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Memorandum

2005-12

FROM: NDPERS Group Benefit Divisions

SUBJECT: Benefit Program Options for Reservists

DATE: October 27, 2005

There are special policies that apply to the administration of our retirement and group insurance benefits with regard to reservists that are called for active duty. The following is an outline of those policies by benefit program:

Retirement – Defined Benefit Plan

A leave of absence form (Notice of Status or Employment Change SFN 53611) must be completed indicating the date the member leaves active employment. This form should also be completed to notify NDPERS of the member's return to employment from active duty.

Upon return from active duty, the member may be entitled to have their credit while on active duty recognized by NDPERS for vesting in retirement benefits, the PEP vesting schedule and benefit eligibility purposes (i.e. meeting the Rule of 85/Rule of 80). A reservist should make application to NDPERS by submitting a written request for the above along with a photocopy of their DD214 form.

In addition, a returning reservist has the option to purchase the service credit not accrued during the leave for the purpose of determining benefit calculation. Retirement credit may be granted for this purpose upon proper documentation and receipt of past contributions.

If application is made to the employer, then the employer is required to pay the employer portion of the retirement contributions in a lump sum on behalf of a reservist. The employer is also required to pay any portion of the employee contribution in the same manner that it would have been paid had the reservist not been activated. If the

employer does not pay any or all of the employee contribution on behalf of its employees, then the reservist is required to pay the employee contribution in order to receive the service credit.

The salary to be used in determining the cost to receive the credit must be based on the salary that would have accrued had the reservist not been called into active duty, rather than the salary the reservist is earning at the time of inquiry. If the salary can not be determined, then the employee's average rate of compensation during the 12-month period immediately preceding their call to active duty should be used. The following applies to the payment of purchased credit:

- 1) The timeframe that the reservist has to pay any required employee contributions to the plan is 3 times the period of active duty or 5 years, whichever is less. If the reservist does not apply and/or purchase during this timeframe, then USERRA no longer applies. The reservist would have to pay an actuarial cost to receive the service credit.
- 2) If a reservist chooses to make installment payments to the plan to purchase the service, the plan can not charge interest on the unpaid balance.
- 3) If the reservist chooses to purchase the service and begins payment, PERS will send a billing to the present employer for the required employer contributions. These contributions must be paid by the employer in a lump sum. As part of this billing, if any of the employee contributions are employer paid, they will be included.

If the reservist is interested in receiving the service credit for the purpose of benefit calculation, PERS requires a photocopy of their DD214 or NGB22 Discharge form as verification. Also, the Purchase Agreement for USERRA Covered Military Active Duty SFN 17758 form will need to be completed by the reservist and his/her present employer. Upon receipt of this paperwork, PERS will compute the cost for the reservist to receive the credit and will send written notification to the reservist and/or the employer.

Direct any questions to Rebecca Fricke.

Retirement – Defined Contribution Plan

Upon return from active duty, the member may be entitled to have their credit while on active duty recognized by NDPERS for vesting in the employer contribution and benefit

eligibility purposes in the retiree health credit (i.e. meeting Rule of 85). A reservist should make application to NDPERS by submitting a written request for the above along with a photocopy of their DD214 form.

The policy regarding purchasing the months of service is the same as that for the defined benefit plan except for the following:

- 1) Item # 3 listed above does not apply. Instead, if the reservist elects to make monthly payments through payroll deduction, then the employer will be required to submit the same amount of monthly payments towards the required employer contribution. If the reservist elects any other type of installment payment or is not having payments payroll deducted, then the employer will be billed upon the completion of the purchase by the employee.
- 2) The reservist will not have the option to purchase service after the USERRA timeframe expires as there are not any purchase provisions in statute for the defined contribution plan.
- 3) If the employee elects to purchase the months of service, the credited service is only used in the retiree health credit benefit calculation as the Defined Contribution plan does not provide retirement benefits based on a benefit calculation.

Direct any questions to Rebecca Fricke.

Health Insurance

For absences of less than 30 days, benefits continue as if the member has not been absent. Members called to active duty whose leave exceeds 30 days become automatically covered through TRICARE and will have the following options:

- The member can elect to retain the same level of PERS coverage in effect at the time of activation.
- The member can drop PERS coverage and elect TRICARE for his/herself and for family members, if applicable
- The member can drop NDPERS coverage and elect TRICARE coverage for his/herself and, if applicable retain the NDPERS coverage for spouse and dependents, or
- Choose coverage through another group plan.

Regardless of which option the member elects, he/she must submit a letter to payroll outlining their intention. If they elect to retain NDPERS coverage, the contract will remain on your monthly billing in the employee's name. The member must pay the required

premium by personal check made payable to NDPERS and submit it to their payroll department. Payroll must submit the check with the monthly group insurance billing. This same policy applies to participating political subdivisions.

If coverage is cancelled during the leave, the member may reapply for single or family coverage within 31 days from the date of release from active duty, loss of coverage through TRICARE, or the date they return to active employment. A copy of the discharge papers must accompany the Group Health Application. The effective date of coverage will be retroactive to the first of the month in which the qualifying event (i.e. return to employment, release of active duty, or loss of TRICARE) was met. If an application is not submitted within this period, the member may enroll during the annual enrollment from October 1 – November 15 and coverage will be effective January 1. However, waiting periods for preexisting conditions may apply.

Send all letters requesting changes in coverage to the Insurance Division at NDPERS.

Life Insurance

The employee, dependent, and spouse supplemental coverage can remain in force for up to 24 months. If they elect to retain the life coverage, the contract will remain on your monthly billing in the employee's name. The employee must pay the \$.28 basic life as well as any employee, spouse or dependent supplemental premium by personal check made payable to NDPERS and submit it to their payroll office. If the employee is pretaxing the premium for the first \$50,000 of employee supplemental life through the NDPERS FlexComp Plan, the options for payment during the leave are outlined in the FlexComp section of this memo. If the employee drops the coverage, they may re-enroll during the annual enrollment period and evidence of insurability will be required. This policy also applies to participating political subdivisions.

In the event a member dies while on active duty, the basic and employee supplemental life benefit will be paid to the primary beneficiary on record. The Accidental Death & Dismemberment (AD&D) will not be paid as loss of life during active military duty is a contract exclusion.

Employee Assistance Program (EAP) (State Agencies and University System)

An employee may continue the EAP at their own expense. The agency is responsible for collecting the premium from the employee and submitting it with the monthly agency billing.

FlexComp Plan – State Agencies & Participating District Health Units (Does not apply to University System)

On a qualified military leave of absence, the employee has the option to continue FlexComp contributions or revoke their election. If they elect to continue participation, contributions can be continued on a pre-tax basis by having the total amount due during

the leave period payroll deducted before the leave. Participation can be continued on an after-tax basis by paying the monthly contributions to NDPERS by personal check.

If an employee revokes the election agreement, claims incurred during the leave period are not eligible for reimbursement. Upon return to active employment, the employee may be reinstated in the plan for the remainder of the plan year.

The employee must complete Form SFN 53511 indicating whether they wish to participate or not participate in the FlexComp plan while on leave. The dates the unpaid leave will begin and end must be completed along with the method of payment if the employee elects to continue to participate. Forward the forms to NDPERS for processing. Direct any questions to Sharon Ellsworth.

Deferred Compensation Plan

To suspend deductions during the leave, the member must complete SFN 3803. Payroll or your provider agent should provide a notification with the application that the contribution is being suspended as a result of a call to active duty. A returning employee is allowed to make up any elective deferrals the employee would have been allowed to make to the Section 457 deferred compensation plan had the member remained continuously employed. If an employee makes a lump sum contribution to the deferred compensation account to make up any amounts missed as a result of the military service, the member will retroactively vest in the employer contribution under the Portability Enhancement Provision (PEP) pursuant to NDCC §54-52-11.1. The member's retroactive vesting is contingent on the employee entering into an agreement to purchase the missed service and on the employee and employer contributions to the defined benefit plan actually being made.

The member may, but is not required to, make a lump sum contribution. The timeframe to make up the missed contributions is 3 times the period of active duty or 5 years, whichever is less. If the reservist does not purchase during this timeframe, then USERRA no longer applies. The amount a member is eligible to make up is based on the amount the member was contributing prior to the call for active duty multiplied times the number of

pay periods the member was in the uniformed services. ***All contributions to the Code Section 457 deferred compensation plan must be made on a pretax basis through automatic payroll deductions.***

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To make up contributions, the reservist must provide a photocopy of the DD214 or NGB22 discharge form as verification. This form must be submitted with a completed SFN 53754, 457 Deferred Compensation Plan Agreement for USERRA Covered Military Active Duty and a Participant Agreement for Salary Reduction, SFN 3803. Both forms are available on the PERS website under the Retirement Plans section.

Direct any questions to Diane Heck.

Dental Plan (State Agencies and University System)

The NDPERS dental plan is underwritten by ReliaStar. The employee may continue the dental coverage for up to 12 months or they may cancel coverage during the leave. If the leave exceeds 12 months, the employee may apply for COBRA continuation for up to 24 months. If they elect to retain the coverage, the member will remain on your monthly billing and they will be responsible for remitting the monthly premium by personal check to the payroll office. If the employee is pretaxing the premium through the NDPERS FlexComp Plan, the options for payment during the leave are outlined in the FlexComp section of this memo. If they cancel their coverage, and return within 12 months, they may reapply for coverage within 31 days from the date of release from active duty. A copy of the discharge papers must accompany the application. Coverage will be reinstated and they will receive credit for all waiting periods met or accrued up to the time of the leave. If they do not enroll within this period, the 36-month re-enrollment restriction period will apply.

Whether the employee elects to continue coverage or cancel coverage during the leave, they must submit a letter to their payroll office outlining their intentions. Payroll should retain this documentation so you can substantiate to ReliaStar that the leave was qualified so no waiting periods will apply if coverage was discontinued during the leave.

Vision Plan (State Agencies and University System)

The employee may continue the vision coverage while on leave or they may cancel coverage during the leave. If they elect to retain the coverage, the member will remain on your monthly billing and they will be responsible for remitting the monthly premium by personal check to the payroll office. If the employee is pretaxing the premium through the NDPERS FlexComp Plan, the options for payment during the leave are outlined in the FlexComp section of this memo. If they cancel their coverage, they may reapply for coverage within 31 days from the date of release from active duty. A copy of the

discharge papers must accompany the application. Coverage will be reinstated and all services per the benefit schedule will be available. If they do not enroll within this period, they may enroll during a future enrollment opportunity; however, they will be considered a

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late entrant. As such, no benefits will be payable for expenses incurred in the first twelve months except for the vision exam benefit.

Whether the employee elects to continue coverage or cancel coverage during the leave, they must submit a letter to their payroll office outlining their intentions. Payroll should retain this documentation so you can substantiate to Ameritas that the leave was qualified so no waiting periods for services will apply if coverage was discontinued during the leave.

Long Term Care (State Agencies and University System)

The participant may continue to pay the monthly premium by personal check to the payroll office and will remain on the UNUM billing. If they elect not to continue this coverage, it will lapse. Reinstatement is at the discretion of the insurance carrier.