specifying the terms under which individuals are required to pay the premiums for enrollment. Subsection (c) states that the amount necessary to pay the premiums may be withheld from an individual's federal pay or annuity. Subsection (d) specifies that premiums shall be paid directly to the qualified company. Subsection (e) requires participating qualified companies to maintain accounting records as OPM may require. Subsection (f) makes the Employee Health Benefits Fund available for reasonable expenses incurred by OPM in administering chapter 89B before the first day of the first contract period, including reasonable implementation costs. In addition, this subsection establishes a Vision Benefits Administrative Account available to OPM to defray administrative costs after the start of the first contract year. Contracts under chapter 89B would include appropriate provisions for companies to reimburse the Vision Benefits Administrative Account.

New section 8989 provides that contracts established under chapter 89B preempt any State or local law which relates to vision benefits, insurance, plans, or contracts.

New section 8990 imposes requirements for studies, reports, and audits relating to the vision benefits program. Subsection (a) requires participating companies to both furnish such reasonable reports as OPM determines to be necessary and permit OPM and representatives of the General Accounting Office to examine the records of such companies as necessary. Subsection (c) of new section 8990 requires OPM to conduct periodic reviews of the plans under chapter 89B, including a comparison of the vision benefits available under chapter 89 of title 5, United States Code, to ensure the competitiveness of plans under chapter 89B.

New section 8991 grants the district courts of the United States original jurisdiction, concurrent with the United States Court of Federal Claims, for a civil action or claim against the United States under chapter 89B after administrative remedies under chapter 8983 (d) have been exhausted.

New section 8992 relates to administrative functions for OPM. Subsection (a) requires OPM to prescribe regulations to carry out chapter 89B. Subsection (b) requires OPM to provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information must include information relating to the vision benefits available under chapter 89 of title 5, United States Code, and the advantages and disadvantages of additional coverage under chapter 89B.

Section 4. Technical and conforming amendment

This section makes technical and conforming amendments to the table of chapters for part III of title 5, United States Code, to reflect the enhanced dental and vision benefits sections.

Section 5. Application to postal service employees

This section amends section 1005(f) of title 39, United States Code, to make postal service employees eligible to participate in the supplemental dental and vision benefit programs under S. 2657.

Section 6. Sense of Congress

Subsection (a) states the finding that oral and vision and general health and well-being are inseparable and access to dental and vision services is an essential factor in maintaining good health; and that it is in the interest of the federal government to take reasonable steps to ensure the health and well-being of its employees.

Subsection (b) expresses the sense of Congress that health insurance benefits available to federal employees should be sufficient to promote the health and productivity of all federal workers and to support the recruitment and retention of a highly qualified workforce. This subsection also states that to help achieve these goals Congress should evaluate the supplemental plans established under S. 2657 to determine the options for and feasibility of providing an employer contribution.

Section 7. Requirement to study health benefits coverage for dependent children who are full-time students

This section requires the Office of Personnel Management to report to Congress describing and evaluating the options whereby coverage under the Federal Employees Health Benefits program could be made available to unmarried dependent children under the age of 25 who are full-time students. The report is due to Congress no later than 6 months after the date of enactment.

Section 8. Effective date

This section applies the provisions of S. 2657 to contracts that take effect in calendar year 2006.

V. ESTIMATED COST OF LEGISLATION

S. 2657—Federal Employee Dental and Vision Benefits Enhancement Act of 2004

S. 2657 would establish a voluntary program under which federal civilian employees and annuitants would be able to purchase supplemental insurance coverage for vision and dental care. The coverage authorized under the bill would be available regardless of whether eligible individuals are enrolled in the Federal Employees Health Benefits (FEHB) program. (Plans currently participating in the FEHB program may offer enrollees coverage for dental or vision services, although such coverage is often limited.)

Although the federal government would not contribute toward enrollees' premiums for the benefit, the Office of Personnel Management (OPM) would incur costs to implement and administer the program. CBO estimates that implementing S. 2657 would increase

direct spending by OPM for its administrative expenses by about \$1 million in fiscal year 2005.

According to OPM, its limited administrative role would be similar to the one it has in the federal long-term care insurance program, in which qualifying companies are responsible for costly marketing and enrollment activities. The bill would authorize any administrative expenses incurred by OPM to be paid from the federal government's Employees Health Benefits Fund.

The bill would require companies providing the vision and dental benefit to reimburse OPM for its future administrative expenses after the first contract year begins. Assuming enactment of the bill in the fall of 2004, CBO expects that contracts would be awarded during the last quarter of fiscal year 2005 in anticipation of coverage beginning at the start of calendar year 2006. We assume that companies would begin to reimburse OPM for its administrative costs once contracts are signed.

Based on information provided by OPM, CBO estimates that start-up costs in fiscal year 2005 would amount to about \$1 million. In future years, CBO expects that reimbursements from qualifying companies generally would cover OPM's costs to administer the program, so net federal outlays would be zero after the first year. S. 2657 would not affect federal revenues.

CBO anticipates that establishing a new supplemental dental and vision benefit program for federal civilian employees would increase the administrative workload of federal agencies by a negligible amount. The bill also would require OPM to conduct a feasibility study on options to expand FEHB coverage to certain dependents of federal employees. We estimate that preparing and issuing the report would cost less than \$500,000 in 2005. Federal spending for such activities would be subject to the availability of appropriated funds.

S. 2657 would preempt state and local laws that establish coverage levels or benefit requirements that would otherwise apply to vision or dental benefits offered under the new benefit programs authorized by the bill. Such preemptions are intergovernmental mandates as defined in the Unfunded Mandates Reform Act, but CBO estimates that they would not affect the budgets of state, local, or tribal governments. While the preemptions would limit the application of state laws, they would not preempt state taxing authority and would impose no duties on states that would result in additional spending. The bill does not contain any private-sector mandates.

The CBO staff contact for this estimate is Julia Christensen. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on state, local, or tribal governments. The legislation contains no other regulatory impact.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law, in which no change is proposed, is shown in roman):

TITLE 5, UNITED STATES CODE

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GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 89—HEALTH INSURANCE

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CHAPTER 89A—ENHANCED DENTAL BENEFITS

- 8951. *Definitions.*
- 8952. *Availability of dental benefits.*
- 8953. *Contracting authority.*
- 8954. *Benefits.*
- 8955. *Information to individuals eligible to enroll.*
- 8956. *Election of coverage.*
- 8957. *Coverage of restored survivor or disability annuitants.*
- 8958. *Premiums.*
- 8959. *Preemption.*
- 8960. *Studies, reports, and audits.*
- 8961. *Jurisdiction of courts.*
- 8962. *Administrative functions.*

SEC. 8951. DEFINITIONS.

In this chapter:

- (1) *The term “employee” means an employee defined under section 8901(1).*
- (2) *The terms “annuitant”, “member of family”, and “dependent” have the meanings as such terms are defined under paragraphs (3), (5), and (9), respectively, of section 8901.*
- (3) *The term “eligible individual” refers to an individual described in paragraph (1) or (2), without regard to whether the individual is enrolled in a health benefits plan under chapter 89.*
- (4) *The term “Office” means the Office of Personnel Management.*

(5) *The term “qualified company” means a company (or consortium of companies) that offers indemnity, preferred provider organization, health maintenance organization, or discount dental programs and if required is licensed to issue applicable coverage in any number of States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).*

(6) *The term “employee organization” means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under chapter 89.*

(7) *The term “State” includes the District of Columbia.*

SEC. 8952. AVAILABILITY OF DENTAL BENEFITS.

(a) *The Office shall establish and administer a program through which an eligible individual may obtain dental coverage to supplement coverage available through chapter 89.*

(b) *The Office shall determine, in the exercise of its reasonable discretion, the financial requirements for qualified companies to participate in the program.*

(c) *Nothing in this chapter shall be construed to prohibit the availability of dental benefits provided by health benefits plans under chapter 89.*

SEC. 8953. CONTRACTING AUTHORITY.

(a)(1) *The Office shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under section 8954 without regard to section 5 of title 41 or any other statute requiring competitive bidding. An employee organization may contract with a qualified company for the purpose of participating with that qualified company in any contract between the Office and that qualified company.*

(2) *The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition.*

(b) *Each contract under this section shall contain—*

(1) *the requirements under section 8902 (d), (f), and (i) made applicable to contracts under this section by regulations prescribed by the Office;*

(2) *the terms of the enrollment period; and*

(3) *such other terms and conditions as may be mutually agreed to by the Office and the qualified company involved, consistent with the requirements of this chapter and regulations prescribed by the Office.*

(c) *Nothing in this chapter shall, in the case of an individual electing dental supplemental benefit coverage under this chapter after the expiration of such individual’s first opportunity to enroll, preclude the application of waiting periods more stringent than those that would have applied if that opportunity had not yet expired.*

(d)(1) *Each contract under this chapter shall require the qualified company to agree—*

(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

(i) to establish internal procedures designed to expeditiously resolve such disputes; and

(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the qualified company.

(2) A determination by a qualified company as to whether or not a particular individual is eligible to obtain coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable contract.

(3) For purposes of applying the Contract Disputes Act of 1978 to disputes arising under this chapter between a qualified company and the Office—

(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c) of such Act); and

(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1) of such Act relative to such a dispute.

(e) Nothing in this section shall be considered to grant authority for the Office or third-party reviewer to change the terms of any contract under this chapter.

(f) Contracts under this chapter shall be for a uniform term of 7 years and may not be renewed automatically.

SEC. 8954. BENEFITS.

(a) The Office may prescribe reasonable minimum standards for enhanced dental benefits plans offered under this chapter and for qualified companies offering the plans.

(b) Each contract may include more than 1 level of benefits that shall be made available to all eligible individuals.

(c) The benefits to be provided under enhanced dental benefits plans under this chapter may be of the following types:

- (1) Diagnostic.
- (2) Preventive.
- (3) Emergency care.
- (4) Restorative.
- (5) Oral and maxillofacial surgery.
- (6) Endodontics.
- (7) Periodontics.
- (8) Prosthodontics.
- (9) Orthodontics.

(d) A contract approved under this chapter shall require the qualified company to cover the geographic service delivery specified by the Office. The Office shall require qualified companies to include dentally underserved areas in their service delivery areas.

(e) *If an individual has dental coverage under a health benefits plan under chapter 89 and also has coverage under a plan under this chapter, the health benefits plan under chapter 89 shall be the first payor of any benefit payments.*

SEC. 8955. INFORMATION TO INDIVIDUALS ELIGIBLE TO ENROLL.

(a) *The qualified companies at the direction and with the approval of the Office, shall make available to each individual eligible to enroll in a dental benefits plan information on services and benefits (including maximums, limitations, and exclusions), that the Office considers necessary to enable the individual to make an informed decision about electing coverage.*

(b) *The Office shall make available to each individual eligible to enroll in a dental benefits plan, information on services and benefits provided by qualified companies participating under chapter 89.*

SEC. 8956. ELECTION OF COVERAGE.

(a) *An eligible individual may enroll in a dental benefits plan for self-only, self plus one, or for self and family. If an eligible individual has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self plus one or self and family. An individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.*

(b) *The Office shall prescribe regulations under which—*

(1) *an eligible individual may enroll in a dental benefits plan; and*

(2) *an enrolled individual may change the self-only, self plus one, or self and family coverage of that individual.*

(c)(1) *Regulations under subsection (b) shall permit an eligible individual to cancel or transfer the enrollment of that individual to another dental benefits plan—*

(A) *before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated; or*

(B) *during other times and under other circumstances specified by the Office.*

(2) *A transfer under paragraph (1) shall be subject to waiting periods provided under a new plan.*

SEC. 8957. COVERAGE OF RESTORED SURVIVOR OR DISABILITY ANNUITANTS.

A surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a dental benefits plan subject to the terms and conditions prescribed in regulations issued by the Office.

SEC. 8958. PREMIUMS.

(a) *Each eligible individual obtaining supplemental dental coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.*

(b) *The Office shall prescribe regulations specifying the terms and conditions under which individuals are required to pay the premiums for enrollment.*

(c) *The amount necessary to pay the premiums for enrollment may—*

(1) *in the case of an employee, be withheld from the pay of such an employee; or*

(2) in the case of an annuitant, be withheld from the annuity of such an annuitant.

(d) All amounts withheld under this section shall be paid directly to the qualified company.

(e) Each participating qualified company shall maintain accounting records that contain such information and reports as the Office may require.

(f)(1) The Employee Health Benefits Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office in administering this chapter before the first day of the first contract period, including reasonable implementation costs.

(2)(A) There is established in the Employees Health Benefits Fund a Dental Benefits Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the first contract year.

(B) A contract under this chapter shall include appropriate provisions under which the qualified company involved shall, during each year, make such periodic contributions to the Dental Benefits Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year are defrayed.

SEC. 8959. PREEMPTION.

The terms of any contract that relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to dental benefits, insurance, plans, or contracts.

SEC. 8960. STUDIES, REPORTS, AND AUDITS.

(a) Each contract shall contain provisions requiring the qualified company to—

(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Office and representatives of the General Accounting Office to examine such records of the qualified company as may be necessary to carry out the purposes of this chapter.

(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the qualified company, or both, with such information and reports as the Office may require.

(c) The Office shall conduct periodic reviews of plans under this chapter, including a comparison of the dental benefits available under chapter 89, to ensure the competitiveness of plans under this chapter. The Office shall cooperate with the General Accounting Office to provide periodic evaluations of the program.

SEC. 8961. JURISDICTION OF COURTS.

The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8953(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

SEC. 8962. ADMINISTRATIVE FUNCTIONS.

(a) *The Office shall prescribe regulations to carry out this chapter. The regulations may exclude an employee on the basis of the nature and type of employment or conditions pertaining to it.*

(b) *The Office shall, as appropriate, provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information under this subsection shall include information relating to the dental benefits available under chapter 89, including the advantages and disadvantages of obtaining additional coverage under this chapter.*

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CHAPTER 89B—ENHANCED VISION BENEFITS

- 8981. *Definitions.*
- 8982. *Availability of vision benefits.*
- 8983. *Contracting authority.*
- 8984. *Benefits.*
- 8985. *Information to individuals eligible to enroll.*
- 8986. *Election of coverage.*
- 8987. *Coverage of restored survivor or disability annuitants.*
- 8988. *Premiums.*
- 8989. *Preemption.*
- 8990. *Studies, reports, and audits.*
- 8991. *Jurisdiction of courts.*
- 8992. *Administrative functions.*

SEC. 8981. DEFINITIONS.

In this chapter:

- (1) *The term “employee” means an employee defined under section 8901(1).*
- (2) *The terms “annuitant”, “member of family”, and “dependent” have the meanings as such terms are defined under paragraphs (3), (5), and (9), respectively, of section 8901.*
- (3) *The term “eligible individual” refers to an individual described in paragraph (1) or (2), without regard to whether the individual is enrolled in a health benefits plan under chapter 89.*
- (4) *The term “Office” means the Office of Personnel Management.*
- (5) *The term “qualified company” means a company (or consortium of companies) that offers indemnity, preferred provider organization, health maintenance organization, or discount vision programs and if required is licensed to issue applicable coverage in any number of States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).*
- (6) *The term “employee organization” means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under chapter 89.*
- (7) *The term “State” includes the District of Columbia.*

SEC. 8982. AVAILABILITY OF VISION BENEFITS.

(a) *The Office shall establish and administer a program through which an eligible individual may obtain vision coverage to supplement coverage available through chapter 89.*

(b) *The Office shall determine, in the exercise of its reasonable discretion, the financial requirements for qualified companies to participate in the program.*

(c) *Nothing in this chapter shall be construed to prohibit the availability of vision benefits provided by health benefits plans under chapter 89.*

SEC. 8983. CONTRACTING AUTHORITY.

(a)(1) *The Office shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under section 8984 without regard to section 5 of title 41 or any other statute requiring competitive bidding. An employee organization may contract with a qualified company for the purpose of participating with that qualified company in any contract between the Office and that qualified company.*

(2) *The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition.*

(b) *Each contract under this section shall contain—*

(1) *the requirements under section 8902 (d), (f), and (i) made applicable to contracts under this section by regulations prescribed by the Office;*

(2) *the terms of the enrollment period; and*

(3) *such other terms and conditions as may be mutually agreed to by the Office and the qualified company involved, consistent with the requirements of this chapter and regulations prescribed by the Office.*

(c) *Nothing in this chapter shall, in the case of an individual electing vision supplemental benefit coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of waiting periods more stringent than those that would have applied if that opportunity had not yet expired.*

(d)(1) *Each contract under this chapter shall require the qualified company to agree—*

(A) *to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and*

(B) *with respect to disputes regarding claims for payments or benefits under the terms of the contract—*

(i) *to establish internal procedures designed to expeditiously resolve such disputes; and*

(ii) *to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the qualified company.*

(2) *A determination by a qualified company as to whether or not a particular individual is eligible to obtain coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable contract.*

(3) *For purposes of applying the Contract Disputes Act of 1978 to disputes arising under this chapter between a qualified company and the Office—*

(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c) of such Act); and

(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1) of such Act relative to such a dispute.

(e) Nothing in this section shall be considered to grant authority for the Office or third-party reviewer to change the terms of any contract under this chapter.

(f) Contracts under this chapter shall be for a uniform term of 7 years and may not be renewed automatically.

SEC. 8984. BENEFITS.

(a) The Office may prescribe reasonable minimum standards for enhanced vision benefits plans offered under this chapter and for qualified companies offering the plans.

(b) Each contract may include more than 1 level of benefits that shall be made available to all eligible individuals.

(c) The benefits to be provided under enhanced vision benefits plans under this chapter may be of the following types:

(1) Diagnostic (to include refractive services).

(2) Preventive.

(3) Eyewear.

(d) A contract approved under this chapter shall require the qualified company to cover the geographic service delivery specified by the Office. The Office shall require qualified companies to include visually underserved areas in their service delivery areas.

(e) If an individual has vision coverage under a health benefits plan under chapter 89 and also has coverage under a plan under this chapter, the health benefits plan under chapter 89 shall be the first payor of any benefit payments.

SEC. 8985. INFORMATION TO INDIVIDUALS ELIGIBLE TO ENROLL.

(a) The qualified companies at the direction and with the approval of the Office, shall make available to each individual eligible to enroll in a vision benefits plan information on services and benefits (including maximums, limitations, and exclusions), that the Office considers necessary to enable the individual to make an informed decision about electing coverage.

(b) The Office shall make available to each individual eligible to enroll in a vision benefits plan, information on services and benefits provided by qualified companies participating under chapter 89.

SEC. 8986. ELECTION OF COVERAGE.

(a) An eligible individual may enroll in a vision benefits plan for self-only, self plus one, or for self and family. If an eligible individual has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self plus one or self and family. An individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.

(b) The Office shall prescribe regulations under which—

(1) an eligible individual may enroll in a vision benefits plan;
and

(2) *an enrolled individual may change the self-only, self plus one, or self and family coverage of that individual.*

(c)(1) *Regulations under subsection (b) shall permit an eligible individual to cancel or transfer the enrollment of that individual to another vision benefits plan—*

(A) *before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated; or*

(B) *during other times and under other circumstances specified by the Office.*

(2) *A transfer under paragraph (1) shall be subject to waiting periods provided under a new plan.*

SEC. 8987. COVERAGE OF RESTORED SURVIVOR OR DISABILITY ANNUITANTS.

A surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a vision benefits plan subject to the terms and conditions prescribed in regulations issued by the Office.

SEC. 8988. PREMIUMS.

(a) *Each eligible individual obtaining supplemental vision coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.*

(b) *The Office shall prescribe regulations specifying the terms and conditions under which individuals are required to pay the premiums for enrollment.*

(c) *The amount necessary to pay the premiums for enrollment may—*

(1) *in the case of an employee, be withheld from the pay of such an employee; or*

(2) *in the case of an annuitant, be withheld from the annuity of such an annuitant.*

(d) *All amounts withheld under this section shall be paid directly to the qualified company.*

(e) *Each participating qualified company shall maintain accounting records that contain such information and reports as the Office may require.*

(f)(1) *The Employee Health Benefits Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office in administering this chapter before the first day of the first contract period, including reasonable implementation costs.*

(2)(A) *There is established in the Employees Health Benefits Fund a Vision Benefits Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the first contract year.*

(B) *A contract under this chapter shall include appropriate provisions under which the qualified company involved shall, during each year, make such periodic contributions to the Vision Benefits Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year are defrayed.*

SEC. 8989. PREEMPTION.

The terms of any contract that relate to the nature, provision, or extent of coverage or benefits (including payments with respect to

benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to vision benefits, insurance, plans, or contracts.

SEC. 8990. STUDIES, REPORTS, AND AUDITS.

(a) Each contract shall contain provisions requiring the qualified company to—

(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Office and representatives of the General Accounting Office to examine such records of the qualified company as may be necessary to carry out the purposes of this chapter.

(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the qualified company, or both, with such information and reports as the Office may require.

(c) The Office shall conduct periodic reviews of plans under this chapter, including a comparison of the vision benefits available under chapter 89, to ensure the competitiveness of plans under this chapter. The Office shall cooperate with the General Accounting Office to provide periodic evaluations of the program.

SEC. 8991. JURISDICTION OF COURTS.

The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8983(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

SEC. 8992. ADMINISTRATIVE FUNCTIONS.

(a) The Office shall prescribe regulations to carry out this chapter. The regulations may exclude an employee on the basis of the nature and type of employment or conditions pertaining to it.

(b) The Office shall, as appropriate, provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information under this subsection shall include information relating to the vision benefits available under chapter 89, including the advantages and disadvantages of obtaining additional coverage under this chapter.

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TITLE 39, UNITED STATES CODE

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POSTAL SERVICE

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PART II—PERSONNEL

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CHAPTER 10—EMPLOYMENT WITHIN THE POSTAL SERVICE

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SEC. 1005. APPLICABILITY OF LAWS RELATING TO FEDERAL EMPLOYEES.

(f) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title. Subject to the provisions of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and [chapters 87 and 89] *chapters 87, 89, 89A, and 89B* of title 5 shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for, under this subsection. No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section, and as to officers and employees for whom there is a collective-bargaining representative, no such variation, addition, or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service.

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