

(1) an employee or group of employees solely on the basis of the hazardous nature of employment;

(2) a teacher in the employ of the Board of Education of the District of Columbia, whose pay is fixed by section 1501 of title 31, District of Columbia Code, on the basis of the fact that the teacher is serving under a temporary appointment if the teacher has been so employed by the Board for a period or periods totaling not less than two school years; or

(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3401(2) of this title).

(c) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8701(a)(8) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 593; Pub. L. 95-437, § 4(b), Oct. 10, 1978, 92 Stat. 1058; Pub. L. 95-454, title IX, § 906(a)(2), (3), (c)(2)(F), (G), Oct. 13, 1978, 92 Stat. 1224, 1227.)

**HISTORICAL AND REVISION NOTES**

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a).....	5 U.S.C. 2100 (less applicability to 5 U.S.C. 2099).	Aug. 17, 1954, ch. 752, § 11 (less applicability to § 10), 68 Stat. 742.
(b), (c).....	5 U.S.C. 2091(a) (words between 6th and 7th commas of 1st sentence and 2d sentence), (d) (words between 1st and 2d commas of 1st sentence, and 2d sentence).	Aug. 17, 1954, ch. 752, § 2(a) (words between 6th and 7th commas of 1st sentence and 2d sentence), 68 Stat. 736. July 1, 1960, Pub. L. 86-568, § 115(c) "(d) (words between 1st and 2d commas of 1st sentence, and 2d sentence)", 74 Stat. 302. Oct. 6, 1964, Pub. L. 88-631, § 2, 78 Stat. 1007.

In subsection (a), the words "Except as otherwise provided herein" are omitted as unnecessary since the authority to prescribe regulations is carried into this section.

In subsection (b), the words "section 1501 of title 31, District of Columbia Code" are substituted for "section 1 of the District of Columbia Teachers' Salary Act of 1955 (69 Stat. 521), as amended (Sec. 31-1501, D.C. Code, 1961 edition)".

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

**REFERENCES IN TEXT**

Section 1501 of title 31, District of Columbia Code, referred to in subsec. (b)(2), was transferred to section 31-1101 of Title 31, Education and Cultural Institutions, of the District of Columbia Code.

**AMENDMENTS**

1978—Subsec. (a). Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (b). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission" wherever appearing.

Pub. L. 95-437 substituted "intermittent employment" for "intermittent or part-time employment" in provision preceding par. (1), and added par. (3).

Pub. L. 95-454, § 906(c)(2)(F), (G), substituted "3401" for "3391" in par. (3).

**EFFECTIVE DATE OF 1978 AMENDMENT**

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

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 8701 of this title.

**CHAPTER 89—HEALTH INSURANCE**

Sec.	
8901.	Definitions.
8902.	Contracting authority.
8903.	Health benefits plans.
8904.	Types of benefits.
8905.	Election of coverage.
8906.	Contributions.
8907.	Information to employees.
8908.	Coverage of restored employees and survivor annuitants.
8909.	Employees Health Benefits Fund.
8910.	Studies, reports, and audits.
8911.	Advisory committee.
8912.	Jurisdiction of courts.
8913.	Regulations.

**AMENDMENTS**

1976—Pub. L. 94-342, § 1(b), July 6, 1976, 90 Stat. 808, substituted "employees and survivor annuitants" for "employee" in item 3908.

**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in sections 1308, 3373, 3374, 3582 of this title; title 2 sections 31b-5, 72a; title 22 sections 2391, 3649; title 25 section 4501; title 28 sections 332, 627, 634; title 39 section 1005; title 42 sections 300e-1, 300e-6, 426a, 1395y, 2996d.

**§ 8901. Definitions**

For the purpose of this chapter—

(1) "employee" means—

- (A) an employee as defined by section 2105 of this title;
- (B) a Member of Congress as defined by section 2106 of this title;
- (C) a Congressional employee as defined by section 2107 of this title;
- (D) the President;
- (E) an individual employed by the government of the District of Columbia;
- (F) an individual employed by Gallaudet College; and
- (G) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

- (i) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;
- (ii) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone;

(iii) an employee of the Tennessee Valley Authority; or

(iv) an employee excluded by regulation of the Office of Personnel Management under section 8913(b) of this title;

(2) "Government" means the Government of the United States and the government of the District of Columbia;

(3) "annuitant" means—

(A) an employee who retires on an immediate annuity under subchapter III of chapter 83 of this title or another retirement system for employees of the Government, after 5 or more years of service or for disability;

(B) a member of a family who receives an immediate annuity as the survivor of an employee or of a retired employee described by subparagraph (A) of this paragraph;

(C) an employee who receives monthly compensation under subchapter I of chapter 81 of this title and who is determined by the Secretary of Labor to be unable to return to duty; and

(D) a member of a family who receives monthly compensation under subchapter I of chapter 81 of this title as the surviving beneficiary of—

(i) an employee who dies as a result of injury or illness compensable under that subchapter; or

(ii) a former employee who is separated after having completed 5 or more years of service and who dies while receiving monthly compensation under that subchapter and who has been held by the Secretary to have been unable to return to duty;

(4) "service", as used by paragraph (3) of this section, means service which is creditable under subchapter III of chapter 83 of this title;

(5) "member of family" means the spouse of an employee or annuitant and an unmarried dependent child under 22 years of age, including—

(A) an adopted child or recognized natural child; and

(B) a stepchild or foster child but only if the child lives with the employee or annuitant in a regular parent-child relationship;

or such an unmarried dependent child regardless of age who is incapable of self-support because of mental or physical disability which existed before age 22;

(6) "health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangements provided by a carrier for the purpose of providing, paying for, or reimbursing expenses for health services;

(7) "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements,

in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization;

(8) "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 this chapter, and which, after December 31, 1978, and before January 1, 1980, applied to the Office for approval of a plan provided under section 8903(3) of this title; and

(9) "dependent", in the case of any child, means that the employee or annuitant involved is either living with or contributing to the support of such child, as determined in accordance with such regulations as the Office shall prescribe.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 600; Pub. L. 90-83, § 1(95), Sept. 11, 1967, 81 Stat. 219; Pub. L. 91-418, §§ 2, 3(b), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-160, § 1(b), Nov. 27, 1973, 87 Stat. 635; Pub. L. 95-368, § 2, Sept. 17, 1978, 92 Stat. 606; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 95-583, § 2, Nov. 2, 1978, 92 Stat. 2482; Pub. L. 96-54, § 2(a)(52), Aug. 14, 1979, 93 Stat. 384; Pub. L. 96-70, title I, § 1209(c), Sept. 27, 1979, 93 Stat. 463; Pub. L. 96-179, § 2, Jan. 2, 1980, 93 Stat. 1299.)

HISTORICAL AND REVISION NOTES

1966 Act

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 3001.	Sept. 28, 1959, Pub. L. 86-382, § 2, 73 Stat. 709. July 8, 1983, Pub. L. 88-59, § 1, 77 Stat. 76. Mar. 17, 1984, Pub. L. 88-284, § 1(1)-(4), 78 Stat. 164. Aug. 31, 1984, Pub. L. 88-531, § 1, 78 Stat. 737.
.....	5 U.S.C. 3002(f)(1st sentence, less words between 1st and 2d commas).	July 1, 1980, Pub. L. 86-568, § 115(d) "(f)(1st sentence, less words between 1st and 2d commas)", 74 Stat. 303.

The definition of "employee" in section 2105 of this title is broad enough to cover the officers and employees covered by former section 3001 with the exception of a Member of Congress, the President, an individual employed by the government of the District of Columbia, an individual employed by Gallaudet College, a United States commissioner, and an Official Reporter of Debates of the Senate and an individual employed by him. The first five have been added in paragraphs (1)(B), (D), (E), (F), and (G). The latter are covered by the definition of "Congressional employee" in section 2107 of this title and are included by the addition of a Congressional employee in paragraph (1)(C).

In paragraph (1)(ii), the words "the United States" are substituted for "a State of the United States or the District of Columbia".

Paragraph (1)(iv) is added for clarity.

In paragraph (8), the words "before January 1, 1964" are substituted for "on or before December 31, 1963".

The definition of "Commission" in former section 3001(h) is omitted as unnecessary as the full title "Civil Service Commission" is set forth the first time it is used in a section.

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

1987 ACT

Section of title 5	Source (U.S.Code)	Source (Statutes at Large)
8901(5).....	5 App.: 3001(d).	July 18, 1966, Pub. L. 89-504, § 601, 80 Stat. 303.

AMENDMENTS

1980—Par. (5). Pub. L. 96-179, § 2(1), added "dependent" following "unmarried" in provisions preceding subpar. (A) and in provisions following subpar. (B), added "or recognized natural child" following "child" in subpar. (A), and substituted "or foster child but only if the child;" for " , foster child, or recognized natural child who" in subpar. (B).

Par. (9). Pub. L. 96-179, § 2(2)-(4), added par. (9).

1979—Par. (1). Pub. L. 96-70 in cl. (ii) substituted provisions relating to an individual who was an employee for the purpose of this chapter on Sept. 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone for provisions relating to the Panama Canal Zone.

Pub. L. 96-54 struck out cl. (G), which related to coverage within the term "employee" of a United States Commissioner. Former cl. (H) as redesignated (G).

1978—Par. (1)(iv). Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Par. (3)(A). Pub. L. 95-583 reduced period of service to 5 from 12 years.

Par. (8). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission".

Pub. L. 95-368 substituted "after December 31, 1978, and before January 1, 1980" for "before January 1, 1964".

1973—Par. (1)(ii). Pub. L. 93-160 excluded from the definition of "employee" persons who are not nationals of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone.

1970—Par. (1)(ii). Pub. L. 91-418, § 3(b), excluded from definition of "employee" a noncitizen employee whose permanent duty station is outside the Panama Canal Zone.

Par. (3)(B). Pub. L. 91-418, § 2(a), redefined "annuitant" to be a member of a family who receives an immediate annuity as the survivor of an employee rather than as the survivor of an employee who dies after completing 5 or more years of service.

Par. (3)(D)(i). Pub. L. 91-418, § 2(b), redefined "annuitant" to be a member of a family who receives monthly compensation as the surviving beneficiary of an employee who dies as a result of a compensable injury or illness rather than as the survivor of an employee who, having completed 5 or more years of service, so dies.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-179 effective on Jan. 2, 1980, except that no benefits under this chapter that are made available by reason of the amendment of this section and section 8341 of this title by Pub. L. 96-179 shall be payable for any period before Oct. 1, 1979, see section 5(a) of Pub. L. 96-179, set out as an Effective Date of 1980 Amendment note under section 8341 of this title.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as an Effective Date of 1979 Amendment note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-583 effective Nov. 2, 1978, see section 3 of Pub. L. 95-583, set out as an Effective Date of 1978 Amendments note under section 8706 of this title.

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

CROSS REFERENCES

Annual report to Congress by the Office of Personnel Management on the operation of this chapter, see section 1308 of this title.

United States magistrates and necessary clerical and secretarial assistants employed in the offices of such full-time magistrates deemed officers and employees in the Federal judicial branch within meaning of this chapter, see section 634 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8906, 8913 of this title; title 42 section 251.

§ 8902. Contracting authority

(a) The Office of Personnel Management may contract with qualified carriers offering plans described by section 8903 of this title, without regard to section 5 of title 41 or other statute requiring competitive bidding. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

(b) To be eligible as a carrier for the plan described by section 8903(2) of this title, a company must be licensed to issue group health insurance in all the States and the District of Columbia.

(c) A contract for a plan described by section 8903(1) or (2) of this title shall require the carrier—

(1) to reinsure with other companies which elect to participate, under an equitable formula based on the total amount of their group health insurance benefit payments in the United States during the latest year for which the information is available, to be determined by the carrier and approved by the Office; or

(2) to allocate its rights and obligations under the contract among its affiliates which elect to participate, under an equitable formula to be determined by the carrier and the affiliates and approved by the Office.

(d) Each contract under this chapter shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits as the Office considers necessary or desirable.

(e) The Office may prescribe reasonable minimum standards for health benefits plans described by section 8903 of this title and for carriers offering the plans. Approval of a plan may be withdrawn only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of this title. The Office may terminate the contract of a carrier effective at the end of the contract term, if the Office finds that at no time during the preceding two contract terms did the carrier have 300 or more employees and annuitants, exclusive of family members, enrolled in the plan.

(f) A contract may not be made or a plan approved which excludes an individual because of race, sex, health status, or, at the time of the first opportunity to enroll, because of age.

(g) A contract may not be made or a plan approved which does not offer to each employee or annuitant whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which he may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An employee or annuitant who exercises this option shall pay the full periodic charges of the nongroup contract.

(h) The benefits and coverage made available under subsection (g) of this section are noncancelable by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(i) Rates charged under health benefits plans described by section 8903 of this title shall reasonably and equitably reflect the cost of the benefits provided. Rates under health benefits plans described by section 8903(1) and (2) of this title shall be determined on a basis which, in the judgment of the Office, is consistent with the lowest schedule of basic rates generally charged for new group health benefit plans issued to large employers. The rates determined for the first contract term shall be continued for later contract terms, except that they may be readjusted for any later term, based on past experience and benefit adjustments under the later contract. Any readjustment in rates shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Office, is consistent with the general practice of carriers which issue group health benefit plans to large employers.

(j) Each contract under this chapter shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Office finds that the employee, annuitant, or family member is entitled thereto under the terms of the contract.

(k) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psychologist or optometrist, licensed or certified as such under Federal or State law, as applicable, an employee, annuitant, or family member covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist or optometrist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. The provisions of

this subsection shall not apply to group practice prepayment plans.

(l) The Office shall contract under this chapter for a plan described in section 8903(4) of this title with any qualified health maintenance carrier which offers such a plan. For the purpose of this subsection, "qualified health maintenance carrier" means any qualified carrier which is a qualified health maintenance organization within the meaning of section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300c-9(d)).

(m)(1) The provisions of any contract under this chapter which relate to the nature 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 health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, if a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of health services for the care and treatment of any particular health condition, the carrier shall provide, pay, or reimburse up to the limits of its contract for any such health service properly provided by any person licensed under State law to provide such service if such service is provided to an individual covered by such contract in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e).

(B) The provisions of subparagraph (A) shall not apply to contracts entered into providing prepayment plans described in section 8903(4) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 601; Pub. L. 93-246, § 3, Jan. 31, 1974, 88 Stat. 4; Pub. L. 93-363, § 1, July 30, 1974, 88 Stat. 398; Pub. L. 94-183, § 2(43), Dec. 31, 1975, 89 Stat. 1059; Pub. L. 94-460, title I, § 110(b), Oct. 8, 1976, 90 Stat. 1952; Pub. L. 95-368, § 1, Sept. 17, 1978, 92 Stat. 606; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-179, § 3, Jan. 2, 1980, 93 Stat 1299.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3005.	Sept. 28, 1959, Pub. L. 86-382, § 6, 73 Stat. 712. Mar. 17, 1964, Pub. L. 88-284, § 1(7)-(9), 78 Stat. 165.

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

REFERENCES IN TEXT

Section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300c-9(d)), referred to in subsec. (l), probably is intended as a reference to section 300e-9(d) of Title 42, The Public Health and Welfare.

## AMENDMENTS

1980—Subsec. (m)(2)(A). Pub. L. 96-179 substituted "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e)" for "who is a member of a medically underserved population (within the meaning of section 1302(7) of the Public Health Service Act (42 U.S.C. 300e-17))".

1978—Subsec. (a). Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsecs. (c) to (e), (i), (j), (l). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission" wherever appearing.

Subsec. (m). Pub. L. 95-368 added subsec. (m).

1976—Subsec. (l). Pub. L. 94-460 added subsec. (l).

1975—Subsec. (k). Pub. L. 94-183 redesignated former subsec. (j), added by Pub. L. 93-363 and relating to services performed by a clinical psychologist or optometrist, as (k).

1974—Subsec. (j). Pub. L. 93-363 added subsec. (j) covering services performed by a clinical psychologist or optometrist.

Pub. L. 93-246 added subsec. (j) requiring the carrier to pay for or provide a health service or supply in specified cases.

## EFFECTIVE DATE OF 1980 AMENDMENT

Section 5(b) of Pub. L. 96-179 provided that: "The amendments made by section 3 (amending subsec. (m)(2)(A) of this section) shall apply to services provided after December 31, 1979, and before January 1, 1985, under any contract entered into or renewed after December 31, 1979."

## EFFECTIVE DATE OF 1978 AMENDMENTS

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

Section 3 of Pub. L. 95-368 provided that: "The provisions of section 8902(m)(2) of title 5, United States Code, as added by the first section of this Act, shall apply to services provided under any contract entered into or renewed after December 31, 1979; except that such provisions shall not apply to services provided after December 31, 1984."

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of Title 42, The Public Health and Welfare.

## EFFECTIVE DATE OF 1974 AMENDMENTS

Section 2 of Pub. L. 93-363 provided that: "The amendment made by this Act (adding subsec. (j) of this section) shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act [July 30, 1974]."

Section 4(c) of Pub. L. 93-246 provided that: "Section 3 (adding subsec. (j) of this section) shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act [Jan. 31, 1974]."

## AUTHORITY OF CARRIER TO CONTRACT FOR COMPREHENSIVE MEDICAL SERVICES FROM A GROUP PRACTICE UNIT OR ORGANIZATION

Pub. L. 91-515, title IV, § 401, Oct. 30, 1970, 84 Stat. 1309, provided that:

"(a) The Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, authorize any carrier, which is a party to a contract entered into under chapter 89 of title 5, United States Code (relating to health benefits for Federal employees), or under the Retired Federal Employees

Health Benefits Act, or which participates in the carrying out of any such contract, to issue in any State contracts entitling any person as a beneficiary to receive comprehensive medical services (as defined in subsection (b)) from a group practice unit or organization (as defined in subsection (c)) with which such carrier has contracted or otherwise arranged for the provision of such services.

"(b) As used in this section, the term 'comprehensive medical services' means comprehensive preventive, diagnostic, and therapeutic medical services (as defined in regulations of the Secretary), furnished on a pre-paid basis; and may include, at the option of a carrier, such other health services including mental health services, and equipment and supplies, furnished on such terms and conditions with respect to copayment and other matters, as may be authorized in regulations of the Secretary.

"(c) As used in this section:

"(1) The term 'group practice unit or organization' means a nonprofit agency, co-operative, or other organization undertaking to provide, through direct employment of, or other arrangements with the members of a medical group, comprehensive medical services (or such services and other health services) to members, subscribers, or other persons protected under contracts of carriers.

"(2) The term 'medical group' means a partnership or other association or group of persons who are licensed to practice medicine in a State (or of such persons and persons licensed to practice dentistry or optometry) who (A) as their principal professional activity and as a group responsibility, engage in the coordinated practice of their profession primarily in one or more group practice facilities, (B) pool their income from practice as members of the group and distribute it among themselves according to a prearranged plan, or enter into an employment arrangement with a group practice unit or organization for the provision of their services, (C) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records and substantial portions of the equipment and professional, technical, and administrative staff, and (D) include within the group at least such professional personnel, and make available at least such health services, as may be specified in regulations of the Secretary.

"(d) Nothing in this section shall preclude any State or State agency from regulating the amounts charged for contracts issued pursuant to subsection (a) or the manner of soliciting and issuing such contracts, or from regulating any carrier issuing such contracts in any manner not inconsistent with the provisions of this section."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8910, 8913 of this title.

## § 8903. Health benefits plans

The Office of Personnel Management may contract for or approve the following health benefits plans:

(1) SERVICE BENEFIT PLAN.—One Government-wide plan, offering two levels of benefits, under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services for benefits of the types described by section 8904(1) of this title given to employees or annuitants, or members of their families, or, under certain conditions, payment is made by a carrier to the employee or annuitant or member of his family.

(2) INDEMNITY BENEFIT PLAN.—One Government-wide plan, offering two levels of bene-

fits, under which a carrier agrees to pay certain sums of money, not in excess of the actual expenses incurred, for benefits of the types described by section 8904(2) of this title.

(3) **EMPLOYEE ORGANIZATION PLANS.**—Employee organization plans which offer benefits of the types referred to by section 8904(3) of this title, which are sponsored or underwritten, and are administered, in whole or substantial part, by employee organizations, which are available only to individuals, and members of their families, who at the time of enrollment are members of the organization.

(4) **COMPREHENSIVE MEDICAL PLANS.**—

(A) **GROUP-PRACTICE PREPAYMENT PLANS.**—Group-practice prepayment plans which offer health benefits of the types referred to by section 8904(4) of this title, in whole or in substantial part on a prepaid basis, with professional services thereunder provided by physicians practicing as a group in a common center or centers. The group shall include physicians representing at least three major medical specialties who receive all or a substantial part of their professional income from the prepaid funds.

(B) **INDIVIDUAL-PRACTICE PREPAYMENT PLANS.**—Individual-practice prepayment plans which offer health services in whole or substantial part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under certain conditions approved by the Office, to accept the payments provided by the plans as full payment for covered services given by them including, in addition to in-hospital services, general care given in their offices and the patients' homes, out-of-hospital diagnostic procedures, and preventive care, and which plans are offered by organizations which have successfully operated similar plans before approval by the Office of the plan in which employees may enroll.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 602; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3003.	Sept. 28, 1959, Pub. L. 86-382, § 4, 73 Stat. 711. July 8, 1963, Pub. L. 88-59, § 1(b), 77 Stat. 77.

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

**AMENDMENTS**

1978—Pub. L. 95-454 substituted "Office of Personnel Management" and "Office" for "Civil Service Commission" and "Commission" wherever appearing.

**EFFECTIVE DATE OF 1978 AMENDMENT**

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

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 8901, 8902, 8904, 8905, 8907, 8908, 8909, 8913 of this title; title 42 section 1395s.

**§ 8904. Types of benefits**

The benefits to be provided under plans described by section 8903 of this title may be of the following types:

(1) **SERVICE BENEFIT PLAN.**—

- (A) Hospital benefits.
- (B) Surgical benefits.
- (C) In-hospital medical benefits.
- (D) Ambulatory patient benefits.
- (E) Supplemental benefits.
- (F) Obstetrical benefits.

(2) **INDEMNITY BENEFIT PLAN.**—

- (A) Hospital care.
- (B) Surgical care and treatment.
- (C) Medical care and treatment.
- (D) Obstetrical benefits.
- (E) Prescribed drugs, medicines, and prosthetic devices.
- (F) Other medical supplies and services.

(3) **EMPLOYEE ORGANIZATION PLANS.**—Benefits of the types named under paragraph (1) or (2) of this section or both.

(4) **COMPREHENSIVE MEDICAL PLANS.**—Benefits of the types named under paragraph (1) or (2) of this section or both.

All plans contracted for under paragraphs (1) and (2) of this section shall include benefits both for costs associated with care in a general hospital and for other health services of a catastrophic nature.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 603.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.F.C. 3004.	Sept. 28, 1959, Pub. L. 86-382, § 5, 73 Stat. 712.

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

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 8903 of this title.

**§ 8905. Election of coverage**

(a) An employee may enroll in an approved health benefits plan described by section 8903 of this title either as an individual or for self and family.

(b) An annuitant who at the time he becomes an annuitant was enrolled in a health benefits plan under this chapter—

(1) as an employee for a period of not less than—

(A) the 5 years of service immediately before retirement;

(B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Office of Personnel Management, in which he is eligi-

ble to enroll in the plan and the date on which he becomes an annuitant; or

(C) the full period or periods of service beginning with the enrollment which became effective before January 1, 1965, and ending with the date on which he becomes an annuitant;

whichever is shortest; or

(2) as a member of the family of an employee or annuitant;

may continue his enrollment under the conditions of eligibility prescribed by regulations of the Office.

(c) If an employee has a spouse who is an employee, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee or annuitant and as a member of the family.

(d) An employee or annuitant enrolled in a health benefits plan under this chapter may change his coverage or that of himself and members of his family by an application filed within 60 days after a change in family status or at other times and under conditions prescribed by regulations of the Office.

(e) An employee or annuitant may transfer his enrollment from a health benefits plan described by section 8903 of this title to another plan described by that section at the times and under the conditions prescribed by regulations of the Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 603; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 3002(a) 1st sentence, less words between 1st and 4th commas, (b)-(e).	Sept. 28, 1959, Pub. L. 86-382, § 3(a) 1st sentence, less words between 1st and 4th commas, (b)-(e), 73 Stat. 710. Mar. 17, 1954, Pub. L. 88-284, § 1(5), 78 Stat. 164.

In subsection (b)(1), the words "as an employee" are inserted for clarity.

In subsection (b)(1)(C), the words "before January 1, 1965" are substituted for "not later than December 31, 1964".

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

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-454, § 906(a)(2), (3), substituted "Office of Personnel Management" and "Office" for "Civil Service Commission" and "Commission", respectively.

Subsecs. (d), (e). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission".

EFFECTIVE DATE OF 1978 AMENDMENT

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

ELECTION OF HEALTH BENEFITS COVERAGE AND ENTITLEMENT TO HEALTH BENEFITS UNDER THIS CHAPTER RATHER THAN UNDER RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS ACT

Pub. L. 93-246, §§ 2, 4(b), Jan. 31, 1974, 88 Stat. 4, provided that:

"Sec. 2. (a) Notwithstanding any other provision of law, an annuitant, as defined under section 8901(3) of title 5, United States Code, who is participating or who is eligible to participate in the health benefits program offered under the Retired Federal Employees Health Benefits Act (74 Stat. 849; Public Law 86-724), may elect, in accordance with regulations prescribed by the United States Civil Service Commission, to be covered under the provisions of chapter 89 of title 5, United States Code [this chapter], in lieu of coverage under such Act.

"(b) An annuitant who elects to be covered under the provisions of chapter 89 of title 5, United States Code [this chapter], in accordance with subsection (a) of this section, shall be entitled to the benefits under such chapter 89.

"[Sec. 4] (b) Section 2 [set out above] shall take effect on the one hundred and eightieth day following the date of enactment [Jan. 1, 1974] or on such earlier date as the United States Civil Service Commission may prescribe."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1109.

§ 8906. Contributions

(a) The Office of Personnel Management shall determine the average of the subscription charges in effect on the beginning date of each contract year with respect to self alone or self and family enrollments under this chapter, as applicable, for the highest level of benefits offered by—

- (1) the service benefit plan;
- (2) the indemnity benefit plan;
- (3) the two employee organization plans with the largest number of enrollments, as determined by the Office; and
- (4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Office.

(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 60 percent of the average subscription charge determined under subsection (a) of this section. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.

(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 75 percent of the subscription charge.

(3) In the case of an employee who is occupying a position on a part-time career employment basis (as defined in section 3401(2) of this title), the biweekly Government contribution shall be equal to the percentage which bears the same ratio to the percentage determined under this subsection (without regard to this paragraph) as the average number of hours of

such employee's regularly scheduled workweek bears to the average number of hours in the regularly scheduled workweek of an employee serving in a comparable position on a full-time career basis (as determined under regulations prescribed by the Office) <sup>1</sup>

(c) There shall be withheld from the pay of each enrolled employee and the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsection (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909(b) of this title.

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.

(e)(1) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his coverage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Office. The regulations may provide for the waiving of contributions by the employee and the Government.

(2) An employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8901 of this title, within 60 days after entering on that leave without pay, may file with his employing agency an election to continue his health benefits enrollment and arrange to pay currently into the Employees Health Benefits Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the enrollment charges so paid to the Fund. If the employee does not so elect, his enrollment will continue during nonpay status and end as provided by paragraph (1) of this subsection and implementing regulations.

(f) The Government contributions for health benefits for an employee shall be paid—

(1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;

(2) in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment;

(3) in the case of an employee of the legislative branch who is paid by the Clerk of the House of Representatives, from the contingent fund of the House; and

(4) in the case of an employee in a leave without pay status, from the appropriation or fund which would be used to pay the employee if he were in a pay status.

(g) The Government contributions authorized by this section for health benefits for an annu-

itant shall be paid from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

(h) The Office shall provide for conversion of biweekly rates of contribution specified by this section to rates for employees and annuitants paid on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 604; Pub. L. 90-83, § 1(96), Sept. 11, 1967, 81 Stat. 219; Pub. L. 91-418, § 1(a), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-246, § 1, Jan. 31, 1974, 88 Stat. 3; Pub. L. 94-310, § 3(a), June 15, 1976, 90 Stat. 687; Pub. L. 95-437, § 4(c)(2)(A), Oct. 10, 1978, 92 Stat. 1059; Pub. L. 95-454, title IX, § 906(a)(15), (c)(2)(F), Oct. 13, 1978, 92 Stat. 1226, 1227; Pub. L. 96-54, § 2(a)(53), Aug. 14, 1979, 93 Stat. 384.)

#### HISTORICAL AND REVISION NOTES

##### 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3006.	Sept. 28, 1959, Pub. L. 86-382, § 7, 73 Stat. 713. Mar. 17, 1964, Pub. L. 88-284, § 1(10), (11), 78 Stat. 165.

In subsection (f)(1), the words "in the case of employees generally" are inserted for clarity.

In subsection (h), the word "biweekly" is inserted for clarity.

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

##### 1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8906(a).....	5 App.: 3006(a)(1).	July 18, 1966, Pub. L. 89-504, §§ 406(b), 602, 80 Stat. 298, 303.
8906(b).....	5 App.: 3006(a)(2).	
8906(e)(2)....	5 App.: 3006(b)(2).	

In subsection (a), the words "subsection (b) of this section", "this chapter", and "subsection (c) of this section" are substituted for "paragraph (2) of this subsection", "this Act", and "paragraph (3)", respectively, to reflect the codification of title 5, United States Code.

In subsection (e)(2), the words "as defined by section 8901 of this title" are substituted for "as defined in section 2 of this Act" to reflect the codification of that section in 5 U.S.C. 8901. The words "Employees Health Benefits Fund" and "Fund" are substituted for "fund" and "fund", respectively. In the penultimate sentence, the words "will continue during nonpay status and end" are substituted for "will terminate" for clarity and on authority of 5 U.S.C. 8906(e)(1).

#### AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-54 substituted provisions setting forth adjustment amount of the Government contribution of equal to 60 percent of the average subscription charge under subsec. (a) and determinations respecting the commencement date of the adjustment, for provisions setting forth adjustment

<sup>1</sup>So in original. Subsec. (b)(3) enacted without a final period.

amounts of the Government contribution of equal to 50 percent of the average subscription charge under subsec. (a) for applicable pay periods beginning in 1974, and equal to 60 percent for pay periods beginning in 1975 and after, and determinations respecting the commencement date of the adjustment.

1978—Subsec. (a). Pub. L. 95-454, § 906(a)(15), substituted "Office of Personnel Management" for "Commission" in introductory material, and "Office" for "Commission" in cls. (3) and (4).

Subsec. (b)(1). Pub. L. 95-437, § 4(c)(2)(A)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)".

Subsec. (b)(3). Pub. L. 95-454, § 906(a)(15), (c)(2)(F), substituted "Office" for "Commission", and "3401" for "3391".

Pub. L. 95-437, § 4(c)(2)(A)(ii), added par. (3).

Subsec. (e)(1). Pub. L. 95-454, § 906(a)(15), substituted "Office" for "Commission".

Subsec. (h). Pub. L. 95-454, § 906(a)(15), substituted "Office" for "Commission".

1976—Subsec. (g). Pub. L. 94-310 provided for payment of Government contributions from annual appropriations which may be made available until expended.

1974—Subsec. (a). Pub. L. 93-246, § 1(a), deleted introductory text "Except as provided by subsection (b) of this section, the biweekly Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted", now incorporated in subsec. (b)(1) of this section, required Commission determination of average of subscription charges, and reenacted remainder of existing provisions, substituting "beginning date of each contract year" for "beginning date of the adjustment".

Subsec. (b)(1). Pub. L. 93-246, § 1(a), incorporated introductory text of former subsec. (a) reading "Except as provided by subsection (b) of this section, the biweekly Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted", as initial text of provisions designated as subsec. (b)(1), substituted provision for amount of biweekly Government contribution equal to 50 percent of average subscription charge for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975, and annually thereafter, for former subsec. (a) provision for an amount equal to 40 percent of average of subscription charges and former subsec. (b) provision for 50 percent of subscription charge where the biweekly subscription charge was less than twice the Government contribution.

Subsec. (b)(2). Pub. L. 93-246, § 1(a), added par. (2).

Subsec. (c). Pub. L. 93-246, § 1(b), deleted reference to subsec. (a).

Subsec. (g). Pub. L. 93-246, § 1(c), substituted "by this section" for "by subsection (a) of this section".

1970—Subsec. (a). Pub. L. 91-418, in increasing the Government contribution to the cost of health benefits insurance, substituted provision for adjustment of such contribution, beginning on the first day of the first pay period of each year, to an amount equal to 40 percent of the adjustment, with respect to self alone or self and family enrollments, as applicable, for the highest level of benefits offered by the service benefit plan, the indemnity benefit plan, the two employee organization plans, and the two comprehensive medical plans, for prior provision for a contribution, in addition to requirement of subsec. (c) of this section, of \$1.62 if the enrollment is for self or \$3.94 if the enrollment is for self and family.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as an Effective Date of 1979 Amendment note under section 305 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out

as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 94-310 effective Oct. 1, 1976, see section 4 of Pub. L. 94-310, set out as a note under section 130b of Title 2, The Congress.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Section 4(a) of Pub. L. 93-246 provided that: "The first section of this Act [amending subssecs. (a) to (c) and (g) of this section] shall take effect on the first day of the first applicable pay period which begins on or after January 1, 1974."

Section 4(d) of Pub. L. 93-246 provided that: "The determination of the average of subscription charges and the adjustment of the Government contributions for 1973, under section 8906 of title 5, United States Code, as amended by the first section of this Act [amending subssecs. (a) to (c) and (g) of this section], shall take effect on the first day of the first applicable pay period which begins on or after the thirtieth day following the date of enactment of this Act [Jan. 31, 1974]."

#### EFFECTIVE DATE OF 1970 AMENDMENT

Section 1(b) of Pub. L. 91-418 provided that: "The amendment made by subsection (a) of this section [to subsec. (a) of this section] shall become effective at the beginning of the first applicable pay period which commences after December 31, 1970."

#### EMPLOYEES SERVING ON PART-TIME CAREER EMPLOYMENT BASIS ON OCTOBER 10, 1978

Section 4(c)(2)(B) of Pub. L. 95-437 provided that: "The amendments made by subparagraph (A) [amending subsec. (b)(1) and (3) of this section] shall not apply with respect to any employee serving in a position on a part-time career employment basis on the date of the enactment of this Act [Oct. 10, 1978] for such period as the employee continues to serve without a break in service in that or any other position on such part-time basis."

#### CALCULATION AND PAYMENT BY GOVERNMENT OF CONTRIBUTIONS TO CONTINGENCY RESERVES OF ALL HEALTH BENEFIT PLANS

Pub. L. 97-346, § 4, Oct. 15, 1982, 96 Stat. 1650, provided that:

"(a) The Office of Personnel Management shall determine the amount by which the Government contribution under section 8906(b) of title 5, United States Code, for the 1983 contract year is less than the Government contribution which would have been determined under such section 8906(b) for such contract year if the Government contribution had been calculated by using the two employee organization plans which in 1981 satisfied the standard set forth in section 8906(a)(3) of such title.

"(b) The Government shall pay the amount of the difference determined under subsection (a) to the contingency reserves of all health benefits plans for contract year 1983 in proportion to the estimated number of individuals enrolled in such plans during 1983. Such payments shall be paid by the appropriate agencies (including the Postal Service and the Postal Rate Commission) from the appropriations referred to in section 8906(f) and (g) of title 5, United States Code, in the same manner as if such payments were Government contributions, and in amounts determined appropriate by the Office of Personnel Management."

**ELECTION OF HEALTH BENEFITS DURING PERIOD OF SERVICE AS OFFICER OR EMPLOYEE OF AN EMPLOYEE ORGANIZATION; CONTRIBUTIONS INTO EMPLOYEES HEALTH BENEFITS FUND; NON-ELECTION; REGULATIONS**

Election of health benefits within sixty days after July 18, 1966, by certain employees on leave without pay for service as officer or employee of an employee organization, contributions into Fund, effect of non-election of benefits, and regulations, see note set out under section 8708 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 8909 of this title; title 42 section 1395s.

**§ 8907. Information to employees**

(a) The Office of Personnel Management shall make available to each employee eligible to enroll in a health benefits plan under this chapter such information, in a form acceptable to the Office after consultation with the carrier, as may be necessary to enable the employee to exercise an informed choice among the types of plans described by section 8903 of this title.

(b) Each employee enrolled in a health benefits plan shall be issued an appropriate document setting forth or summarizing the—

- (1) services or benefits, including maximums, limitations, and exclusions, to which the employee or the employee and members of his family are entitled thereunder;
- (2) procedure for obtaining benefits; and
- (3) principal provisions of the plan affecting the employee or members of his family.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3009(d).	Sept. 28, 1959, Pub. L. 86-382, § 10(d), 73 Stat. 715.

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

**AMENDMENTS**

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

**EFFECTIVE DATE OF 1978 AMENDMENT**

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

**§ 8908. Coverage of restored employees and survivor annuitants**

(a) An employee enrolled in a health benefits plan under this chapter who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified or unwarranted may, at his option, enroll as a new employee or have his coverage restored, with appropriate adjustments made in contributions and claims,

to the same extent and effect as though the removal or suspension had not taken place.

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

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 94-342, § 1(a), July 6, 1976, 90 Stat. 308; Pub. L. 95-454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

**HISTORICAL AND REVISION NOTES**

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

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

**AMENDMENTS**

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

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

**EFFECTIVE DATE OF 1978 AMENDMENT**

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

**EFFECTIVE DATE OF 1976 AMENDMENT**

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

**§ 8909. Employees Health Benefits Fund**

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

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

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

- (1) A percentage, not to exceed 1 percent of all contributions, determined by the Office to

be reasonably adequate to pay the administrative expenses made available by subsection (a) of this section.

(2) For each health benefits plan, a percentage, not to exceed 3 percent of the contributions toward the plan, determined by the Office to be reasonably adequate to provide a contingency reserve.

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

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

(d) When the assets, liabilities, and membership of employee organizations sponsoring or underwriting plans approved under section 8903(3) of this title are merged, the assets (including contingency reserves) and liabilities of the plans sponsored or underwritten by the merged organizations shall be transferred at the beginning of the contract term next following the date of the merger to the plan sponsored or underwritten by the successor organization. Each employee or annuitant affected by a merger shall be transferred to the plan sponsored or underwritten by the successor organization unless he enrolls in another plan under this chapter.

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

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3007.	Sept. 28, 1959, Pub. L. 86-382, § 8, 73 Stat. 714. Mar. 17, 1964, Pub. L. 88-284, § 1(12), (13), 78 Stat. 165.
.....	5 U.S.C. 3008(b).	Sept. 23, 1959, Pub. L. 86-382, § 9(b), 73 Stat. 715.

In subsection (a), the words "hereby created" are omitted as executed. The words "hereinafter referred to as the 'Fund'" are omitted as unnecessary. The words "to reimburse the Employees Health Benefits Fund for sums expended by the Commission in administering the provisions of this chapter for the fiscal years 1960 and 1961" in former section 3008(b) are omitted as executed.

In subsection (d), the requirement that the assets and liabilities of plans of organizations that have been merged be transferred at the beginning of the contract term next following the date of the merger or enactment of this subsection is omitted as executed. The next beginning contract term referred to was November 1, 1964, and the transfers have been made. In the last sentence, the word "hereafter" is omitted as unnecessary.

In subsection (e), the word "is" is substituted for "is or has been" as this title is stated prospectively, and any existing rights and duties are preserved by technical section 8.

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

AMENDMENTS

1978—Subsec. (a), Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (b), Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission" wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8906 of this title; title 25 section 4501.

§ 8910. Studies, reports, and audits

(a) The Office of Personnel Management shall make a continuing study of the operation and administration of this chapter, including surveys and reports on health benefits plans available to employees and on the experience of the plans.

(b) Each contract entered into under section 8902 of this title shall contain provisions requiring carriers 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 records of the carriers as may be necessary to carry out the purposes of this chapter.

(c) Each Government agency shall keep such records, make such certifications, and furnish the Office with such information and reports as may be necessary to enable the Office to carry out its functions under this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 606; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3010.	Sept. 28, 1959, Pub. L. 86-382, § 11, 73 Stat. 716.

In subsection (b), the word "agency" is substituted for "department, agency, and independent establishment".

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

**AMENDMENTS**

1978—Subsec. (a). Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsecs. (b), (c). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission" wherever appearing.

**EFFECTIVE DATE OF 1978 AMENDMENT**

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

**§ 8911. Advisory committee**

The Director of the Office of Personnel Management shall appoint a committee composed of five members, who serve without pay, to advise the Office regarding matters of concern to employees under this chapter. Each member of the committee shall be an employee enrolled under this chapter or an elected official of an employee organization.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 607; Pub. L. 95-454, title IX, § 906(a)(1), (4), Oct. 13, 1978, 92 Stat. 1224, 1225.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3012.	Sept. 28, 1959, Pub. L. 86-382, § 13, 73 Stat. 716.

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

**AMENDMENTS**

1978—Pub. L. 95-454 substituted "Director of the Office of Personnel Management" for "Chairman of the Civil Service Commission", and "Office" for "Commission".

**EFFECTIVE DATE OF 1978 AMENDMENT**

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

**TERMINATION OF ADVISORY COMMITTEES**

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to this title.

**§ 8912. Jurisdiction of courts**

The district courts of the United States have original jurisdiction, concurrent with the United States Claims Court, of a civil action or claim against the United States founded on this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 607; Pub. L. 97-164, title I, § 160(a)(3), Apr. 2, 1982, 96 Stat. 48.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3014.	Sept. 28, 1959, Pub. L. 86-382, § 15, 73 Stat. 716.

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

**AMENDMENTS**

1982—Pub. L. 97-164 substituted "United States Claims Court" for "Court of Claims".

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

**§ 8913. Regulations**

(a) The Office of Personnel Management may prescribe regulations necessary to carry out this chapter.

(b) The regulations of the Office may prescribe the time at which and the manner and conditions under which an employee is eligible to enroll in an approved health benefits plan described in section 8903 of this title. The regulations may exclude an employee on the basis of the nature and type of his employment or conditions pertaining to it, such as short-term appointment, seasonal or intermittent employment, and employment of like nature. The Office may not exclude—

(1) an employee or group of employees solely on the basis of the hazardous nature of employment;

(2) a teacher in the employ of the Board of Education of the District of Columbia, whose pay is fixed by section 1501 of title 31, District of Columbia Code, on the basis of the fact that the teacher is serving under a temporary appointment if the teacher has been so employed by the Board for a period or periods totaling not less than two school years; or

(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3401(2) of this title).

(c) The regulations of the Office shall provide for the beginning and ending dates of coverage of employees and annuitants and members of their families under health benefit plans. The regulations may permit the coverage to continue, exclusive of the temporary extension of coverage described by section 8902(g) of this title, until the end of the pay period in which an employee is separated from the service, or until the end of the month in which an annuitant ceases to be entitled to annuity, and in case of the death of an employee or annuitant, may permit a temporary extension of the coverage of members of his family for not to exceed 90 days.

(d) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8901(1)(H) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 607; Pub. L. 95-437, § 4(c)(1), Oct. 10, 1978, 92 Stat. 1058; Pub. L. 95-454, title IX, § 906(a)(2), (3), (c)(2)(F), (H), Oct. 13, 1978, 92 Stat. 1224, 1227.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a).....	5 U.S.C. 3009(a).	Sept. 28, 1959, Pub. L. 86-382, § 10(a), 73 Stat. 715.
(b).....	5 U.S.C. 3002(a) (words between 1st and 4th commas of 1st sentence), (f) (words between 1st and 2d commas of 1st sentence).	Sept. 28, 1959, Pub. L. 86-382, § 3(a) (words between 1st and 4th commas of 1st sentence, and 2d sentence), 73 Stat. 710. July 1, 1980, Pub. L. 86-568, § 115(d) "(f) (words between 1st and 2d commas of 1st sentence)", 74 Stat. 303. Oct. 6, 1984, Pub. L. 88-631, § 1. 76 Stat. 1007.

HISTORICAL AND REVISION NOTES—Continued

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(c).....	5 U.S.C. 3009(b).	Sept. 28, 1959, Pub. L. 86-382, § 10(b), 73 Stat. 715.
(d).....	5 U.S.C. 3002(f) (2d sentence).	July 1, 1980, Pub. L. 86-568, § 115(d) "(f) (2d sentence)", 74 Stat. 303.

In subsection (b)(2), the words "section 1501 of title 31, District of Columbia Code" are substituted for "section 1 of the District of Columbia Teachers' Salary Act of 1955 (69 Stat. 521), as amended (sec. 31-1501, D.C. Code, 1961 edition)".

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

REFERENCES IN TEXT

Section 1501 of title 31, District of Columbia Code, referred to in subsec. (b)(2), was transferred to section 31-1101 of Title 31, Education and Cultural Institutions, of the District of Columbia Code.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454, § 906(a)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (b). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission" wherever appearing.

Subsec. (b)(3). Pub. L. 95-454, § 906(c)(2)(F), (H), substituted "3401" for "3391".

Pub. L. 95-437 added par. (3).

Subsec. (c). Pub. L. 95-454, § 906(a)(3), substituted "Office" for "Commission".

EFFECTIVE DATE OF 1978 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8901 of this title.