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# Memorandum

**FROM:** NDPERS Group Benefit Divisions  
**SUBJECT:** Benefit Program Options for Reservists  
**DATE:** May 27, 2009

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 31 days or less, 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:

1. The member, and any eligible family members that are covered on the NDPERS plan at the time of activation, may be eligible for COBRA continuation as follows:
  - For a 24-month period beginning on the date on which the employee's absence for the purpose of performing services begins; or
  - The period beginning on the date on which the employee's absence for the purpose of performing service begins and ending on the date on which he or she fails to return from service or report for work.
2. The member can drop NDPERS coverage and elect TRICARE for his/herself and for family members, or
3. Choose coverage through another group plan.

If the member elects COBRA continuation, a Continuation of Group Insurance Coverage, SFN 14120 must be completed and submitted to their payroll/human resource office or NDPERS. If they elect COBRA continuation, the member will be direct billed for the monthly premium and you will delete them from your monthly billing. This same policy applies to participating political subdivisions. If the employee also has coverage through TRICARE for his/her self or any dependents, TRICARE will be the primary payer and NDPERS will pay secondary on any claims.

If the member elects 2 or 3 above, he/she must submit a letter to payroll outlining this intention. Send all letters requesting changes in coverage to NDPERS. If coverage is cancelled during the leave, the member may reapply for coverage within 31 days of the date they return to active employment or lose coverage through TRICARE. A copy of the discharge papers must accompany the Group Health Application. If an application is not submitted within this period, the member may enroll during the annual enrollment period conducted each year in the fall and coverage will be effective January 1. However, waiting periods for preexisting conditions may apply.

## **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.***

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)

For leaves of less than 31 days, benefits continue as if the member has not been absent. For leaves of 31 days or more, coverage may be continued for the employee and any eligible dependents until the earliest of the following:

- 24 months from the last day of employment with the Employer (COBRA);
- the day after the employee fails to return to work; and
- the date the policy cancels.

If the member elects COBRA continuation, a Continuation of Group Insurance Coverage, SFN 14120 must be completed and submitted to their payroll/human resource office or NDPERS. 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 the member does not elect COBRA continuation while on leave, he/she must submit a letter to payroll outlining this intention. Send all letters requesting changes in coverage to NDPERS. If coverage is cancelled during the leave, the member may reapply for coverage within 31 days of the date they return to active employment. A copy of the discharge papers must accompany the Group Dental Application. If an application is not submitted within this period, the member may enroll during the annual enrollment period conducted each year in the fall and coverage will be effective January 1. Coverage will be reinstated and they will receive credit for all waiting periods met or accrued up to the time of the leave.

### **Vision Plan (State Agencies and University System)**

For leaves of less than 31 days, benefits continue as if the member has not been absent. For leaves of 31 days or more, coverage may be continued for the employee and any eligible dependents until the earliest of the following:

- 24 months from the last day of employment with the Employer (COBRA);
- the day after the employee fails to return to work; and
- the date the policy cancels.

If the member elects COBRA continuation, a Continuation of Group Insurance Coverage, SFN 14120 must be completed and submitted to their payroll/human resource office or NDPERS. 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 the member does not elect COBRA continuation while on leave, he/she must submit a letter to payroll outlining this intention. Send all letters requesting changes in coverage to NDPERS. If coverage is cancelled during the leave, the member may reapply for coverage within 31 days of the date they return to active employment. A copy of the discharge papers must accompany the Group Vision Application. Coverage will be reinstated and all services per the benefit schedule will be available. If an application is not submitted within this period, the member may enroll during the annual enrollment period conducted each year in the fall and coverage will be effective January 1. However, no benefits will be payable for expenses incurred in the first twelve months except for the vision exam benefit.

### **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.