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REPORT
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FEDERAL EMPLOYEES HEALTH BENEFITS CHILDREN'S EQUITY ACT OF 2000

JULY 24, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON of Indiana, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 2842]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 2842) to amend chapter 89 of title 5, United States Code, concerning the Federal Employees Health Benefits (FEHB) Program, to enable the Federal Government to enroll an employee and his or her family in the FEHB Program when a State court orders the employee to provide health insurance coverage for a child of the employee but the employee fails to provide the coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Health Benefits Children's Equity Act of 2000".

SEC. 2. HEALTH INSURANCE COVERAGE FOR CHILDREN.

Section 8905 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) An unenrolled employee who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may enroll for self and family coverage in a health benefits plan under this chapter. If such employee fails to enroll for self and family coverage in a health benefits plan that provides full benefits and services in the location in which the child resides, and the employee does not provide documentation showing that such coverage has been provided through other health insurance, the employing agency shall enroll the employee in a self and family enrollment in the option which provides the lower level of coverage under the Service Benefit Plan.

"(2) An employee who is enrolled as an individual in a health benefits plan under this chapter and who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may change to a self and family enrollment in the same or another health benefits plan under this chapter. If such employee fails to change to a self and family enrollment and the employee does not provide documentation showing that such coverage has been provided through other health insurance, the employing agency shall change the enrollment of the employee to a self and family enrollment in the plan in which the employee is enrolled if that plan provides full benefits and services in the location where the child resides. If the plan in which the employee is enrolled does not provide full benefits and services in the location in which the child resides, or, if the employee fails to change to a self and family enrollment in a plan that provides full benefits and services in the location where the child resides, the employing agency shall change the coverage of the employee to a self and family enrollment in the option which provides the lower level of coverage under the Service Benefits Plan.

"(3) The employee may not discontinue the self and family enrollment in a plan that provides full benefits and services in the location in which the child resides for so long as the court or administrative order remains in effect and the child continues to meet the requirements of section 8901(5), unless the employee provides documentation showing that such coverage has been provided through other health insurance.".

SEC. 3. ANNUITY SUPPLEMENT.

(a) IN GENERAL.—Section 8421a(b) of title 5, United States Code, is amended by adding at the end the following:

> "(5) Notwithstanding paragraphs (1) through (4), the reduction required by subsection (a) shall be effective with respect to the annuity supplement payable for each month in the 12-month period beginning on the first day of the seventh month after the end of the calendar year in which the excess earnings were earned.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reductions required to be made in calendar years beginning after the date of enactment of this Act.

Amend the title so as to read:

A bill to amend chapter 89 of title 5, United States Code, concerning the Federal Employees Health Benefits (FEHB) Program, to enable the Federal Government to enroll an employee and his or her family in the FEHB Program when a State court orders the employee to provide health insurance coverage for a child of the employee but the employee fails to provide the coverage, and for other purposes.

I. SHORT SUMMARY OF LEGISLATION

H.R. 2842 enables the Federal Government to enroll an employee in a "self and family" plan in the Federal Employees Health Benefits Program when a State court orders the employee to provide health insurance coverage for a child of the employee but the employee fails to provide the coverage.

II. Background and Need for the Legislation

The Omnibus Reconciliation Act of 1993 required each State to pass a law requiring an employer to enroll a child in an employee's group health plan when a court orders the employee to provide health insurance coverage for the child but the employee fails to provide the coverage. The FEHBP law provides that a Federal employee "may enroll" in an FEHBP plan "either as an individual or for self and family" coverage. The law does not allow an employing agency to elect coverage on the employee's behalf. Further, the FEHBP law generally preempts State law with regard to coverage and benefits. Therefore, a Federal agency currently is unable to ensure that a child is covered in accordance with a court or administrative order even though the same order would ensure coverage for the child if the child's parent were employed by an employer other than the Federal government.

H.R. 2842 provides Federal agencies the authority to enroll an employee in family coverage, if such action is necessary to enforce compliance with a court order requiring the employee to provide health insurance coverage for a child.

III. Legislative Hearings and Committee Actions

The Committee held no legislative hearings on H.R. 2842. Rep. Elijah Cummings introduced this measure on March 13, 1999. It was referred to the Committee on Government Reform. The Committee on Government Reform's Civil Service Subcommittee marked up the bill on March 22, 2000. By voice vote, the Subcommittee approved an amendment offered by Mr. Cummings to offset the costs of the legislation. The Subcommittee approved the bill as amended and forwarded it to the Committee on Government Reform by voice vote.

On March 30, 2000, the Committee on Government Reform marked up the bill. The Committee adopted H.R. 2842, as amended, and ordered it favorably reported to the House of Representatives.

IV. Committee Hearings and Written Testimony

The Committee held no hearings.

V. Explanation of the Bill as Reported: Section-by-Section

Section 1

Section one provides the bill's short title, the "Federal Employees Health Benefits Children's Equity Act of 1999."

Section 2

Section two amends 5 U.S.C. 8905 by adding a new subsection (f) to allow an employee who is not enrolled in an FEHBP plan to enroll in a plan for self and family coverage if the employee is required by a court order or an administrative order to provide health insurance coverage for a child who meets the definition of "member of family" under 5 U.S.C. 8901(5). Moreover, if such an employee fails to enroll and cannot show that the child is covered by other health insurance, this amendment would require the em-

ploying agency to enroll the employee for self and family under the low-option Service Benefit Plan (currently Blue Cross/Blue Shield).

The new subsection (f) also prescribes similar treatment for a similarly situated employee who is enrolled as an individual in an FEHB plan. The amendment would ensure that, under the circumstances described in the preceding paragraph, the employee's enrollment would be changed to a self and family enrollment that would cover the child. An employee who did not so change his or her enrollment voluntarily would be enrolled for self and family in the same plan in which the employee was already covered as an individual, unless that plan does not provide full benefits and services where the child resides. In the latter event, the employee would be enrolled for self and family under the low-option Service Benefit Plan.

Finally, the new subsection (f) of title 5 would bar the employee from discontinuing the self and family enrollment as long as the order remains in effect and the child continues to meet the definition in section 8901(5), unless the employee can show that the child has other health insurance.

Section 3

Section 3 amends section 8412a(b) of title 5 with respect to FERS annuitants who retire before age 62 and who receive a special annuity supplement. The supplement must be reduced by $1 for every $2 of earning that exceed a minimum level established by the Social Security Administration.

The section delays the adjustment of the annuity supplement until July 1, to allow annuitants and OPM time to gather and process the necessary information. This section does not deprive any annuitant of a benefit. It simply ensures that the correct level of benefits is being paid.

VI. Compliance With Rule XI

Pursuant to rule XI, clause 2(l)(3)(A) of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings from Committee oversight activities are incorporated in the bill and this report.

VII. Budget Analysis and Projections

The budget analysis and projections required by section 308(a) of the Congressional Budget Act of 1974 are contained in the estimate of the Congressional Budget Office.

VIII. Cost Estimate of the Congressional Budget Office

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 16, 2000.

Hon. Dan Burton,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2842, the Federal Employees Health Benefits Children's Equity Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Charles L. Betley.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2842—Federal Employees Health Benefits Children's Equity Act of 2000

Summary: Under current law, the Federal Employees Health Benefits program (FEHB) has no authority to enforce compliance with a child support order to provide health insurance for an employee's children. H.R. 2842 would authorize the mandatory enrollment into family plan coverage and the deduction of premium contributions from the salaries of such employees who otherwise would not participate in FEHB or employees who elect self-only coverage, unless the employee provides documentation that insurance is provided from another source or the support order has ended.

Because the federal government contributes larger amounts to the premiums for employees with family coverage, the bill would increase discretionary costs of benefits for federal employees by about $3 million in 2001 and $56 million over the 2001–2005 period.

Government contributions to FEHB for federal retirees are considered mandatory spending. Because some employees would retire while still subject to support orders, H.R. 2842 would increase the FEHB costs of annuitants and therefore would be subject to pay-as-you-go procedures. However, the mandatory costs in FEHB would be less than $500,000 in 2001, and would sum to about $4 million over the 2001–2005 period. Direct spending would increase for the health benefits of postal employees and annuitants subject to the bill's provisions, but these costs are classified as off-budget and would not be subject to pay-as-you-go procedures.

The bill would also reduce mandatory federal and state outlays for Medicaid and the State Children's Health Insurance Program (SCHIP) because some children with parents who are not complying with medical support orders would end up on those programs' rolls, with mandatory federal savings of about $16 million over the 2001–2005 period. Finally, the bill would modify the earnings test that applies to supplemental benefits paid by the Federal Employees' Retirement System (FERS), but this provision would not have significant budgetary effects over the 2001–2005 period.

The bill includes no governmental or private-sector mandates as defined in the Unfunded Mandates Reform act (UMRA). With a greater number of children enrolled in the FEHB program, states would realize decreased expenditures in Medicaid and SCHIP totaling about $12 million over the 2001–2005 period.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2842 is shown in the following table. The bill would add to discretionary spending by all federal agencies for employee health benefits and would affect mandatory spending in budget functions 550 (health) and 600 (income security).

	Outlays by fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Incremental cost of family coverage under FEHB for more federal employees	3	7	12	16	18
CHANGES IN DIRECT SPENDING					
Postal Service contributions to FEHB	2	4	0	0	0
FEHB payments for retirees	(1)	(1)	1	1	2
Medicaid and SCHIP	−1	−2	−3	−5	−5
Total changes	(1)	2	−2	−4	−3

[1] Less than $500,000.
[2] In addition to the FEHB, Medicaid, and SCHIP effects, the bill would affect direct spending under the Federal Employees' Retirement System, but CBO estimates that those effects would be less than $500,000 a year over the 2001–2005 period.

Note: Components may not add to totals because of rounding.

BASIS OF ESTIMATE

CBO's estimate of the federal costs of H.R. 2842 is based on assumptions about the number of employees who would be required to obtain family coverage who do not already do so, and the federal share of the change in spending by plans participating in FEHB for newly covered employees and children. In addition, CBO estimated savings for Medicaid and SCHIP based on assumptions about the number of children who would be covered by those programs under current law, but who would be covered by FEHB under the bill. Finally, the estimate of savings from the FERS annuity supplement policy change is based on the number of FERS retirees subject to the earnings test and the increased recoveries that can be expected from applying the tests over a longer period.

Spending subject to appropriation

H.R. 2842 would increase the number of federal employees who obtain FEHB family coverage because they are required to do so by a child support order by an estimated 11,500 workers. Data from the Census Bureau (Current Population Survey, April 1996 supplement) indicates that about 1 percent of the population, ages 18 through 64, fails to comply with a medical support order. Assuming that the rate of noncompliance among federal employees is similar to the national rate, after adjusting for the different age distribution of federal workers, CBO estimates that about 23,000 federal employees (not including postal workers) are not in compliance with a medical support order. Because administrative barriers in the child support enforcement system limit how many support orders are enforced, CBO expects that about half of those federal employees would be brought into compliance with medical support orders.

CBO also expects that it would take about four years to identify and bring into compliance those 11,500 employees. Because federal employment is likely to remain close to current levels over the next five years, we assume that newly applied medical support orders would be approximately balanced by orders that end or by other employee attrition.

Based on information from the Office of Personnel Management (OPM), CBO estimates that the costs incurred by FEHB plans for single-parent families average two-thirds of the cost for two-parent families. For the purposes of this estimate, we assume that 90 per-

cent of the employees brought into compliance with medical support orders under H.R. 2842 have self-only coverage under current law. For those employees, the estimated increase in federal spending would be about $900 per family policy in 2001, which is the difference between the federal share of the annual premium for self-only coverage and two-thirds of the federal share of the premium for family coverage, on average. Once expected compliance is fully phased-in (in 2004), the incremental cost of FEHB coverage for conversion from self-only to family coverage would cost about $9 million a year in 2001 dollars.

CBO assumes that the remaining 10 percent of the affected employees who would be brought into compliance with medical support orders would have no FEHB coverage under current law. For those employees, the estimated effect on federal spending in 2001 would be about $3,500 per family policy, which is two-thirds of the federal share of the average annual premium for family coverage. The annualized cost of providing family coverage for those employees with no FEHB coverage under current law would be about $4 million a year in 2001 dollars.

Assuming that agency appropriations would be increased to maintain current levels of staffing and to reflect anticipated inflation in the cost of FEHB coverage, CBO estimates that implementing H.R. 2842 would increase discretionary spending for FEHB by $3 million in 2001 and by $56 million over the 2001–2005 period.

Direct spending

Health Care Costs.—Enacting H.R. 2842 would increase costs to the U.S. Postal Service by about $2 million in fiscal year 2001 and $4 million in 2002 because an estimated 6,000 postal employees would be subject to medical support orders. By 2003, CBO anticipates that the Postal Service would increase postal rates and offset such costs. Postal Service spending and collections are classified as off-budget and thus the charges incurred by H.R. 2842 would not be subject to pay-as-you-go procedures.

A federal employee would be subject to the mandatory family enrollment until a support order expires. Some of the 11,500 employees affected by the bill would be required to cover their children after they retire from active federal employment, shifting the classification of costs from discretionary to mandatory spending. However, there are fewer support orders for older employees, and most children covered under such orders are likely to be close to reaching adulthood. Based on the rate of retirement of federal employees and assumptions about the rate of expiration of support orders, CBO estimates that the increase in direct spending by FEHB for payments to cover affected retirees would be negligible in 2001, but would total $4 million over the 2001–2005 period.

The bill would reduce spending by Medicaid and SCHIP. CBO estimates that 15 percent of the 17,500 employees and postal workers would have children who would enroll in those programs under current law if medical support orders are not enforced. (That is slightly lower than the estimated rate for the general population, reflecting an assumption that the children of federal workers are somewhat less likely to have low-enough incomes to qualify for such programs.) CBO estimates the Medicaid savings based on the

average costs per child, multiplied by an average of 1.5 children covered under each support order. After accounting for anticipated inflation, the estimated federal share of Medicaid savings would be $1 million in 2001 and $16 million over the 2001–2005 period.

Some SCHIP savings also would occur, but CBO estimates that such savings would be less than $500,000 annually.

Modify Earnings Test for FERS and Annuity Supplement.—The Federal Employees' Retirement System pays supplemental benefits to certain nondisabled retirees until they reach age 62 and become eligible for Social Security. These supplemental benefits are subject to an earnings test. Individuals with earnings that exceed a certain level in a calendar year (about $10,000 in 2000) have their supplemental benefits reduced during the 12-month period starting on January 1 of the following year. H.R. 2842 would make reductions from the earning test effective for the 12-month period starting on July 1 of the following year.

Under the current earnings test, OPM pays unreduced supplemental benefits for the first two or three months of each year until it receives the wage information needed to administer the earnings test. This inevitably leads to overpayments, which OPM does not try to recover. The bill's provisions would increase spending on supplemental benefits in 2001 (a one-time cost of moving the effective date to July 1) before yielding savings in later years by eliminating overpayments.

According to OPM, about 700 retires currently have their supplemental benefits reduced because of the earnings test. (This figure will rise in the future as the number of FERS retirees grows.) CBO estimates that the earnings test reduces their supplemental benefits by 50 percent—a reduction of about $100 per month for current retires. CBO estimates that H.R. 2842 would increase spending on supplemental benefits by about $240,000 in 2001 and reduce spending in later years. Annual savings would grow slowly and would reach $1 million in 2010.

Pay-as-you-go considerations: The Balanced Budget and Energy Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	−1	−2	−3	−4	−3	−4	−4	−4	−4	−4
Changes in receipts	Not Applicable										

Intergovernmental and private-sector impact: H.R. 2842 contains no intergovernmental or private-sector mandates as defined in UMRA. With a greater number of children enrolled in the FEHB program, states would realize decreased expenditures in Medicaid and SCHIP totaling about $12 million over the 2001–2005 period.

Estimate prepared by: Federal Costs: FEHB—Charles L. Betley, Child Support—Sheila Dacey, Other Costs—Eric Rollins; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: John Harris.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

IX. SPECIFIC CONSTITUTIONAL AUTHORITY FOR THIS LEGISLATION

Clauses 1 and 18 of Article I, section 8 of the Constitution grant Congress the power to enact this law.

X. COMMITTEE RECOMMENDATION

On March 30, 2000, a quorum being present, the Committee ordered the bill, as amended, favorably reported.

COMMITTEE ON GOVERNMENT REFORM—106TH CONGRESS

ROLLCALL

Date: March 30, 2000.
Final Passage of H.R. 2842, as amended.
Offered by: Hon. Dan Burton.
Adopted by voice vote.

XI. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC LAW 104–1; SECTION 102(B)(3)

H.R. 2842 will apply to all employees who participate in the FEHBP, including those on the legislative branch.

XII. UNFUNDED MANDATES REFORM ACT; PUBLIC LAW 104–4; SECTION 423

H.R. 2842 does not impose any federal mandates on state, local, or tribal governments.

XIII. FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) SECTION 5(b)

The Committee finds that H.R. 2842 does not establish or authorize establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

XIV. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

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SUBCHAPTER II—BASIC ANNUITY

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§ 8421a. Reductions on account of earnings from work performed while entitled to an annuity supplement

(a) * * *

(b) The amount of an individual's excess earnings shall be charged to months as follows:

(1) * * *

* * * * * * *

(5) Notwithstanding paragraphs (1) through (4), the reduction required by subsection (a) shall be effective with respect to the annuity supplement payable for each month in the 12-month period beginning on the first day of the seventh month after the end of the calendar year in which the excess earnings were earned.

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CHAPTER 89—HEALTH INSURANCE

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§ 8905. Election of coverage

(a) * * *

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(h)(1) An unenrolled employee who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may enroll for self and family coverage in a health benefits plan under this chapter. If such employee fails to enroll for self and family coverage in a health benefits plan that provides full benefits and services in the location in which the child resides, and the employee does not provide documentation showing that such coverage has been provided through other health insurance, the employing agency shall enroll the employee in a self and family enrollment in the option which provides the lower level of coverage under the Service Benefit Plan.

(2) An employee who is enrolled as an individual in a health benefits plan under this chapter and who is required by a court or administrative order to provide health insurance coverage for a child who meets the requirements of section 8901(5) may change to a self and family enrollment in the same or another health benefits plan under this chapter. If such employee fails to change to a self and family enrollment and the employee does not provide documentation showing that such coverage has been provided through other health insurance, the employing agency shall change the enrollment of the employee to a self and family enrollment in the plan in which the employee is enrolled if that plan provides full benefits and services in the location where the child resides. If the plan in which the employee is enrolled does not provide full benefits and services in the

location in which the child resides, or, if the employee fails to change to a self and family enrollment in a plan that provides full benefits and services in the location where the child resides, the employing agency shall change the coverage of the employee to a self and family enrollment in the option which provides the lower level of coverage under the Service Benefits Plan.

(3) The employee may not discontinue the self and family enrollment in a plan that provides full benefits and services in the location in which the child resides for so long as the court or administrative order remains in effect and the child continues to meet the requirements of section 8901(5), unless the employee provides documentation showing that such coverage has been provided through other health insurance.

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