

MINUTES

**North Dakota Public Employees Retirement System
Thursday, January 20, 2005
ND Association of Counties, Bismarck
BCBS, 4510 13th Ave SW, Fargo**

Members Present:

Mr. David Gunkel
Mr. Howard Sage
Mr. Ron Leingang
Ms. Arvy Smith

**Via Video Conference:
Fargo**

Chairman Jon Strinden
Ms. Rosey Sand

Others Present:

Mr. Scott Miller, Attorney General's Office
Mr. Sparb Collins, Executive Director NDPERS
Ms. Denise Curfman, NDPERS
Ms. Kathy Allen, NDPERS
Ms. Deb Knudsen, NDPERS
Ms. Cheryle Masset-Martz, NDPERS
Ms. Sharon Schiermeister, NDPERS
Ms. Jamie Kinsella, NDPERS
Ms. Shelly Stuber, NDPERS
Ms. Diane Heck, NDPERS
Ms. Rhonda Peterson, BCBS
Mr. Larry Brooks, BCBS – Fargo
Mr. Howard Snortland, AFPE
Mr. Weldee Baetsch, Former Board Trustee
Ms. Tami Wahl, AFPE/INDSEA
Ms. Barb Aasen, Eide Bailly
Mr. Bill Robinson, GBS (Via Video Conference)

Chairman Strinden called the meeting to order at 8:30 AM.

Minutes

Chairman Strinden called for any questions or comments regarding the NDPERS Board minutes for December 16, 2004.

Mr. Gunkel moved approval of the December 16, 2004, NDPERS Board minutes. Mr. Leingang seconds.

Audit Report (Informational)

Ms. Barb Aasen, from Eide Bailly, appeared before the board and provided an overview of the audit for the year ending June 30, 2004.

Legislation (Informational)

Ms. Allen indicated that on the PERS web site you will find a copy of all the PERS legislation, testimony, cross reference matrix and a bill tracking report that will be updated weekly.

Ms. Allen indicated that hearings had already been scheduled for the PERS appropriations bill (January 13), the OASIS bill (January 7) and the Retiree Health Credit bill (January 14). The OASIS bill got a favorable recommendation. Our appropriations bill has been assigned to the new division on Government Performance of the House Appropriations Committee. Mr. Collins had also given several presentations to the appropriations committees (January 5 & 6) and most all of the questions were related to the health plan.

August 11, 2004 Audit Committee Minutes (Informational)

Ms. Allen indicated that the minutes were included in the board materials and were informational.

Adverse Selection (Board Action Requested)

Ms. Allen indicated that at the last board meeting it was decided to modify the last sentence to limit the amount that can be offered in cash for not participating to about 25% to 33% of the premium. Discussion followed on the first sentence. It was noted that in recent years the Board had added additional provisions relating to adverse selection that require the group to have 75% of its members participating and that they must pay at least 50% of the single premium. The Board requested staff to work with GBS to identify options. Ms. Allen indicated that three options were identified. These options were include in the board materials.

Mr. Leingang moved approval of staffs' recommendation to *Eliminate consistency requirement relating to premiums*. Also to have staff submit to the board a plan to conduct annual audits. Mr. Sage Seconds.

Ayes: Leingang, Gunkel, Sage, Smith, and Chairman Strinden.

Nays: Sand

Absent: Tabor

PASSED

Life Bid (Board Action Requested)

Mr. Bill Robinson, from Gallagher Benefits Services (GBS), appeared before the board via video conference. Mr. Robinson reviewed with the Board the Group Life Insurance Request for Proposal executive summary. The summary was included in the board materials.

Discussion followed on the cross-subsidizing of premium. The board decided to have GBS request clarification from the nine carriers on the rates with and without subsidizing premium.

BCBS Member Service Survey and EPO Survey (Informational)

Ms. Rhonda Peterson, from BCBS, appeared before the board to review the results of the member service and EPO survey. The surveys were included in the board materials.

Surplus/Affordability Update (Informational)

Ms. Allen indicated that the latest Surplus/Affordability report was included in the board materials.

National Guard (Informational)

Ms. Allen indicated that Segal reviewed the 2004 actuarial evaluation information on the National Guard Retirement Plan last fall. At that time the board discussed the need to review the employer contribution rate. Pursuant to statute the board is responsible to set this rate as stated in 54-52-06.2.

Staff had asked Segal to review this and provide the board with their thoughts. Included in the board materials was their response.

Ms. Allen indicated that the Guard would be invited to share their thoughts at the February meeting.

Small Benefit Distributions (Board Action Requested)

Ms. Allen indicated that the final EGTRRA regulations changed the provisions with regard to small benefit distributions. The new regulations, effective March 28, 2005, state that small benefit cash out amounts of \$1,000 to \$5,000, where distribution is automatic rather than elective, are required to be rolled over to an IRA unless the participant affirmatively elects otherwise. Both our Defined Contribution Plan and the Deferred Compensation plan documents contain provisions with regard to these distributions.

Ms. Allen indicated that based on discussions with Segal and Scott Miller several options have been identified. Those options were included in the board material.

Mr. Gunkel moved approval of staffs' recommendation as follows:

- **Defined Contribution Plan: Staff will change communication materials to allow for automatic cash outs of less than \$1,000 and will include an amendment to the statute in its proposals for the 2007 session.**
- **Deferred Compensation Plan: To amend this section to specify that a small benefit distribution can only be initiated upon the participant's request.**

Ms. Sand seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Smith, and Chairman Strinden.

Nays:

Absent: Tabor

PASSED

Rollover Contributions

Ms. Allen indicated that at the December meeting, the Board moved to investigate changing the deferred comp plan provisions to allow rollover contributions from other eligible retirement plans. Staff was directed to have Segal draft a plan amendment to send to our providers to seek comments.

Staff discussed this proposed change with Mr. Doug Davis at Fidelity. As Fidelity is already providing this service for its other clients, this change represents no additional administrative issues. They have already submitted an amendment to Schedule A of our recordkeeping agreement to accept rollovers from the following asset classifications:

Rollover 401(a)

Rollover 403(b)

Rollover IRA

This change can be implemented for the Companion Plan upon execution of the amendment. Staff is requesting the Board's direction on whether to proceed with the amendment for the Companion Plan prior to seeking comment from our other investment providers.

Mr. Sage moved approval for staff to proceed with the amendment for the companion plan. Mr. Gunkel seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Smith, and Chairman Strinden.

Nays:

Absent: Tabor

PASSED

Administrative Procedures (Board Action Requested)

Ms. Allen indicated that staff is proposing two administrative changes for the 457 Deferred Compensation Plan. The two changes include the current procedures to authorize new agents to provide plan services and an enrollment option to encourage participation in the Portability Enhancement Provision (PEP).

Provider Enrollment

Section II.A of the Provider Administrative Agreement states:

All new sales representatives must complete an initial review of the Deferred Compensation Program and be certified by the Retirement Board before the sales representative may enroll or recruit eligible participants.

A provider representative requesting authorization to provide services must satisfy the following requirements:

- (1) Must be an authorized representative of one of the approved provider companies.
- (2) Must be licensed with the North Dakota State Securities Commissioner for the sale of registered or unregistered securities or the North Dakota State Insurance Commissioner for the sale of insurance contracts or policies or both.
- (3) Must be fully trained to explain various investment options available through the provider, and be able to explain provisions of the deferred compensation program as is found under Section 457 of the Internal Revenue Code.
- (4) Must comply with the provisions of North Dakota Administrative Code 71-04-06.

To be added to our authorized list of representatives, the agent is required to send PERS a letter acknowledging that he/she understands and meets the above requirements.

Staff is suggesting the Board consider revising this policy to require authorization from the provider company before new agents are eligible to provider services for our plan. This recommendation is based on the occurrences reported early last year wherein unauthorized distributions were made under the hardship provisions of the deferred compensation plan. The companies in violation were instructed to reinstate the members' accounts and complied with the Boards directive; however, because our current procedures to authorize new agents do not include any approval from the provider company, an argument could be made that since PERS adds the agents to the list, we are at risk for the actions of these individuals. Staff proposes that

we change our policy to specify that “no agents will be added to the authorized list unless approved by the designated provider company representative.” We are seeking the board's direction on whether or not to add this provision to the administrative agreement. This will also require us to revise our rules under section 71-04-06.

PEP Participation

Currently, members may participate in PEP by enrolling in a 457 deferred compensation plan approved by the Board. This participation adds cash value to the member account, in the event the employee leaves North Dakota public service, by allowing them to vest in a portion of the employer contribution which is subsequently added to the member account balance. This program has been in effect since January 1, 2000. At the time of implementation, the focus was on encouraging current employees to consider enrolling in the deferred compensation plan to take advantage of the new PEP program. Numerous meetings were held throughout the state to explain the program and its benefits. Participation in the deferred compensation program increased as a result of these efforts. Following the initial introduction, several “Agency Intensive PEP” informational meetings were targeted to specific state agencies. However, this program was discontinued due to poor employee attendance. Included in the board materials was documentation that indicated enrollments steadily declining since 2000.

As part of our benefit planning for the upcoming biennium, staff presented to the PERS Employee Benefits Committee the concept of implementing an automatic enrollment feature in conjunction with the deferred compensation companion plan. Neither the committee nor the Board supported this concept. Therefore, staff has developed an alternative proposal to raise PEP awareness and participation. Rather than automatic enrollment in the deferred comp plan, all new employees would be required to waive their rights if they do not wish to participate in PEP. This could be implemented on a prospective basis for all new eligible employees. If they elect not to waive their rights to PEP, there would be a simplified application form that would enroll them in the Fidelity Freedom Fund (default option) at the \$25.00 minimum monthly contribution amount or they could select another provider company of their choice using our regular enrollment procedures. The employee would have the option to elect out of the default option at any time as well as retain all other rights allowed under the 457 regulations. If the employee waives rights to PEP upon employment no enrollment would occur; however, this would not prohibit them from participating at any time in the future.

Staff discussed this concept with The Segal Company. They supported the idea as they felt it is always a good policy to have individuals waive rights to a benefit they are forfeiting. Staff also contacted Fidelity about administering enrollment based on this concept. They have no issues with this approach and are willing to accommodate enrollment in the default option.

To move forward with implementation of this policy, it will be necessary for staff to develop the informational materials, required forms, amendments to the Companion Plan Document, Summary Plan Description, and Fidelity Administrative Agreement (if necessary), and payroll administrative procedures. We are recommending a July 1, 2005 effective date. We would anticipate introducing the concept at our upcoming Payroll Conference scheduled in early June of 2005.

Ms. Allen indicated that staffs recommendation is to move forward with the proposed procedures to change the approval process for new provider representatives. Staff also supports the development of a policy that requires employees to make an election if they wish to waive their rights to PEP and to provide a simplified process to enroll them in the deferred compensation companion plan if they elect not to waive their rights.

Ms. Sand moved approval of staffs' recommendation to move forward with the procedures to change the approval process for new provider representatives. Also develop a policy that requires employees to make an election if they wish to waive their rights to PEP and to provide a simplified process to enroll them in the deferred compensation companion plan if they elect not to waive their rights. Mr. Gunkel seconds.

Ayes: Leingang, Gunkel, Sand, and Chairman Strinden.

Nays: Sage, and Smith

Absent: Tabor

PASSED

Financial Hardship Appeal #2005-001DC (Board Action Requested)

Ms. Allen indicated that the participant is requesting a hardship withdrawal in order to satisfy the provisions of a divorce judgment. The participant has paid a portion of this amount and is requesting the withdrawal to make up the balance. The application, income and expense statement, and a copy of the judgment were included in the board materials.

Discussion followed.

Mr. Sage moved to deny the hardship withdrawal. Ms. Sand seconds.

Ayes: Leingang, Sand, Sage, Smith, and Chairman Strinden.

Nays: Gunkel

Absent: Tabor

PASSED

Rx Network (Board Action Requested)

Mr. Collins indicated that since last summer the Board has investigated the possibility of changing the Rx network. At the August 30th meeting, BCBS provided the Board with information on an alternative Rx network, Prime Therapeutics Network. It was noted that Prime Therapeutics Network is presently the BCBS pharmacy benefits manager (PBM). The information also indicated that this network is lower cost since the reimbursement to pharmacists is lower than the present Rx Dakota BCBS network. The estimated savings by changing networks is about \$1.75 million per year.

At the September meeting the Board heard from the North Dakota Pharmacy Association. The Pharmacy Association noted that such a change would be detrimental to access in North Dakota since it would affect the viability of pharmacies and that the reason higher pharmacy reimbursement is needed in North Dakota is because the volume is not as high as in urban markets. The Pharmacy Association also noted that those pharmacies in the Prime network joined only because it represented a small portion of their business and that if the Prime network grew to represent 15-20% of its business, they would drop the network.

At the November 18th meeting the Pharmacy Association presented to the board a proposal to contract with a new network that they had selected. They felt the advantage of this new network is that they would pass through 97% of all rebates and discounts and they would not use a "spread" when adjudicating claims. Finally, they would provide a designated effort for generic conversion.

Mr. Collins indicated that subsequent to the November meeting PERS staff followed up with Prime Therapeutics and asked them: 1) how much of the rebate they give back to us and 2) if they use a "spread" in adjudicating claims. Their response was included in the board materials.

Staff also asked BCBS if they would consider allowing us to use a different PBM under the fully insured arrangement. They referred us to their answer to question #22 in the proposal they had submitted.

Staff also looked at the possibility of increasing our generic utilization. Presently our generic use rate is 45.8% and our brand rate is 54.2%. However if you break this down further we find that 48.6% is brand use without a generic alternative, 5.6% is brand use with a generic alternative and 45.9% is generic utilization. Consequently, about 89% of our people use a generic when it is available.

Staff also asked Prime for information on the number of providers contracted in their network. This was included in the board materials. They noted that all but 6 Dakota Rx pharmacies participate in the network. According to our research about 1% of our claims go to these 6 pharmacies. This would require our members (332) who use those pharmacies to use the out of network procedure, our new mail order option or a new pharmacy.

Staff also asked BCBS to explain what happens to our members if they go to a nonparticipating pharmacy. BCBS indicated if a member receives prescription medications or drugs from a nonparticipating pharmacy, the member is responsible for payment of the prescription order or refill in full at the time it is dispensed and must submit appropriate reimbursement information to BCBSND. Payment for covered prescription medications or drugs will be sent to the subscriber. Any charges in excess of the allowed charge are the subscriber's responsibility.

Mr. Collins indicated that in recognition of the above staff would offer the following recommendations:

- That while there are public policy considerations to this change, we have been assigned the duty to act in the interest of our members. Due to the large savings, this could help to reduce our members' cost so we should consider this change.
- That we should not move too quickly in making any change since we are not certain that the network providers will continue their participation and a smaller network could reduce the benefit, increase member costs and increase member inconvenience.
- Given the above, staff would recommend the Board adopt a motion indicating its intent to change to the Prime Network at the beginning of the next plan year which would be January of 2006. However, before transferring BCBS would be asked to report to the board in October of 2005 on the network and a proposed transition plan. Based upon the information presented at that time, the Board will make a final decision on whether or not to transfer.
- Taking the above action will provide notice to all, give all parties an opportunity to adjust, allow an opportunity for other information to come to the board and give us a final opportunity to review any new considerations that may arise as a result of this notice before finalizing our decision to move to the new network.

Discussion Followed. The Board indicated that it would like to get together with not only Prime Therapeutics but also the Pharmacy Association in the fall. Also it was felt that instead of October it would be better to get together in September.

Concerns were also expressed about the effect of any transition on the members.

Mr. Gunkel moved approval of staffs' recommendation with the change in meeting in September and including the Pharmacy Association. Ms. Sand seconds.

Ayes: Leingang, Gunkel, Sand, and Chairman Strinden.

Nays: Sage and Smith

Absent: Tabor
PASSED

Chairman Strinden called for any additional items.

Mr. Sage indicated the National Conference on Public Employees Retirement System (NCPERS) will be held in May of 2005.

Mr. Sage moved to approve up to 2 board members to attend the conference. Ms. Sand seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Smith and Chairman Strinden.

Nays:

Absent: Tabor

PASSED

Chairman Strinden called for any additional items, hearing none the meeting adjourned at 11:35 AM.

Respectfully Submitted

Denise A. Curfman

*Denise A. Curfman
Secretary, NDPERS Board*