

## ARTICLE 4. RETIREE FLEXIBLE SPENDING PROGRAM

### Rule 1. Definitions

#### 31 IAC 4-1-1 "Eligible retiree" defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. As used in this article, "eligible retiree" means an individual who:

- (1) has at least ten (10) years of creditable service with a state agency;
- (2) retires after June 30, 2000; and

(3) has accrued but unused and uncompensated sick, vacation, or personal leave on the employee's retirement date.

*(State Personnel Department; 31 IAC 4-1-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

#### 31 IAC 4-1-2 "Retire" defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 2. As used in this article, "retire" means terminate state employment at a time when the eligible retiree is entitled to begin receiving pension benefits from a public pension plan as a consequence of the retiree's state service. *(State Personnel Department; 31 IAC 4-1-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

#### 31 IAC 4-1-3 "State agency" defined

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 3. As used in this article, "state agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, but does not include:

(1) a state educational institution (as defined in IC 20-12-0.5-1 [IC 20-12 was repealed by P.L.2-2007, SECTION 390, effective July 1, 2007.]);

(2) a state elected official's office; and

(3) the legislative and judicial branches of state government.

*(State Personnel Department; 31 IAC 4-1-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

### Rule 2. Applicability

#### 31 IAC 4-2-1 Applicability

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. (a) This article applies to an eligible retiree who retired from a state agency that:

- (1) participates in the taxsaver cafeteria benefits plan, which is administered by the state personnel department; and
- (2) offers the medical insurance plans procured by the state personnel department.

(b) A state agency that does not offer the taxsaver cafeteria benefits plan and the state personnel department's medical insurance offerings must amend the plan documents that establish its benefit plan to implement the provisions of IC 5-10-12. *(State Personnel Department; 31 IAC 4-2-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2406, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

### Rule 3. Deposits

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**31 IAC 4-3-1 Deposits**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. Effective January 1 of the calendar year succeeding the calendar year in which the eligible retiree retires, the state will deposit into a flexible spending account for the eligible retiree the amount determined in 31 IAC 4-4. *(State Personnel Department; 31 IAC 4-3-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**Rule 4. Leave Valuation**

**31 IAC 4-4-1 Leave valuation**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. Subject to section 2 of this rule, for the purpose of the retiree flexible spending program, the value of accrued but unused and uncompensated sick, vacation, or personal leave is determined as follows:

STEP ONE: Divide the retiree's regular biweekly salary, as reflected on the state personnel department's staffing report as of the retirement date, by seventy-five (75).

STEP TWO: Multiply the quotient determined in STEP ONE by the number of hours of sick, vacation, and personal leave that the retiree had accrued but which were unused and uncompensated at the time of separation.

STEP THREE: Multiply the product of STEP TWO by the following:

(A) Twenty percent (20%), for a retiree with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service.

(B) Thirty-five percent (35%), for a retiree with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service.

(C) Fifty percent (50%), for a retiree with at least twenty (20) years of creditable service.

*(State Personnel Department; 31 IAC 4-4-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 4-4-2 Maximum amount**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 2. In no event is the eligible retiree entitled to more than an aggregate of five thousand dollars (\$5,000) under this retiree flexible spending program. *(State Personnel Department; 31 IAC 4-4-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**Rule 5. Election of Benefits**

**31 IAC 4-5-1 Open enrollment**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. During the open enrollment period, an eligible retiree who has amounts deposited into their flexible spending account must notify the state personnel department, or its third party administrator, how the retiree wants the funds in the flexible spending account allocated among the available qualified benefits and/or cash. *(State Personnel Department; 31 IAC 4-5-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 4-5-2 Benefit options**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 2. The funds in the flexible spending account may be allocated among the following options:

- (1) Early retiree medical insurance premiums.
- (2) Dependent care assistance account.
- (3) Medical reimbursement account.
- (4) Cash.

*(State Personnel Department; 31 IAC 4-5-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 4-5-3 Early retiree insurance option**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-7; IC 5-10-8-8; IC 5-10-12

Sec. 3. (a) To be eligible to select the option of early retiree medical insurance premiums, the eligible retiree must:

- (1) meet the additional criteria established in IC 5-10-8-7 and/or IC 5-10-8-8;
- (2) have actually retired from the state as the retiree's most recent employer and have begun receiving retirement benefits from PERF or TRF; and
- (3) within ninety (90) days after the employee's retirement date, file a written application for insurance coverage and request to utilize amounts in the retiree's flexible spending account to pay premiums.

(b) An eligible retiree who qualifies for early retiree insurance benefits under this rule may elect to have the retiree's spouse covered under the health insurance program and use the flexible spending account to pay the spouse's premium.

(c) For the eligible retiree, an amount equal to the total of the employer's and employee's premium for an active employee covered by the same group health insurance program will be charged against the retiree's flexible spending account.

(d) If the eligible retiree's spouse is also covered by the state's health insurance program, an amount equal to the total of the employer's and employee's premium for the family group health insurance coverage selected will be charged against the retiree's flexible spending account.

(e) The election to participate in a particular health insurance plan under this rule must be made during the open enrollment period, will only take effect prospectively, and is limited to the plan year. Requests for retroactive payments under this program cannot be granted. *(State Personnel Department; 31 IAC 4-5-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2407, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**Rule 6. Benefit Termination**

**31 IAC 4-6-1 Benefit termination**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4  
Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. (a) A retiree's eligibility to use flexible spending account dollars to pay health insurance premiums ends on the earliest of the following:

- (1) The date the retiree becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
  - (2) The date the flexible spending account is exhausted.
  - (3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.
  - (4) The end of the plan year.
- (b) The eligibility of the retiree's spouse to receive the benefits of this rule ends on the earliest of the following:
- (1) The date the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
  - (2) The date the retiree's [*sic., retiree's*] flexible spending account is exhausted.
  - (3) The date the retiree is again employed on a full-time basis by a public employer or state educational institution.

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(4) The date the spouse of a deceased retiree remarries.

(5) The end of the plan year.

*(State Personnel Department; 31 IAC 4-6-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**Rule 7. Limitations**

**31 IAC 4-7-1 Limitations**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. (a) This rule is not intended to create any additional rights to compensation for accrued but unused vacation, sick, or personal leave beyond those rights expressly granted in this article. Except as otherwise provided in this article, a state employee is not entitled to compensation at separation for unused sick or personal leave and payment for accrued but unused vacation continues to be limited to two hundred twenty-five (225) hours in accordance with 31 IAC 1-9-3(f) or 31 IAC 2-11-3(f).

(b) Except as otherwise provided in 31 IAC 4-8, the retired employee's elections, with respect to flexible spending account dollars, are irrevocable. Money the employee elects to allocate to the employee's early retiree medical insurance premiums, dependent care assistance account, or medical reimbursement account that is not expended for the designated purpose within the plan year is forfeited by the retiree to the state. *(State Personnel Department; 31 IAC 4-7-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**Rule 8. Deceased Employees**

**31 IAC 4-8-1 Death before retirement**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 1. If an employee dies while employed by a state agency:

(1) the beneficiary designated by the employee under the state's group term life insurance policy; or

(2) if the employee does not have a beneficiary designated under the state's group term life insurance policy, then the employee's estate;

shall be paid an amount that would have been deposited under this article if the employee had retired effective the day the employee died. *(State Personnel Department; 31 IAC 4-8-1; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 4-8-2 Death after retirement but before plan year**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 2. If an eligible retiree dies before January 1 of the calendar year succeeding the calendar year in which the eligible employee retired, the employee's surviving dependents may make the election under 31 IAC 4-5. *(State Personnel Department; 31 IAC 4-8-2; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA)*

**31 IAC 4-8-3 Death during plan year**

Authority: IC 4-15-1.8-6; IC 4-15-1.8-7; IC 5-10-12-4

Affected: IC 5-10-8-8; IC 5-10-12

Sec. 3. In the event either the retiree or the retiree's spouse dies during the plan year, the survivor may make a new election. In the event neither the retiree nor the retiree's spouse survives throughout the plan year, any surviving dependent's may make a new

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election and submit claims, to be paid from the flexible spending account, for qualified expenditures incurred during the plan year. The provisions of this section are subject to any restrictions imposed by the Internal Revenue Service. (*State Personnel Department; 31 IAC 4-8-3; filed May 10, 2000, 3:24 p.m.: 23 IR 2408, eff Jul 1, 2000; readopted filed Nov 16, 2006, 2:44 p.m.: 20061129-IR-031060150RFA; readopted filed Nov 15, 2007, 3:58 p.m.: 20071212-IR-031070660RFA*)

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