



PERSonnel UPDATES

The Newsletter for Authorized Agents & Personnel/Payroll Officers

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The articles and opinions in this publication are for general information and are not intended to provide specific advice or recommendations for any individual. We suggest that you consult your attorney, accountant, financial or tax adviser with regard to your individual situation.

Mailings/Events.....

ReliaStar/ING Employee Benefits Update

We would like to make you aware of the recent acquisition of ReliaStar Financial Corp. by ING Group. The change was effective September 1, 2000. ReliaStar will continue its operations under the name of ING Employee Benefits. NDPERS will continue to accept forms with the ReliaStar logo. After we exhaust our supply, new forms will contain the ING Employee Benefits logo.

Life Insurance Bi-Annual Enrollment.....

During the month of November, employees currently enrolled for group life coverage may increase their supplemental, dependent, or supplemental spouse life insurance coverage.

Please use the following procedures

- A ReliaStar Group Evidence of Insurability form must be completed in addition to a Group Life Insurance Application (SFN 51144). The forms cannot be dated or submitted prior to November 1, 2000 and must be received in the payroll office no later than November 30, 2000 or they will be returned.
- Questions 1 through 6 must be answered "yes" or "no" for each person requesting additional coverage. All "yes" responses must be explained in the area provided.
- If applying for spouse coverage, the spouse must provide a social security number and must sign and date the form.
- The Group Life Insurance Application form should reflect the

total amount of coverage requested.

- The employee must sign and date both forms.
- Coverage will become effective the first of the month following approval by ReliaStar/ING Employee Benefits.

Do not change payroll records until you are notified by PERS that the coverage increase has been approved.

Dental Annual Enrollment.....

The annual enrollment for the Group Dental Plan is from October 1-31, 2000 with coverage effective January 1, 2001. All applications to enroll for, or to change coverage, must be signed and dated in October or they will be returned.

The premiums are as follows:

	Current Premium	New Premium	COBRA
Employee Only	\$22.16	\$26.28	\$26.81
Employee & Spouse	\$42.70	\$50.64	\$51.65
Employee & Child(ren)	\$49.71	\$58.96	\$60.14
Family (employee spouse & children)	\$70.27	\$83.32	\$84.99

All applications must be in the ING Employee Benefits office (not postmarked) no later than **November 10, 2000**. Please send them to the following address:

ING Employee Benefits
20 Washington Ave S, Rte 6982
Minneapolis, MN 55401

FlexComp Open Enrollment (State Employees & Participating District Health Units)....

The enrollment for the FlexComp 2001 Plan Year will be from October 1, 2000 through November 15, 2000. Packets have been sent to each eligible employee's home address. If an employee did not receive a packet, you may email Sharon at shargiss@state.nd.us or call the PERS office at (800) 803-7377 or (701) 328-3910. Include the employee's name and home address and a packet will be mailed. You may also order additional election agreements for the 2001 Plan Year from the PERS office. When ordering, please specify FlexComp 2001 Plan Year agreements.

There was not a Request for Consultation form included with the packets this year. BAC is no longer providing enrollment services for our plan. Employees with specific questions about the program can call the PERS office. Questions regarding how participation in the program can impact an employee's taxable income should be discussed with the employee's tax advisor.

Payroll will have until December 1, 2000 to submit agreements for the 2001 Plan Year to the PERS office. Any agreements received after December 1, 2000 will be returned. **No exceptions!** Review the election agreement and send the original to PERS. It is always helpful if payroll can forward the agreements as they are received. Keep the yellow copy for your records.

Employees who do not complete an election agreement will automatically:

- 1) Have their employee supplemental life insurance premium up to the first \$50,000 of coverage pretaxed. (To decline this action, the employee must complete an election agreement and sign in Section B),
- 2) Waive participation in the Medical and/or Dependent Care Reimbursement accounts, and
- 3) Have other eligible payroll deducted insurance premiums deducted on an after tax basis.

For those agencies **ON the Central Payroll System**, PERS will input the election to decline pretaxing the employee supplemental life insurance premium from Section B and the spending account information from Sections C & D.

It is the payroll officer's responsibility to input any payroll deducted insurance premiums that the employee specifies to pretax in Section B of the agreement. Agencies can input insurance premiums after supplemental payroll has been run on December 11, 2000.

Those agencies **NOT ON the Central Payroll system** will set up the complete payroll record for each participant from the election agreement.

If you have any questions regarding the Open Enrollment for the FlexComp 2001 Plan Year, please contact Sharon at (800) 803-7377 or (701) 328-3910.

Odds & Ends

Employer Pickup of Employee Contributions.....

Issue

A participating employer in the PERS retirement plan has been undergoing an audit by the IRS. As part of the audit the IRS reviewed the method the employer uses to pickup employee contributions to PERS. This employer selected a method whereby they elected to pay the employee contribution to PERS in lieu of a salary increase. Consequently, the amount of employee contribution paid by the employer as part of the pick-up was not subject to FICA contributions pursuant to advice PERS received from its technical consultant back in the 1980's. However, the IRS auditor conducting the audit is suggesting that this type of pick-up is really a salary reduction and, therefore, the contribution is subject to FICA payment by both the employer and employee.

PERS Technical Analysis and Response

PERS technical advisors have indicated that in the case of nongovernmental entities, a contribution is treated as an employer contribution (and therefore exempt from income, FICA, and FUTA taxation) only if the plan does not refer to it as an employee contribution. This is stated in Internal Revenue Code section 414(h)(1). However, Code section 414(h)(2) provides an exception to this rule in the case of state and local government plans. In

the case of such plans, contributions which are referred to in the plan as employee contributions, but which are picked up by the employer, are treated as employer contributions. A contribution referred to in the plan as an employee contribution is treated as picked up by the employer only if (a) the employer specifies that the contribution, although designated as an employee contribution, is being paid by the employer in lieu of contributions by the employee, and (b) the employee has no option to receive the amount in cash rather than having it contributed to the plan.

Code section 3121 (a)(5)(A) provides the general rule that any employer contribution made on behalf of an employee to a qualified plan trust is exempt from FICA taxation, except as otherwise provided. Section 324(a)(1) of the Social Security Amendments of 1983 added Code section 3121(v)(1)(B), which provided that "any amount treated as an employer contribution under section 414(h)(2)" would be subject to FICA taxation. However, section 209 of the Deficit Reduction Act of 1984, P.L. 98-369, modified Code section 3121(v)(1)(B) to impose FICA taxes only on "any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)." The Conference Report on P.L. 98-369 states "that employer pickups are wages, for social security and unemployment tax purposes only if the pickup is pursuant to a salary reduction agreement." Since a pickup in lieu of a salary increase is not the same as a pick up pursuant to a salary reduction agreement, a pick up in lieu of a salary increase does not appear to be subject to FICA taxation.

IRS Response

The IRS District Office continues to argue that the above interpretation is not correct and that all pickups are subject to FICA taxation. As a result the issue has been referred to the National Office of the IRS which is reviewing this further and will likely issue a directive sometime in the future.

PERS Actions

To respond to this issue PERS, along with the Teacher Fund for Retirement, hired an attorney in Washington to represent the state's position. In addition, the PERS Board has

prepared legislation to address this situation. The proposed legislation will change the PERS retirement plan by allowing participating employers the option of adopting a "contributory" or "noncontributory" plan. The total contribution would be 8.12% for the contributory and noncontributory plan.

The contributory approach provides for employer contributions at the current levels with after-tax contributions for the otherwise required employee contributions. For example, a political subdivision following this approach would pay the employer contribution (4.12%) and the employee would contribute the employee contribution (4%). The employer contribution would not be subject to FICA but the employee contribution would.

The noncontributory approach provides that the employer would pay the entire contribution (8.12%). For those employers selecting this method the normal application of federal IRC rules will result in the employer contribution not being subject to FICA nor will it be includible in employees pay for income tax purposes. The state would be a noncontributory plan pursuant to the proposed legislation.

This legislation is being offered as an option should the IRS conclude that the existing method is not acceptable. If the IRS concludes the existing method is acceptable, this legislation will be withdrawn. PERS submitted the proposed legislation to the Legislative Employee Benefits Committee on October 10.

PERS will keep you updated in the upcoming months on this issue, as more information becomes available.

Health Insurance Update....

PERS has completed its renewal discussions with BCBS for the 2001-2003 biennium. The increase in premiums for the next two years will be approximately 22% for the existing plan design. The PERS consultant, Deloitte and Touche from Minneapolis, also reviewed the renewal estimate and independently completed a projection of premiums. Their conclusion was the renewal estimate was reasonable based upon past trends and the recognition that provider reimbursement rates were going to increase during the next two

years at a rate greater than reflected in the trend.

PERS is also suggesting the following changes to the scope of benefits for the next two years:

- 1) Have all office visits subject to the copayment. Presently office visits to medical doctors (MDs) are subject to the copayment, but office visits to other auxiliary providers, such as optometrists or chiropractors, are subject to the deductible and coinsurance. This change will treat all providers the same.
- 2) Include coverage for chicken pox vaccinations.
- 3) Include coverage for Prevnar vaccinations.
- 4) Incorporate the standard BCBS infertility benefit into the PERS plan.
- 5) Limit the number of transplants for the same condition to two per lifetime.
- 6) Have take-home prescriptions from the hospital covered in the same manner as prescriptions purchased through a pharmacy.

In addition to sending to the Governor the existing plan design, PERS also forwarded three alternative plan designs. These are shown on the table on the back of this page. The projected increase for *Alternative 1* is approximately 17%, for *Alternative 2* it is approximately 16% and for *Alternative 3* it is approximately 14%. These alternative plan designs have been developed to show the effect on plan design if premiums are reduced. PERS has recommended funding the current plan design. The Board has indicated that alternatives #2 and #3 not be considered because the changes in the plan design for the basic plan will have a significant affect on out-of-pocket expenses for services that are provided out of state.

The Board will make final decisions on rates and plan design after the Governor and Legislature have determined the level of funding for the health plan for the 2001-2003 biennium.

Board Meeting Highlights

The NDPERS Board reviewed and took action on the following items:

June 22, 2000:

- ◀ Approved a proposed asset allocation for the Main Retirement System.
- ◀ Reviewed several differences between other BCBS plans and the NDPERS Group Health Plan.
- ◀ Discussed the Legislative Employee Benefits Committee meeting that was held on May 30.

July 27, 2000:

- ◀ Reviewed an option for a supplemental term life insurance plan with portability.
- ◀ Approved the renewal of the Dental Plan at the current level of benefits being offered.
- ◀ Approved continuing the Wellness Benefit Program.

August 31, 2000:

- ◀ Reviewed steps being taken to date regarding the Group Health Insurance Plan renewal process.
- ◀ Were presented with an overview of the quarterly reports for the deferred compensation and the 401(a) retirement plan.
- ◀ Approved using a 2% Index Factor for the fiscal year 2000 for deferred members of the Highway Patrol Retirement System.

September 7, 2000:

- ◀ Approved the renewal contract with ING Employee Benefits (ReliaStar) for the Group Life Insurance Plan.
- ◀ Discussed the current status of the health insurance renewal process with BCBS.

September 15, 2000:

- ◀ Discussed plan design changes and the renewal process for the NDPERS Group Health Insurance Plan.

