



Illinois Municipal Retirement Fund

Suite 500 2211 York Road Oak Brook, IL 60523-2337

Service Representatives 1-800-ASK-IMRF

www.imrf.org

GENERAL MEMORANDUM

Number: 506

Date: April 25, 2003

To: All Authorized Agents

Subject: Health Insurance Continuation under P.A. 86-1444

Executive Summary

Since January 1, 1991, most IMRF employers have been required to allow certain retired and disabled employees and their surviving spouses to remain on the employer's health insurance policy. This requirement is found in section 367j of the Illinois Insurance Code, which regulates insurance companies doing business in and insurance products sold in Illinois. The Illinois Department of Insurance interprets and enforces the Insurance Code.

Section 367j provides that no group health insurance policy can be issued to an IMRF participating employer unless that group policy provides for post-employment continuation for eligible employees. It further provides that employers who self-insure or participate in an insurance pool, or contract with an HMO, must also allow continuation to eligible employees. This part of section 367j (regarding self-insurance and HMO contracts) is controversial since the Insurance Code regulates insurance companies and not self-insurance arrangements or HMOs. Therefore, it is not clear whether an employer that self-insures or offers only an HMO must provide continuation.

IMRF can no longer provide guidance

Over the years, IMRF has attempted to provide guidance to IMRF employers on this insurance continuation provision. However, the official interpretation of the law comes from the Department of Insurance, and if their opinion conflicts with IMRF's advice, the Department of Insurance prevails.

IMRF has told employers that the continuation requirement ends when an employee becomes eligible for Medicare. Recently, the Department of Insurance issued an opinion that contradicts our advice. (See General Memorandum 501, dated March 3, 2003, for more information). In their opinion, the Department said continuation must continue past Medicare eligibility. However, the Department also said that the employer may reduce the insurance benefits for insureds who become eligible for Medicare. What kinds of reductions can be made, or how a reduced plan for Medicare eligible insureds could be designed has not been fully explained by the Department.

IMRF can no longer advise you with confidence about the requirements of this statute. We can explain,

in general, some things about the law, and describe IMRF procedures for deducting insurance premiums from retirement or disability benefit payments and remitting those deductions to employers.

Specific provisions

Questions about specific situations or the intricate details of the law must be directed to the Department of Insurance, or to your insurance consultants or provider, or your attorney. If your unit of government self-insures, belongs to an insurance pool, or contracts with an HMO, you must consult with your insurance consultants or your attorney to determine what, if anything, you are required to offer under the provisions of P.A. 86-1444.

This memorandum supplements General Memorandum 501.

1. What is the practical effect of this law?

Most IMRF participating employers offering health insurance to active employees must allow certain employees to remain on the employer's group health insurance plan after termination of employment. The employer is not required to pay the terminated employee's insurance premium; however, the employee cannot be charged more than the total premium cost for active employees.

2. Which employees are eligible for insurance continuation?

The employee must be covered under the employer's policy on the day immediately before terminating employment; AND either:

- A) The employee must be immediately eligible for an IMRF pension (the employee is not required to actually begin the pension, but must be eligible to immediately receive the pension on the date of termination); or
- B) The employee is eligible to receive an IMRF disability benefit; or
- C) The employee is an IMRF SLEP participant who terminates employment (at any age) with at least 20 years of SLEP credit.

3. Are dependents of eligible employees included?

Dependents are included in the continuation coverage if they were covered by the plan on the day immediately before the employee terminated employment. IMRF believes they are also eligible to be included at open-enrollment periods, under the same rules that apply to dependents of active employees.

4. Are surviving spouses eligible for continuation?

Certain surviving spouses of deceased terminated employees are entitled to continuation. The terminated employee must have been on continuation at the date of death as either an IMRF retiree or disabilitant. The surviving spouse will be eligible for continuation *if* the spouse will receive an IMRF surviving spouse pension. If the deceased employee was not on insurance continuation, or if the surviving spouse is not entitled to an IMRF surviving spouse pension (or, if entitled, does not elect to receive a surviving spouse pension), the surviving spouse is not eligible for health insurance continuation.

Please note: The law is not entirely clear on this point and further clarification from the Department of Insurance may be warranted.

5. When does insurance continuation end?

Coverage under continuation ends when any one of the following happens:

- A) The retiree, disabled member, or surviving spouse fails to pay premiums;
- B) The retiree or disabled member returns to IMRF covered employment;
- C) The retiree or disabled member is convicted of a job-related felony;
- D) The retiree or disabled member dies (Certain surviving spouses of deceased terminated employees are entitled to continuation, see question 4);
- E) The disabled member takes a refund of IMRF contributions;
- F) The surviving spouse remarries or dies;
- G) The employer terminates health insurance coverage for all employees (actives and those on continuation).

6. What happens when the retiree, disabilitant, or surviving spouse becomes eligible for Medicare?

According to an opinion issued by the Department of Insurance, continuation must continue past Medicare eligibility. However, the Department also says that the employer may reduce the insurance benefits for retirees, disabilitants, and surviving spouses who become eligible for Medicare. This opinion from the Department contradicts the advice IMRF has previously given. Because the Insurance Code is enforced and interpreted by the Department, their opinion prevails.

If you are interested, please contact the Department of Insurance for advice on how to design a plan for insureds on continuation who become eligible for Medicare. Or you may want to contact your insurance consultants or your attorney about insurance for Medicare eligible annuitants.

7. How does insurance continuation under the Illinois Insurance Code affect COBRA rights?

Some IMRF participating employers are required to offer health insurance continuation under the COBRA provision of federal law. COBRA continuation is separate from continuation under the Illinois Insurance Code, and its rules and provisions are different. If the employer is covered by COBRA, an eligible employee may choose between COBRA continuation and Insurance Code continuation. If the employee chooses COBRA continuation, he or she is not eligible for Insurance Code continuation at the end of the COBRA period.

8. How does an employer know if an employee will continue on the health insurance plan?

When the eligible employee terminates employment, the employer must give the insurance carrier written notice that the employee is eligible for continuation. This notice must be given within 15 days of termination and should be by certified mail, return receipt requested. Within 15 days of receipt of that notice, the insurance carrier should notify the employee of eligibility for continuation. Then, the employee has 15 days to accept continuation by notifying the insurance carrier.

9. How does the employer know if a terminated employee is eligible for continuation?

An employer may contact IMRF to verify that the terminating employee is eligible for an IMRF pension or disability benefit. In the case of disability benefits, it may take IMRF several months to determine if the employee will be eligible.

10. How does the employer collect the insurance premiums?

The employee is entitled to have IMRF withhold the insurance premium from the monthly IMRF benefit payment, if the benefit is sufficient to cover the entire premium. IMRF then sends the premium to the employer. Otherwise, the employee will pay the employer each month, as directed by the employer. IMRF cannot withhold insurance premiums from temporary disability benefits. We will withhold from total and permanent disability benefits.

11. What are IMRF's procedures for withholding insurance premiums?

The employee and employer must sign and submit IMRF Form 7.10 "Health Insurance Continuation through Employer—Premium Deduction Authorization."

We will begin deducting the required premium with the next payment we process. We do not withhold more than one month's premium from a payment, even if the payment is for more than one month's benefit.

Please note that IMRF processes benefits in the middle of the previous month, so often the deduction does not begin until two months after the Form 7.10 is filed. IMRF provides a schedule of the following year's processing deadlines each December to all employers who received deducted premiums.

12. How are changes to the premium amounts handled?

All changes to premium amounts must be submitted by the employer, in writing, and the names of the employees covered must be included. If the employer notifies IMRF of the changes in the premium amount by the Friday before the week of the processing deadline, the change will be reflected in the following month's deductions. No special form has been developed to report these changes.

13. How are deductions terminated?

The member or employer must notify IMRF, in writing, by the Friday before the week of the processing deadline to terminate the deduction for the following month's benefit payment.

14. When can an employer expect payment from IMRF?

IMRF sends a payment check after there is a premium deduction. For multiple deductions payable to the same employer, we include a listing of the employees by name, Social Security number, and deduction amount. This list is sorted alphabetically.

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15. What is the procedure if the employer receives a check from IMRF that includes an erroneous deduction because the employee has either died or ended insurance continuation?

The employer should not return the IMRF check. We recommend that the employer pay the erroneously deducted amount directly to the employee or deceased employee's beneficiary. If necessary, the employer can return the erroneous deduction to IMRF through the use of an employer's check.

16. If I have questions about interpretations of Section 367j, whom should I contact?

IMRF can answer general questions; more complicated issues should be direct to the Illinois Department of Insurance, Consumer Service Division, your health insurance provider or consultants, or your attorney. The Consumer Services Division can be reached at (217) 782-4515 or toll free at (866) 445-5364.

17. If I have questions about IMRF procedures, whom should I contact?

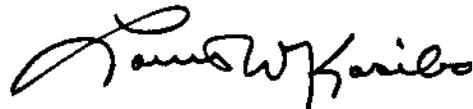
Please call the IMRF Member Services Unit at 1-800-ASK-IMRF (1-800-275-4673) or IMRF Treasury Supervisor Patricia Bara at (630) 706-4222.

IMPORTANT!

The current phone number to call for health insurance continuation is (877) 527-9431.

added 20 June 2014

Sincerely,



Louis W. Kosiba
Executive Director