

**Number 69, April 2003 (Web site only):
Continuation of Civilian Health Insurance Coverage while Deployed**

By CAPT Samuel F. Wright, JAGC, USNR*

Q: I have worked for the federal government, as a civil servant, for many years. Last year, I left my federal civilian job to go on active duty for a voluntary four-year term. I gave my employer advance notice of my military service, and I am currently in an "LWOP-U.S." status with the federal civilian personnel office.

I thought about continuing my federal civilian health insurance coverage while on active duty, but then I chose not to continue it. You explained in Law Review Number 10 (June 1999) that if I elected to continue my civilian coverage the employer could charge me 102 percent of the entire premium, including the part that the employer normally pays in the case of active employees. Since I entered active duty last year, my family and I have used the military health-care system, not the system for federal civilian employees.

Recently, I was shocked to learn that my civilian personnel office shows that I owe the federal government more than \$4,000 for continuation of my civilian health insurance coverage for the first 18 months of my active-duty period. In Law Review Number 10, you wrote, "This [continuation of civilian health insurance coverage] is not automatic. You must inform the employer that you are making the election [to continue your civilian health insurance coverage]." I never said anything to my civilian personnel office, orally or in writing, about continuing my civilian health insurance coverage. What gives?

A: I did write the words you have attributed to me, and those words accurately summarize the Uniformed Services Employment and Reemployment Rights Act (USERRA). I invite your attention to the pertinent sentence: "In any case in which a person (or the person's dependents) has coverage under a health plan ... and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection." 38 U.S.C. 4317(a)(1)(emphasis supplied).

I looked into your case, at your request. I learned that the Standard Form (SF) 50 that the civilian personnel office mailed you after you went on a leave without pay status included the following sentence: "Health benefits coverage will continue for 18 months unless you elect to terminate coverage." (Emphasis supplied.) Your alleged debt of \$4,000 is based on that sentence in the SF-50. The civilian personnel office contends that you should have read the SF-50 carefully and that you should have affirmatively elected to discontinue your civilian health insurance coverage.

Q: That's not fair! No one reads all the boilerplate gobbledegook in an SF-50. The pertinent sentence is in fine print and is not highlighted in any way. The sentence does not say that I am going to be billed for thousands of dollars if I fail to elect to terminate my coverage. The law (USERRA) says that the departing service member must affirmatively elect to continue the civilian health insurance coverage. Where does the civilian personnel office get the authority to reverse the statutory presumption and put the burden on me to affirmatively elect to discontinue my civilian health insurance coverage? Why would a person in my situation ever want to continue civilian health insurance coverage, at substantial cost, when the military health-care system is available?

A: I agree with all of those points. It was wrong for the civilian personnel office to make the "default" election continuation, rather than termination, of civilian health insurance coverage. Certainly, the personnel office needed a much more conspicuous means of drawing your attention to the importance of the "election" that you were making through inaction. I am working on getting the alleged \$4,000 debt cancelled. More importantly, I am working on getting that personnel office, and others, to change this practice, so that other Reservists entering active duty (voluntarily or involuntarily) do not find themselves in this trap.

This situation illustrates an important lesson for readers to learn. It is important to read and understand all the fine print in government forms like the SF-50 or the DD-214.

* Military title used for purposes of identification only. The views expressed in these articles are the personal views of the author and are not necessarily the views of the Department of the Navy, the Department of Defense, the Department of Defense or the U.S. government.