

## **Updates for Deferred Compensation Provider Representatives**

### **457 Funds Now Subject to QDRO**

Effective August 1, 2003, funds held in the NDPERS 457 Deferred Compensation Plan will be subject to division pursuant to a qualified domestic relations order (QDRO). Under the provisions of a QDRO, someone other than the member may be entitled to all or a portion of the member's deferred compensation account(s). To explain the process briefly, the order, judgment or decree must be issued by a court of law in a divorce, child support hearing or similar proceeding and is commonly referred to as a Domestic Relations Order (DRO). For NDPERS to be able to implement the DRO, it must be qualified. To become qualified, the order must be approved under the plan. As there are several technical areas that must be addressed before the system can approve and execute a proposed order, the NDPERS board is working to establish model language to be used in submitting a successful Qualified Domestic Relations Order (QDRO). After a QDRO is established in the NDPERS office, an alternate

payee is required to take a lump sum payment of the allocated benefits within 120 days of the later of the notice of receipt of a qualified domestic relations order or the entry of the order by the court. The lump sum payment is taxable to the alternate payee. To limit cost to the member and ensure that resources are used most efficiently, it is highly recommended that the member or the member's attorney contact NDPERS for a copy of QDRO procedures prior to drafting a domestic relations order.

### **Provider Representative Handbook Revised**

The red Provider Representative Handbook has again been revised. Revisions reflect mostly changes to the NDPERS forms. Although these handbooks were provided to those who attended trainings last year, revisions continue to occur. You may wish to review the Provider Representative Handbook on the NDPERS website to ensure you have the most current version. Although Provider Handbooks will be provided at trainings this fall, there will not be a mailing to

those who do not attend. Supplies of the booklet will be limited and those who are not attending a training, will need to access a revised copy on-line. You may find the revised copy after August 15th on the NDPERS website at <http://www.state.nd.us/ndpers/> under the Deferred Compensation Providers section.

### **USERRA Rights For Returning Reservists**

The Uniformed Services Employment and Re-employment Rights Act (USERRA) requires that employers allow returning employees to make up any elective deferrals the employee would have been allowed to make to the NDPERS 457 Deferred Compensation plan had the member remained continuously employed. The employee may make a lump sum pre-tax payroll deducted contribution to the 457 plan to make up any amounts missed as a result of qualified active military service. The employee may retroactively vest in the employer contribution to the retirement plan under the Portability Enhancement Provision (PEP). The retroactive vesting would, by

necessity, depend on the employee and the employer contributions to the defined benefit retirement plan actually being made. The member may, but is not required to make a lump sum contribution. The time-frame to make up the missed contributions is 3 times the period of active duty or 5 years, whichever is less. The amount the employee is eligible to make up is based on the amount the member was contributing prior to the call to active duty, multiplied times the number of pay periods the member was in the uniformed services and not at work.

All contributions to the 457 plan must be made on a pre-tax basis through automatic payroll deduction. Contributions may exceed the annual 457 limits if an employee is contributing under both USERRA missed contributions and the normal eligible participation limits.

To make up missed contributions, the reservist must provide a photocopy of the DD214 or NGB22 discharge form as verification of active military duty to the NDPERS office. The form must be submitted along with a completed 457 Deferred Compensation Plan USERRA Agreement for Covered Military Active Duty (SFN 53754), and a separate Participant Agreement for Salary Reduction form (SFN 3803).



Returning reservist employees may contact the NDPERS office for

further information and may obtain all forms on the NDPERS Website.

## NDPERS Training Opportunities in 2003

The next training opportunities offered will be in Bismarck (September 16th), Fargo (September 23rd) and Minot (September 30th).

Check the NDPERS website for registration information after September 1, 2003. Note: Individuals who do not attend a training session as required in the existing contract will no longer be eligible to provide services to NDPERS Deferred Compensation participants. You will receive notification from your provider company if you become ineligible to provide services to NDPERS members as a result of not meeting this requirement.

## Investment Options Booklet Being Revised

The Investment Options Booklet containing the summary of products available in the NDPERS Deferred Compensation Program is presently being updated. NDPERS staff has submitted a request that all provider companies review their present product line-up and submit new data such as rate of return, costs, etc. as well as any new products that will be offered by the company in the upcoming year. The updated version should be available on the NDPERS website by mid October.



## NDPERS Website

Remember, you can download NDPERS materials at your convenience at [www.discovernd.com/ndpers](http://www.discovernd.com/ndpers).

## Reminders: Participant Agreement Forms & Distributions

Although many of your clients complete their own Participant Agreement Forms (SFN 3803), we are asking for your assistance in this matter. Please remind your clients that if they are starting contributions with a new provider and do not intend to continue contributions to their existing provider, form SFN 3803 should be completed on each individual action. This also pertains to individuals who are transferring between participating employers.

### *Example:*

*Participant wishes to discontinue contributions with Company A and also wishes to try a new provider, Company B. The participant should then submit a completed SFN 3803 indicating contributions should be suspended for Company A. A separate SFN 3803 should be completed indicating the contributions should begin with Company B.*

**FYI...**Pursuant to Administrative Code Section 71-02-01-01, the earliest PERS may approve a distribution from the deferred compensation plan is 30 days after the employee has terminated employment. Distribution forms received by PERS before the 30 day separation from service has been completed by the employee, will be held in a pending file before being processed.