

November 2015 Rules

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145-1-05

Investment department incentive plan payouts policy.

- (A) Pursuant to section 145.09 of the Revised Code, payment of employee bonuses are subject to the guidelines established by the public employees retirement board as reflected in the investment department annual incentive plan. The plan shall be reviewed and approved on an annual basis by the board, and may be interpreted, amended, rescinded, and/or terminated at any time in the board's discretion. The plan shall establish incentive awards weighted against quantitative performance components, focusing on the public employees retirement system's actual relative investment performance compared with external benchmarks. The plan may also incorporate a qualitative component based on annual goals. Any and all material modifications to the plan, including, but not limited to those related to the assignment of incentive awards, identification of performance measures and standards, and determination of plan payouts and actual payouts, require the board's prior approval.
- (B) Participation in the plan is limited to certain public employees retirement system full-time investment professionals. Participation in the plan in any one year does not confer the right to participate in the plan in the current or any other year and does not confer the right to continued employment.

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Certification

09/29/2015

Date

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Statutory Authority: 145.09
Rule Amplifies: 145.09, 145.092
Prior Effective Dates: 4/10/05, 1/1/15

145-1-06

Ohio-qualified agents and investment managers.

- (A) For purposes of division (A)(4) of section 145.114 and section 145.116 of the Revised Code, an investment manager may be designated as an "Ohio-qualified investment manager" if the investment manager and/or any parents, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (A)(2) of section 145.116 of the Revised Code.
- (B) For purposes of sections 145.114 and 145.116 of the Revised Code, "principal place of business" includes an office in which the agent or investment manager regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.
- ~~(C) For purposes of division (E)(4) of section 145.114 of the Revised Code, "compensation" shall mean the commissions paid on equity securities transactions and the cost or proceeds on fixed income securities transactions.~~

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145-1-07

Investment entities.

The retirement board, pursuant to sections 145.09 and 145.11 of the Revised Code, may create limited liability companies, partnerships, trusts, corporations or other qualified entities to facilitate the investment of its funds.

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Rule Amplifies: 145.11, 145.98
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145-1-09

Staff authority.

- (A) The public employees retirement board authorizes its staff to make determinations required under Chapter 145. of the Revised Code, including, but not limited to, membership, exemptions or exclusions from membership, earnable salary, benefits, and employer reporting. Membership determinations may be appealed to the retirement board pursuant to rule 145-1-11 of the Administrative Code. A staff or senior staff membership determination as described in rules 145-1-10 and 145-1-11 of the Administrative Code that is not timely appealed shall be the final determination of the public employees retirement board. Determinations mandated by statute may not be appealed to the board.
- (B) The public employees retirement board authorizes its staff to establish payment plans with public employers within staff's discretion to satisfy employer billings issued pursuant to Chapter 145. of the Revised Code.

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145.32, 145.33, 145.331, 145.332, 145.35, 145.36,
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4/24/07 (Emer.), 8/9/07, 1/1/11, 1/7/13 (Emer.),
3/24/13, 5/8/14

145-1-10

Staff determination of membership.

- (A) Any affected person may request a determination of membership by providing the public employees retirement system with a written request and supporting documentation of the nature of work performed for which a determination is requested.
- (B) Upon receipt of a membership determination request, the system shall review the submitted information and, if necessary, request additional information from any party. The system shall obtain certification from the public employer prior to issuing a determination. Based upon a review of all information submitted, the system shall issue the staff determination by certified mail to the impacted parties. Any affected person may appeal the staff determination by providing a written notice of appeal together with additional supporting information not later than thirty days after the issuance of the staff determination.
- (C) After submission of a timely notice of appeal, the system shall review all information and issue a senior staff determination. The senior staff membership determination may be appealed as provided in rule 145-1-11 of the Administrative Code.

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Prior Effective Dates: 7/7/13 (Emer.), 9/16/13

145-1-11

Appeal of staff membership determination.

- (A) Any affected person may appeal a senior staff membership determination made pursuant to the staff's authority provided in rule 145-1-09 of the Administrative Code to the public employees retirement board as provided in this rule.
- (B) The senior staff membership determination shall be in writing and sent by certified mail, return receipt requested. An appeal shall be submitted to the executive director in writing not later than sixty days after the date of the senior staff membership determination. It shall state the senior staff membership determination to be reviewed and the basis for the review.
- (C)
- (1) The retirement board may delegate its authority to hear an appeal to an independent hearing examiner prior to the retirement board making its final decision on the appeal.
- (a) The independent hearing examiner must be licensed to practice law in the state of Ohio. The independent hearing examiner shall conduct a hearing and issue a report and recommendation to the retirement board.
- (b) There shall be a transcript of the hearing. At the hearing, parties to the appeal and staff are permitted to submit evidence in the form of witness testimony and any form of documentation. At the hearing, parties to the appeal may be represented by counsel or other representative, and staff may be represented by the office of the attorney general.
- (c) The original report and recommendation shall be sent to the retirement board. Copies of the report and recommendation shall be provided to the parties to the appeal and to staff. Within fifteen days of the date of issuance of the report and recommendation by the hearing examiner, the parties to the appeal and staff may submit written objections to the report and recommendation. The written objections shall be submitted to the retirement board and shall not exceed fifteen pages in length. Copies of the written objections shall be sent to the parties to the appeal and to staff.
- (2) If a written objection is filed under paragraph (C)(1)(c) of this rule, the retirement board may permit the parties to the appeal and staff to make a personal appearance before the retirement board prior to the retirement board's final review of the appeal.

- (a) If a personal appearance is permitted, the parties to the appeal shall be notified in writing by certified mail, return receipt requested, of the time and place of such appearance.
 - (b) A party to the appeal may be represented by counsel or other representative at the retirement board meeting at which the personal appearance is scheduled and staff may be represented by the office of the attorney general.
 - (c) Each party and staff will be given the opportunity to make final arguments, not to exceed five minutes, to the retirement board, and answer any questions of the retirement board.
 - (d) No additional testimony or documentation from the parties will be accepted by the retirement board during the personal appearance. The staff shall prepare and submit a summary memorandum.
- (3) The record of any appeal shall consist of the information submitted by the parties and staff to the hearing examiner, the report and recommendation, the transcript of the hearing, any objections to the report and recommendation and the minutes of any personal appearance.
- (4) The retirement board shall review the report and recommendation and any objections to the report and recommendation in determining whether to accept, reject, or modify the report and recommendation and may remand to the hearing examiner for further findings before making its final decision.
- (5) The parties to the appeal and their representatives shall be notified in writing by certified mail, return receipt requested, of the retirement board's final decision.
- (D) The retirement board's decision on any determination conducted pursuant to this rule shall be final and determinative and may be summarily applied to all similarly situated employees of the same employer.
- (E) The executive director or the director's designee shall notify the parties to the appeal in writing of any notice required by this rule.

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6/15/02, 1/1/03, 4/24/07 (Emer.), 8/9/07, 11/30/07,
12/10/12; 1/7/13 (Emer.), 3/24/13

145-1-13

Notice of meetings.

- (A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by any of the following methods:
- (1) Consulting the website of the public employees retirement system at www.opers.org;
 - (2) Calling the retirement system during normal business hours at (800) 222-7377.
 - (3) Requesting electronic notice of all meetings of the public employees retirement board. The retirement system shall maintain a list of all persons and news media who have requested such notification. A request for such notification shall comply with all of the following:
 - (a) Contain the name of the person making the request and an email address to which electronic notice should be sent;
 - (b) Be sent to the retirement system by electronic mail to boardnotice@opers.org; and
 - (c) Be received by the retirement system not less than forty-eight hours prior to any regularly scheduled meeting or special meeting.
- (B) The retirement system shall provide notice of meetings in accordance with the following:
- (1) For regular meetings, notice shall be given at least four days prior to the meeting and shall specify the time and place of the meeting.
 - (2) For special meetings, notice shall be given immediately upon scheduling the meeting, but not less than twenty-four hours before the meeting and shall specify the time, place, and purpose of the meeting.
 - (3) For special meetings in the event of an emergency requiring immediate board action, notice shall be given as soon as possible and shall specify the time, place, and purpose of the meeting.

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Rule Amplifies: 145.07, 121.22
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145-1-15

Rule on rules.

- (A) Except as otherwise provided in Chapter 145. of the Revised Code, the public employees retirement board shall adopt rules pursuant to section 111.15 of the Revised Code.
- (B) Any person or organization may obtain notice of any proposed amendment, rescission, or adoption of a rule by making a written request that their name be placed on the mailing list to receive the retirement board's meeting agenda. Notice shall be provided to only one representative of an organization.
- (C) Notice of adopted rules after such rules are effective shall be mailed to public employers, and, when applicable, reported in publications sent to members, contributors, or retirants and benefit recipients.
- (D) Any form or document referenced in Chapters 145-1 to 145-4 of the Administrative Code shall not be incorporated into such Chapters unless specifically provided for within the rule.

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Rule Amplifies: 145.09
Prior Effective Dates: 9/22/76, 9/27/97, 1/1/03, 1/1/06

145-1-21

Federal tax compliance provisions.

- (A) This rule is applicable to Chapter 145. of the Revised Code excluding sections 145.80 to 145.98 of the Revised Code.
- (B) The board shall distribute the funds established in Chapter 145. of the Revised Code to participants and their beneficiaries in accordance with the provisions of such chapter. No part of the corpus or income of these funds may be used for or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.
- (C) A member who satisfies the eligibility requirements of section 145.32 or 145.332 of the Revised Code shall have a non-forfeitable right to receive the benefit payable as allowed by Chapter 145. of the Revised Code. If there is a termination of the plan described in sections 145.201 to 145.79 of the Revised Code, the rights of each affected member to the benefits accrued at the date of termination, to the extent then funded, are non-forfeitable.
- (D) Employer contribution forfeitures arising from severance of employment, death, or for any other reason of the member may not be applied to increase the benefits any participant would otherwise receive under Chapter 145. of the Revised Code in accordance with section 401(a)(8) of the Internal Revenue Code and applicable regulations thereunder.
- (E) Notwithstanding any provision in Chapter 145. of the Revised Code or Chapters 145-1 to 145-4 of the Administrative Code to the contrary, distributions to members and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code and applicable regulations thereunder and with the following rules.
- (1) The entire interest of a member shall be distributed to such member:
- (a) Not later than the required beginning date; or
 - (b) Beginning not later than the required beginning date, in accordance with applicable regulations, over the life of such member and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code.
- (2) The required beginning date means April first of the calendar year following the later of:
- (a) The calendar year in which the member attains age seventy and one half years of age; or

- (b) The calendar year in which the member retires.
- (3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code and the accompanying regulations, and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.
- (4) If a member dies before the distribution of the member's interest has begun in accordance with section 401(a)(9) of the Internal Revenue Code and the accompanying regulations, the entire interest of the member will be distributed within five years after the death of such member. However, if a benefit is payable to or for the benefit of a beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed (in accordance with applicable regulations) over the life of such beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), provided that such distributions begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required, pursuant to this section, to begin until the end of the calendar year in which the member would have attained age seventy and one-half.
- (5) Any death benefit amounts payable under Chapter 145. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code and regulations thereunder.
- (6) A reasonable and good faith interpretation of section 401(a)(9) of the Internal Revenue Code and the final regulations issued December 29, 2004 shall apply to all plan years commencing on and after January 1, 2006.
- (7) A retiree or beneficiary who would have been required to receive required minimum distributions for 2009 from an additional annuity or money purchase account but for the enactment of Section 401(a)(9)(H) of the Internal Revenue Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (a) equal to the 2009 RMDs or (b) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the retiree, the joint lives of the retiree and retiree's designated beneficiary, or for a period of at least ten years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the retiree or beneficiary chooses to receive such distributions. Retirees and beneficiaries described in this paragraph shall be given the opportunity to elect to receive the distributions described in this paragraph.

(F) Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified by resolution of the board in a way that precludes employer discretion.

(G) The term "spouse" shall mean:

(1) A member's legal spouse at the applicable time.

(2) For purposes of meeting any requirements under the Code, an individual who is legally married to a member, including a marriage of same-sex individuals that is validly entered into in a state whose laws authorize the marriage of two individuals of the same sex, even if the individuals are domiciled in a state that does not recognize the validity of same-sex marriages.

(3) As and when required by law, for all purposes under the plan, an individual who is legally married to a member, including a marriage of same-sex individuals that is validly entered into in any state.

Further, the terms "married" and "marriage" shall have a meaning consistent with the definition of spouse at the applicable time. Individuals (whether part of an opposite-sex or same-sex couple) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of that state are not legally married. For this purpose, the term "state" means any domestic or foreign jurisdiction having the legal authority to sanction marriages.

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6/23/08, 1/1/11, 1/7/13 (Emer.), 3/24/13

145-1-23

Determination of employer contribution rate.

- (A) The employer contribution rate for a newly created public employer shall be established by examining the enabling statute, ordinance or resolution. If such enabling authority creates a local government employer, or which is primarily funded by such employers, the local government employer contribution rate shall apply. If the enabling authority creates a state government employer, or which is primarily funded by such employers, the state government employer contribution rate shall apply.
- (B) If there is a change in an enabling statute, ordinance or resolution that causes an employer contribution rate to no longer be accurate, the employer's rate shall change to the appropriate rate described in paragraph (A) of this rule.

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Rule Amplifies: 145.48
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145-1-24

Contribution rates.

Pursuant to sections 145.22, 145.47, 145.48, and 145.49 of the Revised Code the public employees retirement board shall establish employee, state government employer, local government employer, public safety, and law enforcement contribution rates after the recommendation by the retirement board's actuary.

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4/5/01, 3/22/02, 1/1/03, 1/1/10

145-1-26 **Definition of earnable salary.**

- (A) This rule amplifies and is in addition to the provisions of division (R) of section 145.01 of the Revised Code.
- (B) As used in division (R)(1)(e) of section 145.01 ~~and section 145.296~~ of the Revised Code, ~~"sponsored by the employer" means the employer funded a program in whole or in part.~~ and this rule:
- (1) "During the year" means the calendar year or not later than one month following the calendar year in which a payment is made;
- (2) "Sponsored by the employer" means the employer funded a program in whole or in part.
- (C) For purposes of section 145.016 of the Revised Code, the earnable salary for each month upon which a member's service credit is allowed shall be the salary reported by the employer for all pay period end dates in each calendar month or more frequent interval.
- (D) Provided the amount is not otherwise excluded from earnable salary under section 145.01 of the Revised Code or this rule, for the purposes of the calculations required pursuant to sections 145.47, 145.48, and 145.49 of the Revised Code, a public employee's salary, wages, or earnings shall include amounts:
- (1) Treated as deferred income for federal income taxation under Internal Revenue Code section 401(k), 403(b) or 457;
- (2) Designated by the employer as picked-up contributions under Internal Revenue Code section 414(h)(2) by either a salary reduction method or the gross salary under a fringe benefit method; or
- (3) Not treated as income for federal income taxation under Internal Revenue Code section 125 except as provided in paragraph (F)(5) of this rule.
- (E) For purposes of section 145.01 of the Revised Code and this rule:
- (1) "Conversion program" means the employer's annual program for conversion of sick leave, personal leave, and vacation leave, as described in division (R)(1)(b) of section 145.01 of the Revised Code, and that meets all of the following:
- (a) The retirement system has received a copy of the employer's resolution,

meeting minutes, or other formal documentation detailing the terms and adoption of the conversion program;

(b) The documentation described in paragraph (E)(1)(a) of this rule is submitted annually to the public employees retirement system not later than December 31 of the year for which the program applies to determine compliance with section 145.01 of the Revised Code and this rule;

(c) Payments under the conversion program are not issued before the retirement system reviews and approves the program;

(d) Participation in the program is not based on the member's service credit in the retirement system or an agreement to retire.

(2) ~~"During the year" means in the year or not later than one month following the year in which a payment is earned under a conversion program for its employees. Such earnable~~ Earnable salary shall be reported on a report of retirement contributions for the year in which such payment was accrued.

(3) "Leave accrued, but not used" means ~~the most recent~~ any leave accrued, ~~but not used, during the calendar year on a last-in/first-out method of conversion,~~ less any leave used in the calendar year.

(F) The following payments made by the public employer are "earnable salary":

(1) Payments for overtime worked and payments for accrued but unused compensatory time for overtime worked if such payments are made during the year in which the compensatory time is accrued.

(2) Payments made annually or more frequently as a supplement for longevity of service.

(3) Stipends paid to a student that are subject to federal income taxation.

(4) Payments made for assuming call or stand-by responsibility.

(5) Payments made in lieu of salary, wages, or other earnings for sick leave used under a donated sick leave program.

(G) The following payments made by the public employer are not "earnable salary":

- (1) Payments made by the employer for accrued overtime worked or for compensatory time for overtime worked that are made at any time other than in the year in which the overtime or compensatory time is accrued;
- (2) Payments made by the employer as a residency bonus to employees;
- (3) Payments made pursuant to an agreement and representing either one-time lump-sum payments or bonus payments made periodically but not related to or not made upon the basis of the individual employee's basic rate of pay;
- (4) Retroactive payments made by the employer within thirty-six months of the employee's effective date of retirement and with an understanding that the employee would retire;
- (5) Monetary amounts that are in excess of the employee's gross salary paid in lieu of a fringe benefit or a cash value placed on that fringe benefit;
- (6) The amount in excess of gross salary paid under a fringe benefit method as picked-up contributions under Internal Revenue Code section 414(h)(2);
- (7) Stipends paid to a student that are not subject to federal income taxation;
- (8) Payments made as honoraria that means a nominal payment made for services for which there is no binding legal obligation to pay;
- (9) Payments made as fees or commissions that are fixed charges or calculated as a percentage of an amount ~~not directly related to work or services performed~~, including but not limited to, percentages of sales, tips, amounts paid to individuals who serve on a fee basis or compensation on a per page, per meeting, per inspection, or per emergency response event;
- (10) Payments paid by the employer to an individual who is not a public employee;
- (11) Payments for accrued, but unused sick leave, personal leave, or vacation leave that are made at the time of termination of employment; and
- (12) Reimbursement for expenses.

(H)

- (1) If a member or retirant is reinstated without interruption or loss of time to the member or retirant's former or comparable position of employment and awarded back wages pursuant to a final court order, arbitration or personnel board of review order, grievance award, or other settlement or order, the earnable salary upon which employee and employer contributions are due is the earnable salary that would have been due the employee for the entire period of reinstatement. "Comparable position" includes positions with similar titles, grades, classifications, occupational categories or salaries.
 - (a) Employee and employer contributions shall be reported and paid in the same amount as would have been contributed if the member or retirant had been reported to the retirement system during the period of reinstatement. If the member or retirant is reinstated to a comparable position, contributions for the period of reinstatement are based on the salary of the comparable position. If the amount of earnable salary cannot be reasonably determined, then the amount shall be the average earnable salary during the twelve-month period immediately preceding the date of termination.
 - (b) If a member had previously taken a refund of the member's accumulated contributions pursuant to section 145.40 of the Revised Code or article VIII of the combined plan document at the time of termination, the member may purchase the refunded service pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code.
 - (c) If a member on or after the date of termination, applied for and received a benefit pursuant to section 145.32, 145.33, 145.332, 145.35, 145.36, 145.361, 145.37, or 145.46 of the Revised Code, article IX or X of the combined plan document, or article IX of the member-directed plan document, and any period of reinstatement is concurrent with a period for which the member received a benefit, section 145.362, 145.38, 145.382, or 145.383 of the Revised Code, whichever is applicable, shall apply.
- (2) If a member or retirant is awarded additional earnable salary pursuant to a final court order, arbitration or personnel board of review order, grievance award, or other settlement or order for any period of employment for which contributions were made, the earnable salary upon which employee and employer contributions are due is the additional earnable salary that would have been due for the period of the award. Employee and employer contributions shall be reported and paid in the same amount as would have been contributed if the member or retirant had been reported to the retirement system during the period of employment.

(I)

- (1) Prior to remitting deductions on compensation on which there is a question of whether such compensation is earnable salary, the employer shall request a determination by the retirement board.
- (2) If the employer fails to request a prior determination and the board determines the salary, wage or earning to be earnable salary, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been remitted.
- (3) If the employer fails to request a prior determination and the board determines the salary, wage or earning is not earnable salary, then the retirement system may do either of the following:
 - (a) Except as provided in paragraph (I)(3)(b) of this rule, refund up to a maximum of the current year plus three full calendar years of contributions prior to the current year;
 - (b) For a member who is within one year of attaining age and service retirement eligibility, refund not more than twelve months of contributions.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.01, 145.09
Rule Amplifies: 145.01, 145.016, 145.47, 145.48, 145.49
Prior Effective Dates: 6/18/86 (Emer.), 8/28/86, 5/27/88, 10/31/88, 3/17/89,
8/31/91, 8/31/92, 6/1/96, 9/27/97, 11/2/00, 1/1/03,
1/1/06, 1/1/07, 1/1/12, 1/7/13 (Emer.), 3/24/13, 1/1/14,
7/1/14

145-1-27

Remittance of employer liabilities.

(A) For the purposes of this rule:

- (1) "Employer account summary" means the statement issued each calendar month, quarter, or year by the public employees retirement system to a public employer that represents the obligations for the preceding calendar period.
- (2) "Employer liabilities" means any amount due to the retirement system under Chapter 145. of the Revised Code or section 3305.06 of the Revised Code but does not mean nor include employee contributions or deductions due pursuant to section 145.47 or 145.294 of the Revised Code.
- (3) "Received" means actual receipt by the retirement system, the postmark date, or the date scheduled to pay via electronic payment.
- (4) "Supplemental report" has the same meaning as in rule 145-1-28 of the Administrative Code.
- (5) The ninetieth day and thirtieth day shall be computed in the method as described in section 1.14 of the Revised Code.

(B)

- (1) Employer liabilities shall be received by the retirement system not later than the ninetieth day after the calendar end of the quarter in which it became a liability.
- (2) Beginning on January 1, 2008, employer liabilities shall be received by the retirement system not later than the thirtieth day after the last day of the calendar month for which related member contributions are withheld.

(C)

Employer liabilities received after the due date described in paragraph (B) of this rule shall be assessed penalties and interest pursuant to division (C) of section 145.51 of the Revised Code.

(D)

- (1) Notwithstanding paragraph (B)(1) of this rule, amounts due from an employer based on a supplemental report shall be received by the retirement system not

later than the end of the quarter following the date the supplemental report was received. .

- (2) Notwithstanding paragraph (B)(2) of this rule, amounts due from an employer based on a supplemental report shall be received by the retirement system not later than the thirtieth day after the last day of the calendar month following the date the supplemental report was received.
 - (3) If the amount due under the supplemental report as described in this paragraph is past due, interest and penalty on the amount shall be assessed in the same manner as described in division (C) of section 145.51 of the Revised Code.
- (E) Pursuant to division (A)(2) of section 145.01 of the Revised Code, the governmental unit with which the contract has been made as described in that section shall remain the employer for purposes of section 145.51 of the Revised Code and this rule.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

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Rule Amplifies: 145.51
Prior Effective Dates: 5/31/97, 9/27/97, 1/1/03, 1/1/06, 4/6/07 (Emer.),
7/1/07, 1/1/14

145-1-28

Remittance of employer contributions.

(A) For the purposes of this rule and sections 145.294 and 145.47 of the Revised Code:

- (1) "Employee contribution" means the full amount of employee contributions due for a particular reporting period pursuant to section 145.47 of the Revised Code or employee deductions pursuant to section 145.294 of the Revised Code.
- (2) "Filed" means actual receipt by the public employees retirement system, the postmark date, or the date scheduled to pay via electronic payment.
- (3) "Report" means a record of the employee contributions that is free from errors or omissions and is in the form required by the public employees retirement board.
- (4) "Reporting period" means the monthly or more frequent interval for which an employer reports employee contributions that contains all pay period ending dates occurring in the calendar month.
- (5) "Supplemental report" means a report of employee contributions that is submitted by the employer in addition to the regular report due to the employer's need to report additional contributions for the employer's payment of a disability payment, retroactive salary payment, payment pursuant to a settlement agreement, longevity payment, ~~or~~ payment to a terminated or deceased employee, or payment to an election worker that requires membership in the system.
- (6) The thirtieth day shall be computed in the method as described in section 1.14 of the Revised Code.

(B) The employer shall transmit for each reporting period subsequent to the date of coverage an amount equal to the applicable percent of each contributor's earnable salary. Both employee contributions to the retirement system and a corresponding report shall be filed with the system no later than the thirtieth day after the last day of the reporting period for which they are due.

(C) For employee contributions due on or after the effective date of this rule, if either an employee contribution or the corresponding report is not filed on or before the thirtieth day after the last day of the reporting period for which they were due, a penalty as described in section 145.47 of the Revised Code shall be added.

(D)

- (1) Upon submission of a supplemental report, the employer shall also submit additional documentation, as required by the retirement system, to substantiate the nature and reason for the supplemental report.
 - (2) Notwithstanding paragraph (B) of this rule, the supplemental report, the corresponding contributions, and the documentation required in paragraph (D)(1) of this rule shall be received by the system not later than the thirtieth day after the last day of the month during which the member was paid the supplemental amount.
 - (3) Failure to provide any of the items in paragraph (D)(2) of this rule by the date specified in that paragraph shall cause the deductions to be subject to the penalty described in paragraph (C) of this rule.
- (E) If a member elects to have additional contributions remitted to the retirement system pursuant to section 145.2916 of the Revised Code, the contributions shall be remitted concurrently with the period of denied salary.
- (F) Pursuant to division (A)(2) of section 145.01 of the Revised Code, the governmental unit with which the contract has been made as described in that section shall remain the employer for purposes of section 145.47 of the Revised Code and this rule.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

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Statutory Authority: 145.09
Rule Amplifies: 145.294, 145.2916, 145.47
Prior Effective Dates: 1/1/06, 1/1/11, 1/7/13 (Emer.), 3/24/13, 1/1/14, 5/8/14

145-1-31 Payment for periods of noncontributing service.

(A) This rule amplifies section 145.483 of the Revised Code.

(B) For purposes of this rule:

(1) "Exempt" means exempt from membership in the public employees retirement system pursuant to Chapter 145. of the Revised Code as effective during the period of noncontributing service and for which there is a properly executed written exemption.

(2) "Excluded" means excluded from membership in the retirement system because Chapter 145. of the Revised Code specifically excludes a person, or the person is not a public employee.

(3) "Noncontributing service" means a period of employment or service for which employee contributions pursuant to section 145.47 of the Revised Code were due, but not deducted by an employer, because the service was neither exempt nor excluded.

(4) "Properly executed written exemption" means:

(a) For employment which began before November 20, 1973, an exemption form provided by the retirement system which was signed by both the employee and employer and received by the retirement system within one month from the date employment began.

(b) For employment beginning on or after November 20, 1973, an exemption form provided by the retirement system which was signed by both the employee and employer, received by the retirement system within one month from the date employment began, and approved by the retirement system.

(C) An employer that failed to deduct employee contributions from a public employee during a period of employment, after January 1, 1935, for state employees or after July 1, 1938, for all other employees, for which employee contributions were required shall certify the earnable salary for such noncontributing service period on a form provided by the retirement system. This certification must be based on records available to the employer.

(D)

(1) After receipt of the employer's certification, the retirement system shall prepare

an employer billing statement for employee and employer contributions and interest for the period of noncontributing service.

- (2) Interest shall be calculated through the end of the year preceding the date of the employer billing statement.
- (3) The amount of employee contributions shall be calculated using the employee contribution rate, earnable salary and maximum contribution limits in effect during the period of noncontributing service.
- (4) The amount of employer contributions shall be calculated using the employer contribution rate in effect during the period of noncontributing service.
- (5) The employer is liable for the total amount due in the employer billing statement.
- (6) If the amount contained in the employer billing statement is not paid it will be added to the employer's quarterly billing summary.

(E)

- (1) An employer shall not be billed for a period of noncontributing service which occurred before a period of contributing service for which a member received a refund of the member's accumulated contributions, pursuant to section 145.40 of the Revised Code or Article VIII of the combined plan document, until the member has made a redeposit of the refund, pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code.
- (2) The following applies when an employee who is or was exempt from membership pursuant to section 145.03 of the Revised Code with a public employer also has noncontributing service and is an employee with the same public employer.
 - (a) Absent a written exemption, the period of noncontributing service shall be billed to the employer pursuant to section 145.483 of the Revised Code and this rule.
 - (b) An employer shall not be billed for periods of exempt service that are subsequent to a period of noncontributing service unless the subsequent period of exempt service begins within three months from the last date of compensation for the noncontributing service.

- (3) A member who has service that was exempt and not billed to an employer may purchase such exempt service pursuant to section 145.28 of the Revised Code and PERS rules.

(F) Except as provided in paragraph (F)(4) of this rule:

- (1) Employee contributions paid by the employer pursuant to section 145.483 of the Revised Code and this rule shall be held in the employers' accumulation fund as defined in division (B) of section 145.23 of the Revised Code.
- (2) Employee contributions paid by the employer, pursuant to section 145.483 of the Revised Code and this rule, shall be refunded to such employer in the event the member receives a refund of the member's accumulated contributions pursuant to section 145.40 of the Revised Code or a distribution under article VIII of the combined plan document. Amounts paid for employer contributions, interest or other fees, pursuant to section 145.483 of the Revised Code, shall remain with the retirement system.
- (3) The employer which received employee contributions, pursuant to paragraph (F)(2) of this rule, shall be liable for a return of such employee contributions if the employee again becomes a member of the retirement system and either makes a redeposit pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code. The retirement system shall bill the employer for the employee contributions plus interest calculated from the date of the refund through the end of the year preceding the date of the statement.
- (4)
 - (a) For members participating in the member-directed plan, employee contributions and interest paid by the employer pursuant to section 145.483 and this rule shall be held in the member's employer contribution account, as defined in section 1.19 of the member-directed plan document. The amount credited to the member's employer contribution account pursuant to section 145.483 of the Revised Code shall vest in accordance with section 7.02 of the member-directed plan document. If the member receives a distribution under article VII of the member-directed plan document, the non-vested portion of the employee contributions shall be refunded to the employer.
 - (b) For members participating in the member-directed plan, employer contributions and interest paid by the employer pursuant to section

145.483 of the Revised Code and this rule shall be credited to the member's employer contribution account, as defined in section 1.19 of the member-directed plan document, and the retiree medical account, as defined in rule 145-4-01 of the Administrative Code, in the percentages determined by the OPERS board. The amount credited shall vest in accordance with the relevant provisions of the member-directed and VEBA health plan documents. If the member receives a distribution under article VIII of the member-directed plan document, the non-vested portion of the amounts paid for employer contributions, corresponding interest or other fees pursuant to section 145.483 of the Revised Code shall be transferred as described in section 7.04 of the member-directed plan document or section 4.02 of the VEBA health plan document, as applicable.

- (G) If a member has contributions in more than one retirement plan, the contributions paid by the employer pursuant to section 145.483 of the Revised Code shall be credited to the plan in which the noncontributing service would have been earned, if it were remitted at the time the service occurred. If the member no longer has contributions in the retirement plan in which the noncontributing service would have been earned, the contributions paid by the employer pursuant to section 145.483 of the Revised Code shall be credited to the plan in which the member is now contributing.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.47, 145.48, 145.483, 145.49
Prior Effective Dates: 12/20/72, 11/2/91, 10/4/93, 5/3/97, 11/2/00, 1/1/03,
1/1/06, 1/1/09, 7/11/09

145-1-33

Omitted contributions.

All payments made by employees and their employers for omitted contributions, completed before January 25, 1972, having been made in accordance with the board policy interpreting the statute in effect at the time of payment, are proper and are not subject to recomputation.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

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Certification

09/29/2015

Date

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Statutory Authority: 145.09
Rule Amplifies: 145.47, 145.48
Prior Effective Dates: 6/18/75, 1/1/03

145-1-35 Service purchase.

(A) For purposes of Chapter 145. of the Revised Code and Chapters 145-1 to 145-4 of the Administrative Code:

- (1) "Service purchase" means both of the following:
 - (a) For members participating in the traditional pension plan, payment for the purchase of service credit pursuant to section 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2915, 145.301, 145.302, 145.31, or 145.47 of the Revised Code, former section 145.295, 145.2911, or 145.2913 of the Revised Code as they existed prior to January 7, 2013, or rule 145-2-18 of the Administrative Code.
 - (b) For members participating in the combined plan, payment for the purchase of service credit pursuant to section 145.20, 145.201, 145.291, 145.292, 145.293, 145.299, 145.2915, 145.302, or 145.47 of the Revised Code, former section 145.295, 145.2911, or 145.2913 of the Revised Code as they existed prior to January 7, 2013, rule 145-3-21, 145-3-22, or 145-3-40 of the Administrative Code, or section 3.11 or 3.12 of the combined plan document.
- (2) "One-time or lump-sum payment" means a service purchase that is the full cost of the service credit a member elects to purchase and is paid directly to the public employees retirement system.
- (3) "Partial payment" means a service purchase that is less than the full cost of the service credit a member elects to purchase and is paid directly to the retirement system.
- (4) "Payroll deduction" means a service purchase made pursuant to section 145.294 of the Revised Code and rule 145-1-38 of the Administrative Code.
- (5) A "statement of cost" means a bill prepared by the retirement system stating the cost of the service credit to be purchased. If a statement of cost described in this paragraph is not paid in full prior to its expiration, the member may complete the purchase of the remaining service credit by a lump sum or one-time partial payment of the cost, as recalculated by the system at the time of the final payment.
- (6) "Sixty-month amortization amount" means the monthly dollar amount necessary to complete a service purchase prior to the expiration of a statement of cost.

(B) A member participating in the traditional pension plan or combined plan may make a service purchase, pursuant to Chapter 145. of the Revised Code and Chapters 145-1 to 145-4 of the Administrative Code and federal Internal Revenue Code section 415, either directly to the retirement system or by payroll deduction. A statement of cost issued on or after July 7, 2013, shall expire not later than five years after the date of the first payment or first deduction.

(C)

(1) Except as otherwise provided in Chapter 145. of the Revised Code, the interest rate to be used in calculating the cost of a service purchase shall be six per cent compounded annually. Beginning on January 1, 2014, the interest rate shall be a per cent equal to the assumed actuarial rate of interest compounded annually. Interest shall be calculated under the applicable Revised Code section from the first date through the end of the month of payment.

(2) Interest shall be applied to unpaid balances of service purchases by partial payment or payroll deduction at a rate equal to the assumed actuarial rate of interest compounded annually after the first payment or deduction. Interest shall be calculated from the date of the first payment through the last day of the month in which the cost statement expires.

(3) The public employees retirement board may adjust the interest rates in paragraphs (C)(1) and (C)(2) of this rule. If adjusted, the new interest rate shall apply to any statement of cost issued or initial payroll deduction begun after the adjustment.

(D) If the retirement system is required to apply the member's contribution rate at the time the service occurred against the member's earnable salary in calculating the cost of a service purchase, such rate shall not exceed the maximum employee contribution limits that were applicable at the time the service occurred.

(E)

(1) Service credit shall be granted following receipt of all lump-sum payments, partial payments, or payroll deductions received in a month.

(2) Except as otherwise provided in Chapter 145. of the Revised Code, when a member makes a service purchase by partial payment or by payroll deduction, interest at a per cent equal to the assumed actuarial rate of interest compounded annually shall be applied to the unpaid balance. The minimum payment accepted by the system shall be the greater of one hundred dollars or

the sixty-month amortization amount. The system may recalculate the sixty-month amortization amount when the member's payment or payments cause a material increase or reduction in the sixty-month amortization amount, as determined by the system. Service credit shall be granted by multiplying the service credit not yet purchased by a fraction having as the numerator the payment amount less current interest paid and as the denominator the unpaid balance on which the current interest was calculated.

(F)

In addition to the requirements specified in paragraph (B) of this rule, all service purchases shall be completed prior to issuance of the initial benefit payment. Subject to the requirements specified in paragraph (B) of this rule, a disability benefit recipient may purchase service credit after the issuance of the initial benefit payment while on a leave of absence described in section 145.362 of the Revised Code. Any service purchased by a disability benefit recipient during the leave of absence described in this paragraph shall take effect on the first day of the month following the date of purchase.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

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Rule Amplifies: 145.01, 145.20, 145.201, 145.28, 145.29, 145.291,
145.292, 145.293, 145.294, 145.299, 145.301,
145.302, 145.31, 145.47, 145.81
Prior Effective Dates: 8/20/76, 1/1/78, 12/14/89, 5/29/95, 11/2/96, 9/27/97,
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1/1/06, 7/1/07 (Emer.), 8/9/07, 1/12/08, 4/1/08
(Emer.), 6/23/08, 1/1/12, 1/7/13 (Emer.), 3/24/13,
7/7/13 (Emer.), 9/16/13, 5/8/14, 1/1/15, 3/23/15
(Emer.), 6/6/15

145-1-36 Service credit purchase under Substitute S.B. 343.

- (A) This rule amplifies section 4 of Substitute S.B. 343 of the 129th General Assembly.
- (B) For purposes of this rule, “service credit” means all of the following:
- (1) Service credit that may be purchased or obtained under former division (H) of section 145.01 and former sections 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.299, 145.30, and 145.47 of the Revised Code, as those sections existed immediately prior to January 7, 2013.
 - (2) Additional contributions paid by a member under former division (Y) of section 145.01 of the Revised Code, as that section existed immediately prior to January 7, 2013.
 - (3) Service credit that may be purchased under section 145.301 of the Revised Code.
 - (4) Service credit that may be purchased or obtained under section 145.814 of the Revised Code or rule 145-2-18 or 145-3-40 of the Administrative Code for an election that is effective on or before July 1, 2013, under section 2.03 of the combined or member-directed plan document, as amended on January 7, 2013.
- (C) Except as provided in paragraph (E) of this rule, each member who is purchasing or is eligible to purchase service credit must initiate or continue the purchase by making one or more direct payments to the public employees retirement system during the period beginning on January 7, 2013, and ending on July 7, 2013, or by commencing a payroll deduction during the same period as described in this rule and in rule 145-1-38 of the Administrative Code. A payroll deduction shall be initiated if the system receives a payroll deduction form with a postmark date that is on or after January 7, 2013, but not later than July 7, 2013, and the amount to be deducted from the member’s payroll is received by the system not later than one hundred twenty days after the postmark date.
- (D) Except as provided in paragraph (E) of this rule, each member who is eligible to obtain service credit under former section 145.30 of the Revised Code shall initiate a request to obtain the credit during the six-month period described in paragraph (C) of this rule. A request shall be initiated if the system receives during the same period described in this paragraph the member’s report(s) of separation (form DD214) or other satisfactory documentation as evidence of the member’s military service accompanied by a request by the member to obtain the credit.

- (E) A member who, by reason of service in the uniformed services as defined in section 145.302 of the Revised Code, is prevented from taking action under paragraph (C) of this rule may, not later than ninety days after the reemployment with member's public employer, apply to the system to have reestablished all or a portion of the six-month period described that paragraph. The member shall submit to the system report(s) of separation (form DD214) or other satisfactory documentation as evidence of the member's military service.

- (F) A member who, as of January 7, 2013, has made a partial payment or is subject to a post-tax payroll deduction agreement for the purchase of service credit under section 145.201 of the Revised Code may, during the six-month period described in paragraph (C) of this rule, request that the member's cost statement or payroll deduction agreement be recalculated to include any additional credit the member is eligible to purchase under section 145.201 of the Revised Code. If the system does not receive a request from the member prior to the end of the six-month period, any additional credit the member is eligible to purchase under section 145.201 of the Revised Code shall be eligible for purchase under rules 145-2-02 and 145-3-23 of the Administrative Code.

- (G) A member described in division (C) of section 4 of Substitute S.B. 343 of the 129th General Assembly is ineligible to purchase additional service credit as described in that division if any of the service upon which the purchase is based has a monthly earnable salary of less than one thousand dollars.

- (H) A purchase of service credit under this rule shall be completed by the member not later than July 7, 2018.

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09/29/2015

Date

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Rule Amplifies: Section 4 of Sub. S.B. 343, 129th GA
Prior Effective Dates: 1/7/13 (Emer.), 3/24/23

145-1-37

Purchases made with a rollover distribution.

(A) For purposes of this chapter, "eligible rollover distribution" or "rollover distribution" means any amount that qualifies as an eligible rollover distribution under section 402(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C.A. 415, and paid to a member or the surviving spouse of the member from:

- (1) Another employer plan qualified under section 401(a) of the Internal Revenue Code;
- (2) An individual retirement account, or annuity other than an endowment contract, under section 408 of the Internal Revenue Code;
- (3) A governmental deferred compensation plan under section 457 of the Internal Revenue Code;
- (4) An annuity plan under section 403(a) of the Internal Revenue Code; or
- (5) A tax-sheltered annuity qualified under section 403(b) of the Internal Revenue Code.
- (6) A governmental plan under section 414(d) of the Internal Revenue Code.
- (7) A keogh plan under section 410 of the Internal Revenue Code of 1986, 26 U.S.C.A. 410.

(B)

(1) The public employees retirement system may accept eligible rollover distributions for the purchase of service credit pursuant to section 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.31, or 145.47 of the Revised Code, section 3.11 or 3.12 of the combined plan document, or the ~~purchase of~~ deposit to an additional annuity account pursuant to section 145.62 of the Revised Code.

(2)

(a) A member or surviving spouse must be otherwise eligible to purchase the service credit or deposit to an additional annuity account pursuant to Chapter 145. of the Revised Code and Chapters 145-1 to 145-4 of the Administrative Code.

- (b) A retirant reemployed under section 145.38, 145.382, or 145.383 of the Revised Code may use a rollover distribution to ~~purchase deposit~~ only an additional annuity account.
 - (c) A combined or member-directed plan retirant may use a rollover distribution to ~~purchase deposit to an additional annuity account~~ or as provided in article V of the combined or member-directed plan document.
 - (3) The retirement system shall accept rollover distributions for a purchase of service that is made only by post-tax payroll deduction, partial, or one-time lump-sum payment as defined in rule 145-1-35 of the Administrative Code.
 - (4)
 - (a) If the amount of the rollover distribution received by the retirement system exceeds the cost of the service to be purchased, the amount in excess shall be returned to the financial institution that transmitted the rollover.
 - (b) If the financial institution will not accept the excess rollover amount, the retirement system shall pay the amount in excess to the member. Any amount that the retirement system cannot return to the financial institution or member shall be ~~used to purchase~~ deposited in an additional annuity account or ~~be deposited in~~ the member's rollover account, as appropriate based on the member's retirement plan.
- (C) An eligible rollover distribution of a member participating in the combined plan may be:
 - (1) Credited to the member in the member's rollover account, as defined in section 1.35 of the combined plan document; or,
 - (2) If used to purchase any service credit available under the combined plan, as described in rule 145-3-21 of the Administrative Code, credited to the member in the employee's savings fund or any other appropriate fund under section 145.23 of the Revised Code.
- (D) Any non-taxable portion of an eligible rollover distribution to a member of the combined plan or member-directed plan shall be treated in accordance with section 5.01 of the member-directed or combined plan document.

- (E) A member who is entitled to a distribution from this retirement system that qualifies as an eligible rollover distribution pursuant to sections 401(a)(31) and 402(f)(2)(A) of the Internal Revenue Code may request that the distribution be paid in a direct rollover to another eligible retirement plan to the extent permitted by section 401(a)(31) of the Internal Revenue Code.

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Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

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Rule Amplifies: 145.01, 145.20, 145.201, 145.23, 145.28, 145.29,
145.291, 145.292, 145.293, 145.295, 145.299,
145.2911, 145.2913, 145.301, 145.302, 145.31,
145.452, 145.47, 145.62, 145.81
Prior Effective Dates: 12/6/93, 11/2/96, 3/27/99, 1/1/02 (Emer.), 3/22/02,
1/1/03, 1/1/06, 4/6/07 (Emer.), 7/1/07, 1/1/12, 1/7/13
(Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13

145-1-38

Purchase of service credit by payroll deduction.

(A)

- (1) A member of the public employees retirement system who is participating in the traditional pension plan may purchase service credit by post-tax payroll deduction, pursuant to this rule, rule 145-2-18 of the Administrative Code, section 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.301, 145.302, or 145.31, of the Revised Code, or former section 145.295 or 145.2911 of the Revised Code as they existed prior to January 7, 2013.
- (2) A member who is participating in the combined plan may purchase service credit by post-tax payroll deduction pursuant to this rule, rule 145-3-40 of the Administrative Code, section 145.20, 145.201, 145.291, 145.292, 145.293, or 145.302 of the Revised Code, former section 145.295 or 145.2911 of the Revised Code as it existed prior to January 7, 2013, or section 3.11 or 3.12 of the combined plan document.
- (3) Under a plan that is in compliance with Internal Revenue Code section 414(h)(2), a member may complete a purchase of service credit by pre-tax payroll deduction with amounts designated by the member's employer as picked-up contributions which is also known as an irrevocable pre-tax payroll deduction agreement as permitted by paragraph (E)(2) of this rule.
- (4) A member may purchase service credit in any combination of lump sum payment, partial payment, or post-tax payroll deductions.

(B)

- (1) Upon a member's request for purchase of service credit by post-tax payroll deduction the retirement system shall prepare a payroll deduction form that is in compliance with rule 145-1-35 of the Administrative Code and states all of the following:
 - (a) The service to be purchased;
 - (b) The total cost of the service credit to be purchased;
 - (c) Alternate plans of monthly payments.
- (2) The member shall complete such payroll deduction form by marking a plan of payment, signing the authorization for payroll deduction and returning the form to the retirement system.

- (3) A separate payroll deduction form shall be completed for each separate type of service credit.

(C)

- (1) After receipt of the member's post-tax payroll deduction form, the retirement system shall notify the member's employer that payroll deductions shall begin within sixty days.
- (2) The employer shall report at least monthly all members who have authorized payroll deductions on one report provided by the retirement system. Payment shall be remitted with this report. If the employer fails to timely file a report or remit payment to the retirement system, the employer shall be subject to the same penalty and interest described in section 145.47 of the Revised Code.

(D)

- (1) A member may increase or decrease the member's post-tax payroll deduction by written notice to the member's employer.
- (2) Except as provided in paragraph (E)(2) of this rule, a payroll deduction shall be terminated:
 - (a) Within thirty days after a member's written notice to the member's employer;
 - (b) Upon termination of employment;
 - (c) Upon termination of participation in the plan under which the payroll deduction commenced.
- (3) Except as provided in paragraph (E)(2) of this rule, a payroll deduction shall be suspended for any period that the payroll deduction exceeds the member's net pay.
- (4) A member may request to purchase the remainder of a service purchase that is being made by post-tax payroll deduction. Upon receipt of such request, the retirement system shall provide the member with a statement of the balance due for the remaining service credit available. A member shall notify the

member's employer to terminate deductions upon payment of the balance due.

(E) The retirement system shall accept new elections to purchase service credit by pre-tax payroll deduction, as described in paragraph (A)(3) of this rule, only if such election is received by the retirement system or post-marked on or before December 31, 2011.

(1) A member who, on December 31, 2011, is purchasing service credit through a pre-tax deduction agreement may make an irrevocable election, on a form provided by the retirement system and received by the retirement system not later than March 31, 2012, to have the deduction agreement terminated. The member may purchase the balance of the service credit by any other method permitted by the retirement system.

(2) A member who does not elect to terminate the pre-tax deduction agreement shall continue under the agreement for the duration of the purchase period. A member who is purchasing service credit under a pre-tax deduction agreement may not purchase the period of service subject to the agreement through any other method while the agreement is in effect. The member and employer shall not:

(a) Decrease or increase such payroll deduction;

(b) Terminate such payroll deduction unless the member has terminated employment, terminated participation in the plan under which the payroll deduction commenced, is reported by the employer as laid off for at least six consecutive months, or all of such service credit has been purchased by such payroll deduction; or

(c) Make a partial payment as defined in rule 145-1-35 of the Administrative Code.

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145.292, 145.293, 145.294, 145.301, 145.302, 145.31,
145.81
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1/1/06, 7/1/07 (Emer.), 8/9/07, 1/1/09, 1/1/11, 1/1/12,
1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13

145-1-39

Replacement of payments.

The public employees retirement system may issue a replacement payment for a previously issued payment which has been lost, stolen or destroyed if the payee of such payment makes application for a replacement payment on a form provided by the retirement system. The replacement payment shall not be issued any earlier than five business days or any later than thirteen business days after a stop payment order is made on the previous payment. Any replacement payments issued by a third-party administrator shall be issued in accordance with the operating policies of the third-party administrator.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

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09/29/2015

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145.384, 145.40, 145.43, 145.45, 145.46, 145.63,
145.64, 145.65, 145.81
Prior Effective Dates: 10/21/70, 4/5/93, 1/1/03, 1/1/06, 4/6/07 (Emer.),
7/1/07, 1/1/11, 1/7/13 (Emer.), 3/24/13

145-1-41

Membership determination.

- (A) In making any determination as to whether an individual is a contract employee or independent contractor under section 145.036 of the Revised Code, the public employees retirement board shall review, including but not limited to, the elements described in paragraphs (A)(1) and (A)(2) of rule 145-1-42 of the Administrative Code.
- (B) If the employer fails to request a determination and the retirement board determines the individual should be a member, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been made.
- (C) If the employer fails to request a determination and the retirement board determines the individual shall not be a member, then any employee contributions received prior to the determination are unauthorized and shall be returned to the employer. Any employer contributions shall be credited against future employer liabilities.

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Prior Effective Dates: 8/31/92, 9/27/98, 1/1/03, 1/1/06, 1/7/13 (Emer.),
3/24/13

145-1-42

Services under a contract.

(A) For purposes of Chapter 145. of the Revised Code, and Chapter 145-1 of the Administrative Code, the following definitions apply:

(1) "Contract employee" means an individual who:

- (a) Is a party to a bilateral agreement which may be a written document, ordinance, or resolution that defines the compensation, rights, obligations, benefits and responsibilities of the individual as an employee;
- (b) Is paid earnable salary at a specific periodic rate for services personally performed for the public employer and who appears on the employer's payroll;
- (c) Is eligible for workers' compensation or unemployment compensation;
- (d) May be eligible for employee fringe benefits such as vacation or sick leave;
- (e) Is controlled or supervised by personnel of the public employer as to the manner of work; and
- (f) Should receive an Internal Revenue Service form W-2 for income tax reporting purposes.

(2) "Independent contractor" means an individual who:

- (a) Is a party to a bilateral agreement which may be a written document, ordinance, or resolution that defines the compensation, rights, obligations, benefits and responsibilities of both parties;
- (b) Is paid a fee, retainer or other payment by contractual arrangement for particular services;
- (c) Is not eligible for workers' compensation or unemployment compensation;
- (d) May not be eligible for employee fringe benefits such as vacation or sick leave;
- (e) Does not appear on a public employer's payroll;

- (f) Is required to provide his own supplies and equipment, and provide and pay his assistants or replacements if necessary;
 - (g) Is not controlled or supervised by personnel of the public employer as to the manner of work; and
 - (h) Should receive an Internal Revenue Service form 1099 for income tax reporting purposes.
- (3) "Personal service contract" means the same as a contract for an independent contractor.
- (B)
- (1)
- (a) A contract employee is a public employee and shall become a contributor to the public employees retirement system.
 - (b) Contributions are due on the employee's earnable salary, as defined in division (R) of section 145.01 of the Revised Code and rule 145-1-26 of the Administrative Code, which is paid by the public employer to the employee for services actually performed by the employee.
- (2) An independent contractor is not a public employee and shall not become a contributor to the retirement system.
- (C) Notwithstanding rule 145-1-26 or 145-1-53 of the Administrative Code, if a contract employee performs services for which the employee also receives a payment, fee or commission over and above services for which the employee receives earnable salary, and for which the individual is an independent contractor, the payments for those services over and above their salary services are not earnable salary. The employee is not a member for such additional services, no contributions are due, and no service credit shall be granted.
- (D) An individual who entered into a personal service contract with a public employer prior to August 20, 1976, shall be a member of the retirement system and contributions shall be remitted for the remaining period of the contract if the duties and working relationship are substantially similar to a classification position paid on the payroll of the public employer.

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Rule Amplifies: 145.01, 145.012, 145.036, 145.037, 145.038, 145.38
Prior Effective Dates: 8/31/92, 9/27/98, 1/1/03, 1/1/06, 1/7/13 (Emer.),
3/24/13

145-1-43

Alternative retirement programs.

(A) For the purpose of this rule:

(1) "Administrative employee" means an administrative employee as defined in division (A) of section 3305.05 of the Revised Code for whom the public employees retirement system would be the applicable state retirement system.

(2) "Eligible employee" means an employee as defined in division (C) of section 3305.01 of the Revised Code for whom this retirement system would be the applicable state retirement system.

(3) "Election period" means:

(a) For an administrative employee who was eligible to make an election under division (B) of section 3305.051 of the Revised Code, the one hundred twenty days after the employee's first day on the institution's payroll or the employee was reclassified as an administrative employee.

(b) For administrative employees who were eligible to make elections under division (C) of section 3305.051 of the Revised Code, the one hundred twenty days after the effective date of the alternative retirement program adopted by the institution.

~~(c) For an eligible employee who is eligible to make an election under division (B)(1) of section 3305.05 of the Revised Code, the one hundred twenty days after August 1, 2005.~~

~~(d)~~(c) For an eligible employee who is eligible to make an election under division (B)(2) or (B)(3) of section 3305.05 of the Revised Code, the one hundred twenty days after the employee's first day on the institution's payroll or, in the case of a part-time employee who is transferred to a full-time position, one hundred twenty days from the first date of full-time employment.

(4) "Employee" means either an administrative employee or an eligible employee.

(5) "Institution" means a public institution of higher education as defined in division (A) of section 3305.01 of the Revised Code.

(B) Within thirty days of its adoption of an alternative retirement plan under Chapter 3305. of the Revised Code, an institution shall notify the retirement system of its adoption of the plan on a form provided by the retirement system. A copy of the

plan adopted shall be attached to the form. The institution also shall file a report in the manner and form prescribed by the retirement system of all current employees.

(C)

(1) Each institution that employs an employee eligible to elect an alternative retirement program shall:

(a) Notify the retirement system at the time it employs the employee, but in no event later than ten days after the employee's first day on the institution's payroll.

(b) Notify the retirement system at the time an employee of the institution changes to a classification which qualifies the employee to elect an alternative retirement plan, but in no event later than ten days after such change.

(2) The notice required under paragraph (C)(1) of this rule shall be given on a form provided by the retirement system, and shall include the employee's name, address, social security number, date of birth, and any other information required by the retirement system.

(D)

(1) Elections by an employee of an alternative retirement plan shall be made on a form provided by the retirement system and completed by the employee and the institution.

(2) Not later than ten days after an election is filed with the institution, the institution shall file a copy with the retirement system of the election made by an employee.

(E)

(1) Elections made by employees under division (B)(2) or (B)(3) of section 3305.05 of the Revised Code or division 3305.051 of the Revised Code will be implemented no later than thirty days after a copy of the employee's election is filed with the retirement system.

(2) The election, when implemented, shall be effective as of the first day upon which the employee appears on the institution's payroll or was reclassified to

a position as an administrative or eligible employee.

- (3) Once an election is filed with the retirement system, the death of the employee shall not affect such election and the election shall be implemented and effective as set forth in this rule.

~~(F)~~

- ~~(1) Elections made by employees under division (B)(1) of section 3305.05 of the Revised Code will be implemented no later than thirty days after the copy of the employee's election is filed with the retirement system.~~
- ~~(2) The election, when implemented, shall be effective as of the date described in division (C)(2)(a) of section 3305.05 of the Revised Code.~~
- ~~(3) Once an election is filed with the retirement system, the death of the employee shall not affect such election and the election shall be implemented and effective as set forth in this rule.~~

~~(G)(F)~~

- (1) Elections made by employees under division (C) of section 3305.051 of the Revised Code will be implemented no later than thirty days after the copy of the employee's election is filed with the retirement system.
- (2) The election, when implemented, shall be effective as of the following dates:
- (a) On March 31, 1998, where the public institution's alternative retirement program is established on or after December 8, 1998, but no later than March 31, 1999; or
- (b) On the first day of the month in which the public institution's alternative retirement program is established where the program is established after March 31, 1999.
- (3) Once an election is filed with the retirement system, the death of the employee shall not affect such election and the election shall be implemented and effective as set forth in this rule.

~~(H)(G)~~

- (1) Employee and employer contributions for an employee shall be collected and

remitted to the retirement system until an election is implemented pursuant to paragraph (E)(1), or (F)(1), ~~or (G)(1)~~ of this rule.

- (2) Those employee and employer contributions received after the effective date of an election as determined by this rule for an employee who elects an alternative retirement plan shall be returned as unauthorized contributions to the provider identified on the form required by paragraph (D) of this rule. The amount of employer contributions refunded shall be less the amount due pursuant to division (D) of section 3305.06 of the Revised Code.

~~(H)~~(H)

- (1) An application under division (B) of section 145.40 of the Revised Code for transfer of a member's accumulated contributions to the provider of an alternative retirement plan shall be made on a form provided by the retirement system.

- (2) The institution shall certify:

- (a) The name and address of the institution's plan administrator; and
- (b) The plan is eligible to receive a trustee-to-trustee transfer from the retirement system, which is a plan qualified under Internal Revenue Code section 401(a).

- (3) If an employee dies prior to the transfer of their account to an alternative retirement plan, the application shall be cancelled.

~~(I)~~(I) Not later than the thirtieth day of each month following a month in which an employee who elected an alternative retirement plan was on the institution's payroll, the institution shall:

- (1) Remit to the retirement system the contributions required under division (D) of section 3305.06 of the Revised Code.
- (2) Submit a report in a form and manner prescribed by the retirement system of all employees who elected an alternative retirement plan and appeared on the institution's payroll for the preceding month.

Effective:

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3305.06
Prior Effective Dates: 8/1/98, 10/31/98, 3/27/99, 4/5/01, 1/1/03, 1/1/06

145-1-44

Election workers.

As used in section 145.012 of the Revised Code, "election worker" means an individual who performs services as a poll worker for the board of elections on a day the election polls are open.

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09/29/2015

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Rule Amplifies: 145.012
Prior Effective Dates: 7/7/13 (Emer.), 9/16/13

145-1-45

Retirement deductions during faculty improvement leave.

- (A) Section 3345.28 of the Revised Code provides, in part, that no university faculty member shall suffer a reduction in his regular employee retirement benefits during a professional leave of absence.
- (B) During a professional leave the member shall contribute the prevailing member deduction rate applied to the salary he would have received had he been working at the university, on the regular reports of contribution submitted by the university.
- (C) The full salary also shall be the base on which the corresponding employer contribution shall be remitted.

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09/29/2015

Date

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Statutory Authority: 145.09
Rule Amplifies: 3345.28
Prior Effective Dates: 12/31/77, 1/1/03

145-1-47

Humane society employment.

Employees of humane societies are not eligible for membership in the public employees retirement system unless they are employed by and paid directly by a public employer.

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Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.01
Prior Effective Dates: 5/16/40, 9/30/91, 1/1/03

145-1-48**Board and commission members.**

Membership is required for all appointed and elected members of boards and commissions who receive salary for their services. Members who serve without pay or who only receive reimbursement for expenses are not eligible for membership in the public employees retirement system.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	111.15
Statutory Authority:	145.09
Rule Amplifies:	145.01

145-1-49

Mental health and developmental disability boards.

(A) "648 board" means a county or community mental health and developmental disability board established pursuant to Am. H.B. 648 of the 107th General Assembly.

(1) A 648 board is a public employer as defined in division (D) of section 145.01 of the Revised Code.

(2) An employee of a 648 board is a public employee as defined in division (A) of section 145.01 of the Revised Code.

(B)

(1) "Contract agency" means an agency with whom a 648 board contracts for services pursuant to section 340.03 of the Revised Code. A "public contract agency" means any public agency as specifically named in division (D) of section 145.01 of the Revised Code. A "private contract agency" means one other than a public contract agency.

(2) The following are public employees.

(a) An employee of a public contract agency.

(b) An employee of a private contract agency who was a member of public employees retirement system at the time of his employment with the private contract agency and who continues to perform the same or similar duties under the direction of the private contract agency.

(3) Except as provided in paragraph (B)(2)(b) of this rule, an employee of a private contract agency is not a public employee and is not subject to retirement system coverage during their employment with the private contract agency.

(C)

(1) On or before September 30, 1975, each 648 board shall certify a list showing, as of September 30, 1975, each of the following:

(a) All of its own employees;

(b) All employees of contract agencies who qualify as public employees under paragraph (B) of this rule; and,

- (c) All employees of contract agencies who although members are not public employees as defined in paragraph (B) of this rule.
- (2)
- (a) Employees who are certified as public employees shall continue membership.
 - (b) Employees who are not certified by a 648 board as public employees shall receive refunds of unauthorized contributions for their employment.
 - (c) Employees who are not certified as public employees, but who have accounts from other public employment may apply for a refund or may leave their funds on deposit. A refund application shall be certified by the executive director of the 648 board.
- (D) All individuals employed by either a 648 board or a contract agency after September 30, 1975, who are public employees as defined in paragraph (A) or (B) of this rule shall be certified as such by a 648 board by letter accompanying the report of deductions on which the first deduction is reported.
- (E) A 648 board shall report all deductions for its own employees and for employees of a private contract agency who are defined in paragraph (B)(2)(b) of this rule. Membership and employee and employer contributions begun must continue as long as the employment continues. All members appearing on the report of retirement contributions of a 648 board shall be deemed to be employees of that board.

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CERTIFIED ELECTRONICALLY

Certification

09/29/2015

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Rule Amplifies: 145.01, 145.03
Prior Effective Dates: 8/20/75, 9/27/98, 1/1/03, 1/1/06, 1/1/10

145-1-50 **Firefighters.**

(A) For the purposes of Chapter 145. of the Revised Code, this rule, and rule 145-2-17 of the Administrative Code:

(1) "Firefighter" means a person who:

- (a) Is employed as a firefighter by a public employer; and
- (b) Is hired or appointed, controlled and paid earnable salary and otherwise treated as an employee by the public employer.

(2) "Volunteer firefighter" means a person who:

- (a) Is an employee of a private fire company or association;
- (b) Performs service as a firefighter for no compensation or for an honorarium;
- (c) Is an employee of a nonprofit fire company or association; or
- (d) Is not a firefighter pursuant to paragraph (A)(1) of this rule.

(B)

- (1) Except as otherwise provided by law, effective May 1, 1991, a firefighter shall be a member of the retirement system subject to all the rights and obligations of Chapter 145. of the Revised Code.
- (2) Notwithstanding paragraph (B)(1) of this rule, a firefighter employed before May 1, 1991, shall be a member of the retirement system unless an exemption from membership on a form approved by the public employees retirement board is filed on or before May 31, 1991.
- (3) Once filed an approved exemption is valid pursuant to the limitations in section 145.03 of the Revised Code or through June 29, 1991, whichever is later.

(C) Effective May 1, 1991, a volunteer firefighter is not a public employee and shall not be a member of the retirement system.

(D) A firefighter employed before May 1, 1991, who is or becomes a member on May 1,

1991 may purchase the firefighter service as described in rule 145-2-17 of the Administrative Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

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Rule Amplifies: 145.01, 145.012, 145.03
Prior Effective Dates: 1/21/76, 10/30/78, 5/1/91, 8/1/92, 1/1/03, 1/1/06

145-1-51

County agricultural societies.

Employees and officials of a county agricultural society are not public employees as defined in section 145.01 of the Revised Code, and are not eligible for membership in the public employees retirement system.

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Statutory Authority: 145.09
Rule Amplifies: 145.01
Prior Effective Dates: 1/14/59, 9/30/91, 1/1/03

145-1-53

Payment by fee, commission, stipend or honorarium.

(A) For purposes of this rule:

- (1) "Fee or commission" means compensation which is a fixed charge or calculated as a percentage of an amount not directly related to work or services performed.
- (2) "Stipend" means compensation paid to a student that is not subject to federal income taxation.
- (3) "Honorarium" means a nominal payment made for services for which there is no binding legal obligation to pay.

(B) An individual whose sole compensation is a fee or commission, stipend or honorarium is not a public employee pursuant to Chapter 145. of the Revised Code.

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Statutory Authority: 145.09
Rule Amplifies: 145.01
Prior Effective Dates: 11/30/60, 3/17/89, 8/31/92, 1/1/03

145-1-55

Exemption termination.

An exemption from membership in the public employees retirement system pursuant to section 145.03 of the Revised Code shall be valid only during the current period of employment for the public employer by whom a public employee is employed at the time the exemption is approved. When the employment is terminated the exemption also terminates. Upon a return to public employment either for the former employer or another employer membership in the system is mandatory unless the employee may be exempt or excluded from membership.

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Rule Amplifies: 145.03
Prior Effective Dates: 11/13/46, 9/30/91, 1/1/03

145-1-61

Release of names, addresses and individual case information and maintenance of records.

- (A) The name, account number, address, including electronic mail address, or other individual case information of a member or benefit recipient shall not be released to anyone other than the member or benefit recipient except as provided in this rule.
- (B) Except as otherwise provided in section 145.27 of the Revised Code, the following individual case information may be released to a third party only upon the written authorization of the member or benefit recipient.
- (1) Any part of an individual's personal history record, including but not limited to, any record identifying beneficiary information or an account balance, benefit or allowance paid or payable to that member or benefit recipient or any record identifying the service history or service credit of that member or benefit recipient.
 - (2) Medical reports and recommendations shall not be released, except that such reports and recommendations shall be made available to a member or benefit recipient's physician, attorney or authorized agent upon the member or benefit recipient's written authorization, and further, may be released to a physician assigned by the public employees retirement system when necessary for the proper administration of the retirement system.
- (C) Except as otherwise provided by law, all other individual case information not described in paragraph (B) of this rule shall be made available for inspection by the public as follows:
- (1) Requests to inspect or receive copies of information contained in records kept by the retirement system shall be made in writing on forms provided by the retirement system.
 - (2) For all services required in preparing, copying and mailing retirement system records available to the public, a reasonable cost shall be assessed for materials, copying and electronic processing, to be paid before release of the requested information.
- (D) Except as otherwise provided by law, all other retirement system information shall be made available to the public after a request for inspection and for copies provided the requesting person pays any applicable costs for copying and mailing such information.
- (E) The executive director may designate any staff member to authenticate retirement

system records to be sent to a court or officer of this state.

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1/1/10, 1/1/11, 7/7/13 (Emer.), 9/16/13

145-1-62

Proof of date of birth and legal name change.

(A) For the purpose of proving a date of birth, an individual may submit the following documents or certified copies wherein the certifying official indicates that the original bears no alteration or erasure:

- (1) A birth certificate;
- (2) An official baptismal record;
- (3) A parent's affidavit;
- (4) A life insurance policy issued at least ten years ago which contains a penalty clause for misstatement of age and which states age or date of birth;
- (5) An original family bible which contains entries of family births;
- (6) A child's birth certificate which states the parent's age or date of birth for proof of the parent's age;
- (7) An official hospital record of birth;
- (8) A United States census bureau record;
- (9) An original United States certificate of citizenship or naturalization; ~~or~~
- (10) An original United States passport; ~~or~~
- (11) An unexpired state-issued driver's license or identification card.

(B) If none of the above documents exists, an individual may submit for review:

- (1) An affidavit stating that none of the above-listed documents exist; and
- (2) Any other document(s) which state(s) a date of birth.

(C) For the purpose of proving a name change, an individual may submit a copy of one of the following documents:

- (1) A marriage certificate, certified abstract of marriage, or marriage license that evidences the marriage has been legally solemnized;

- (2) A decree of divorce or dissolution that restores the individual to a prior name;
- (3) An entry of change of name pursuant to section 2717.01 of the Revised Code, or a comparable entry of legal name change issued by a probate court in another jurisdiction;
- (4) A copy of a social security card;
- (5) An original United States passport; or
- (6) An unexpired state-issued driver's license or identification card.

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145-1-63

Guardianship and power of attorney.

- (A) For the purpose of this rule, "recipient" means a member, contributor, retirant, or beneficiary as provided in Chapter 145. of the Revised Code.
- (B) Unless expressly authorized by Ohio law or as described in this rule, the member or benefit recipient who is not subject to guardianship of the person or estate shall execute all forms and applications under his or her own power and signature, including electronic forms and signatures, and shall personally direct and manage all aspects of his or her account with the public employees retirement system.
- (C) ~~Except as provided in this rule, guardianship~~ Guardianship of estate shall be required to perform any of the following actions on behalf of a person who suffers from a legal disability as defined in division (B) or (D) of section 2131.02 of the Revised Code:
- (1) Apply for retirement on behalf of a ~~member recipient~~ and only upon providing a court order approving the selection of the retirement plan of payment and beneficiary designation, unless expressly authorized as provided in paragraph (F)(2)(a) of this rule;
 - (2) Apply for and receive a refund that is in excess of \$25,000 (gross) under section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document on behalf of a ~~member or benefit recipient~~;
 - (3) Receive benefits that are in excess of \$25,000 (gross) annually on behalf of a ~~member or benefit recipient~~;
 - (4) In the case of a ~~minor~~ qualified child who is eligible for a survivor benefit, only a guardian acting with the court's approval may elect to ~~apply for a refund in lieu of waive a monthly~~ survivor benefit on behalf of the ~~minor~~ qualified child; and
 - (5) Designate a beneficiary, unless expressly authorized as provided in paragraph (F)(2)(c) of this rule.
- (D) Unless guardianship has been established, a recipient who is incarcerated may continue to direct and manage his or her account or permit an attorney in fact to direct the account.
- (E) A guardian of the person is eligible to receive the account information of his or her ward, but shall not make any changes or elections regarding the account.
- ~~(D)~~(F) The following apply to the power a member or benefit recipient grants to an

attorney in fact in writing and on file with the retirement system:

- (1) If authorized by general language regarding retirement plan transactions, an attorney in fact may perform the following actions:
 - (a) Authorize the release of account information;
 - (b) Provide and update bank account information for direct deposit of a recipient's benefits;
 - (c) Update the address of a member or benefit recipient;
 - (d) Receive correspondence and account information on behalf of a member or benefit recipient;
 - (e) Make additional deposits and purchase service credit;
 - (f) Make an initial plan selection under section 145.19 of the Revised Code or change the plan selection under section 145.814 of the Revised Code;
 - (g) Direct the OPERS investment options for participants in the combined and member-directed plans;
 - (h) Receive benefits on behalf of a recipient that do not exceed \$25,000 (gross) annually.
- (2) If authorized by express language regarding retirement plan transactions or helath care decisions, as applicable, in a power of attorney, an attorney in fact may perform the following actions:
 - (a) ~~Elect or change a retirement allowance plan of payment under section 145.384, 145.46, or 145.64 of the Revised Code, section 9.02 or 9.03 of the combined plan document, section 9.02 of the member directed plan document, or rule 145-1-76 of the Administrative Code, other than~~ Apply for retirement or other annuity on behalf of a recipient that is a joint and survivor annuity leaving one-half to the spouse if the member is married, a single life annuity if the member is single, ~~or~~ and excluding any plan that includes a partial lump sum option payment, or elect to change a plan of payment;
 - (b) Apply for and receive a refund ~~of a member's accumulated contributions~~

~~and any applicable amounts pursuant~~ that is not in excess of \$25,000 (gross) under to section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document on behalf of a recipient;

(c) Designate a beneficiary under section 145.384, 145.43, 145.431, 145.451, or 145.64 of the Revised Code;

(d) Make health care elections and changes.

(G) In lieu of guardianship, a court of competent jurisdiction may issue a limited order pursuant to section 2111.02, 2111.021, 2111.05 or 2111.131 of the Revised Code or a comparable non-Ohio statute that directs the retirement system to issue a recipient's payment to a specific person or entity and specifies the address and direct deposit routing and account numbers for the financial institution to receive such payment.

~~(E) Notwithstanding paragraphs (C) and (D) of this rule, guardianship of estate shall not be required if:~~

~~(1) The lump sum or annual amount payable to a recipient does not exceed twenty-five thousand dollars per recipient~~

~~(2) A court of competent jurisdiction has issued a limited order pursuant to section 2111.02, 2111.021, 2111.05 or 2111.131 of the Revised Code or a comparable non-Ohio statute that directs the retirement system to issue a recipient's payment to a specific person or entity and specifies the address and direct deposit routing and account numbers for the financial institution to receive such payment.~~

~~(3) The recipient is a member who is eligible to receive a refund pursuant to section 145.40 of the Revised Code or article VIII of the member directed or combined plan document and is under eighteen years of age and otherwise competent.~~

~~(F)~~ (H) The retirement system shall accept the direction of the guardian of the estate or attorney in fact until such time as the retirement system receives a copy of the court order terminating the guardianship or the written instrument signed by the principal that revokes the authority granted to the attorney in fact.

~~(G)~~ (I) Payments Monthly or lump sum payment due to minor recipients under the threshold described in paragraph (E)(1) of this rule that are less than \$25,000 (gross) annually may be issued to the natural parent caring for the recipient or the legal custodian of the recipient. After the age of eighteen, payments shall be issued directly to the recipient unless the recipient is subject to an ongoing guardianship.

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1/1/03, 12/24/04, 1/1/06, 1/1/07, 4/6/07 (Emer.),
12/30/07, 12/10/12, 1/7/13 (Emer.), 3/24/13

145-1-64

Death of designated beneficiary.

- (A) This rule applies to a beneficiary designation in which two or more persons are designated as beneficiaries under section 145.384, 145.43, or 145.65 of the Revised Code, section 13.02 of the combined plan document, or section 11.02 of the member-directed plan document.
- (B) The death of a designated beneficiary prior to the death of a contributor shall cancel only the designation of the deceased beneficiary. The percentage of the lump sum payment that would have been paid to the deceased beneficiary shall be apportioned equally to the contributor's remaining designated beneficiaries.

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145-1-65 Interim benefit payment.

(A) For purposes of this rule and rules 145-1-71 and 145-1-73 of the Administrative Code:

(1) "Finalized retirement benefit" means:

- (a) Any monthly benefit amount paid to a benefit recipient pursuant to section 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, 145.361, 145.37 or 145.46 of the Revised Code calculated after the receipt of the final report of retirement contributions upon which the member appears;
- (b) Any monthly benefit amount paid to a beneficiary pursuant to section 145.45 of the Revised Code calculated after the receipt of the final report of retirement contributions upon which the member appears;
- (c) Any monthly benefit amount paid pursuant to section 9.03 of the combined plan document calculated after the receipt of the final report of retirement contributions upon which the member appears;
- (d) Any monthly annuity paid pursuant to section 9.02 of the combined or member-directed plan documents after the receipt of the final report of retirement contributions upon which the member appears.

(2) "Interim benefit payment" means:

- (a) Any monthly benefit amount paid to a benefit recipient pursuant to section 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, 145.361, 145.37 or 145.46 of the Revised Code prior to the payment of a finalized retirement benefit;
- (b) Any monthly benefit amount paid to a beneficiary pursuant to section 145.45 of the Revised Code prior to the payment of a finalized retirement benefit;
- (c) Any monthly benefit amount paid pursuant to section 9.03 of the combined plan document prior to the payment of a finalized retirement benefit;
- (d) Any monthly annuity paid pursuant to section 9.02 of the combined or member-directed plan documents prior to the payment of a finalized retirement benefit.

- (3) "Beneficiary" means a person qualified to receive a monthly benefit pursuant to section 145.45 of the Revised Code after the death of a member or disability recipient.
- (4) "Partial lump sum option payment" means the lump sum payment described in division (A)(2) of section 145.45, division (E)(1) of section 145.46 of the Revised Code, or section 9.03(e)(4) of the combined plan document.
- (5) "Initial benefit payment" means the first benefit check or payment to a member or beneficiary. In the case that more than one initial payment is disbursed from one or more of the retirement plans defined in rule 145-1-81 of the Administrative Code, the first payment issued by the retirement system shall constitute the initial benefit payment for purposes of determining whether a benefit recipient is eligible to withdraw an application.

(B) Interim benefit payments may be paid in accordance with this rule.

(C) A beneficiary applying for a benefit under division (A)(2) of section 145.45 of the Revised Code, or a member or contributor applying for a monthly benefit under section 145.32, 145.33, 145.331, 145.332, 145.37, 145.46, or 145.64 of the Revised Code, or section 9.03 of the combined plan document that includes a partial lump sum option payment, shall receive the partial lump sum option payment no earlier than ninety days after issuance of the initial benefit payment.

(D) A member or contributor of the public employees retirement system may receive an interim benefit payment if either of the following is fully satisfied:

(1)

- (a) The member is eligible for retirement pursuant to section 145.32, 145.33, 145.331, 145.332, 145.37, or 145.46 of the Revised Code or article IX of the combined or member-directed plan document at the time the retirement application is filed;
- (b) The member has filed all applications, forms and documents necessary to process the retirement benefit at least thirty days prior to the effective retirement benefit date;
- (c) The member's employer has certified the last day for which the member will receive earnable salary;

- (d) The member or contributor who makes payment for an additional annuity, pursuant to section 145.62 of the Revised Code, has at least one hundred dollars in an additional annuity account.

(2)

- (a) The member or contributor is eligible for disability benefits pursuant to section 145.35, 145.36, 145.361, or 145.37 of the Revised Code;
- (b) The public employees retirement board has approved the application for disability benefits by the member or contributor; and
- (c) In the case of a member, the member's employer has certified the last day for which the member will receive earnable salary.

(E) A beneficiary may receive an interim benefit payment if all of the following are satisfied:

- (1) The beneficiary is eligible for a benefit pursuant to section 145.45 of the Revised Code at the time the application is filed;
- (2) The beneficiary has filed all applications, forms and documents necessary to process the benefit.

(F)

- (1) For benefits payable under the traditional pension plan and section 9.03 of the combined plan document, an interim benefit payment shall be calculated using the earnable salary and service credit available in the account of a member or contributor at the time of the calculation. For a monthly annuity payment option under section 9.02 of the combined or member-directed plan document, an interim benefit payment shall be calculated using the portion of the member's individual defined contribution account specified by the member on the member's retirement application.

(2)

- (a) Except as provided in paragraph (F)(3) of this rule, the retirement system shall revise the monthly benefit to which the member is entitled following the receipt of the final report of retirement contributions upon

which the member appears.

(b) The retirement system shall revise the monthly benefit to which a beneficiary is entitled upon receipt of a report of contributions on which the deceased member appears if the contributions were not used in the calculation of the interim benefit payment. If no additional contributions are received by the retirement system, the interim benefit payment shall be the finalized retirement benefit.

(c)

(i) If the finalized retirement benefit is greater than the interim benefit payment, the retirement system shall increase the current benefit and issue a retroactive payment for the difference between the prior interim benefit payment and the finalized retirement benefit.

(ii) If the finalized retirement benefit is less than the interim benefit payment, the retirement system shall decrease the current benefit. The benefit recipient or the beneficiary shall repay to the retirement system the amount of the overpayment of benefits. If the benefit recipient or the beneficiary fails to repay such amount, the retirement system shall withhold the amount from any benefit due the benefit recipient or the beneficiary.

(3) Monthly additional annuity payments shall commence as described in rule 145-2-43 of the Administrative Code.

(G) A member or a beneficiary may withdraw their application for benefits prior to receipt of the initial benefit payment by providing the retirement system with a written request to withdraw the application over the signature of the member or beneficiary.

(H)

(1) A beneficiary applying for a benefit under division (A)(2) of section 145.45 of the Revised Code, or a member or contributor applying for a monthly benefit under section 145.32, 145.33, 145.331, 145.332, 145.37, 145.46, or 145.64 of the Revised Code, or section 9.03 of the combined plan document that does not include a partial lump sum option payment may make a one-time election to receive a partial lump sum option payment, or the member or contributor may make a one-time change to their plan of payment, at any time prior to issuance of the finalized retirement benefit payment.

- (2) A beneficiary applying for a benefit under division (A)(2) of section 145.45 of the Revised Code, or a member or contributor applying for a monthly benefit under section 145.32, 145.33, 145.331, 145.332, 145.37, 145.46, or 145.64 of the Revised Code, or section 9.03 of the combined plan document that includes a partial lump sum option payment may make a one-time change to their partial lump sum option payment amount, or the member or contributor may make a one-time change to their plan of payment, at any time prior to issuance of the partial lump sum option payment or transfer of the partial lump sum option payment by the retirement system to their financial institution.
- (3) A member or contributor is ineligible to name a different beneficiary under a plan of payment selected by the member or contributor unless the member or contributor reselects or elects a different plan of payment under this rule. The spouse of a member or contributor who reselects or elects a different plan of payment shall consent on a form provided by the retirement system to the new plan of payment selected by the retirant.

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(Emer.), 7/1/07, 1/12/08: 4/1/10, 1/1/11, 1/7/13
(Emer.), 3/24/13, 9/1/13 (Emer.), 9/16/13

145-1-67

Monthly benefit payment date.

Monthly benefit payments shall be issued by the public employees retirement system at the beginning of each month for which due. If a benefit recipient dies on or after the first day of a month, the entire benefit payment for such month shall still be payable.

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(Emer.), 3/24/13

145-1-68

Forfeiture orders under section 145.574 of the Revised Code.

For purposes of section 145.574 of the Revised Code, the public employees retirement system shall accept the determination of the court under section 2929.194 of the Revised Code in determining whether a member's disability was caused by the commission of a felony.

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145-1-69

Waiver of benefits by guardian of estate.

A waiver pursuant to section 145.562 of the Revised Code shall be made by the beneficiary's guardian of estate and pursuant to a court order approving the waiver of benefits under either of the following circumstances:

- (A) The beneficiary is under eighteen year of age;
- (B) The beneficiary is eighteen years of age or older and has a legal disability as defined in division (B), (C), or (D) of section 2131.02 of the Revised Code.

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145-1-70

Waiver of spousal consent.

- (A) The public employees retirement board may waive the requirement of spousal consent upon receipt of one of the following:
- (1) A written statement of the spouse's physician certifying that the spouse is medically incapable of consent;
 - (2) The affidavits of the contributor and at least two other persons, one of whom must be unrelated to the contributor, attesting that currently and during the year prior to the contributor's application for benefits the whereabouts of the spouse are unknown.
 - (3) A court order or orders issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property requiring the contributor to designate the maximum amount payable to a joint and survivor beneficiary or beneficiaries.
- (B) The affidavits described in paragraph (A)(2) of this rule shall be on forms approved by the board.

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1/1/06, 10/27/06 (Emer.), 4/6/07 (Emer.), 7/1/07,
1/1/11, 1/7/13 (Emer.), 3/24/13

145-1-71

Withdrawal of benefit application.

- (A) Except as provided in paragraph (F) of this rule, a member or contributor of the public employees retirement system may withdraw an application for retirement, disability, or annuity payments pursuant to section 145.384 or 145.64 of the Revised Code by either of the following methods:
- (1) Returning to the retirement system not later than thirty days after issuance of the initial benefit payment, all uncashed payments, along with a written request over the member's or retirant's signature to withdraw the application;
 - (2) Remitting to the retirement system a personal check or money order repaying the benefit payment(s) transmitted by or on behalf of the retirement system to the member's or retirant's financial institution not later than thirty days after the institution's receipt of the initial benefit payment, along with a written request over the member's or retirant's signature to withdraw the application.
- (B) Except as provided in division (C)(1) of section 145.45 of the Revised Code or paragraph (F) of this rule, a beneficiary eligible for monthly benefits pursuant to division (A) or (B) of section 145.45 of the Revised Code may withdraw an application for those benefits by either of the following methods:
- (1) Returning to the retirement system not later than thirty days after issuance of the initial benefit payment, all uncashed payments, along with a written request over the beneficiary's signature to withdraw the application and a completed application for a lump sum payment of the member's accumulated account;
 - (2) Remitting to the retirement system a personal check or money order repaying the benefit payments(s) transmitted by the retirement system to the beneficiary's financial institution, not later than thirty days after the institution's receipt of the initial benefit payment, along with a written request over the beneficiary's signature to withdraw the application and a completed application for a lump sum payment of the member's accumulated account.
- (C) If a member participating in the member-directed or combined plan, or the member's beneficiary, withdraws an application as provided in this rule and all or any portion of the member's individual defined contribution account is used to pay the benefit, the member or the beneficiary is not entitled to any investment gains or losses on the amount that was used to pay the benefit for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the account is reestablished by the retirement system as provided in this rule. The amount used to pay the benefit as provided in this rule shall be credited to the member's individual defined contribution account and invested in the same OPERS investment options and in the same proportion as the account existed immediately

prior to the payment.

(D) Any non-vested amounts that were forfeited by a member participating in the member-directed plan or the member's beneficiary who withdraws a retirement application under this rule shall be restored to the member's individual defined contribution account or retiree medical account, as defined in rule 145-4-01 of the Administrative Code. Investment gains or losses shall not be applied to the amounts for the period that the amounts were not in the member's individual defined contribution account.

(E)

(1) If a member or contributor participating in the traditional pension plan withdraws an application as provided in this rule, the application of the member or contributor for an additional annuity payment under section 145.64 of the Revised Code, if any, shall also be withdrawn.

(2) All payments issued pursuant to section 145.64 of the Revised Code shall be returned to the retirement system in accordance with paragraph (A) of this rule.

(3) A member is not entitled to any investment gains or losses on the additional annuity account for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the account is reestablished by the retirement system. The member's additional annuity account shall be credited based on the daily value of the OPERS stable value fund on the date the account is reestablished by the retirement system.

(F) A member, contributor, or beneficiary may not withdraw an application as described in this rule if either any of the following have occurred:

(1) The retirement system has made a distribution from a retiree medical account or 401(h) retiree medical account, as those terms are defined in rule 145-4-01 of the Administrative Code.

(2) The retirement system has paid a portion of the benefit to satisfy a court order.

(3) The retirement system has made a distribution in accordance with paragraph (E) of rule 145-1-21 of the Administrative Code.

(4) In the case of an application for an additional annuity payment under section

145.64 of the Revised Code, the member, contributor, or beneficiary fails to also withdraw the individual's application for retirement, disability, or annuity payments under section 145.384 of the Revised Code.

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7/1/07, 1/12/08, 1/7/13 (Emer.), 3/24/13

145-1-72

Division of property orders.

(A) For purposes of this rule:

- (1) "Order" means an order described in section 3105.81 of the Revised Code.
- (2) "Alternate payee," "benefit," "lump sum payment," and "participant" have the meanings set forth in divisions (A) to (D) of section 3105.80 of the Revised Code.

(B)

- (1) The retirement system may retain an order that provides the last four digits of the participant or alternate payee's social security numbers.
- (2) After the public employees retirement system retains an order, the alternate payee shall provide information required on a form provided by the retirement system. The retirement system shall not issue payment to the alternate payee until the retirement system receives the information required for payment. The alternate payee shall notify this retirement system in writing of any change in the information.

(C) Pursuant to section 3105.90 of the Revised Code, an order shall be on the form prescribed by the appendix to this rule. The retirement system shall accept both the version of the form prescribed by the appendix to former rule 145-1-72 of the Administrative Code that was effective January 1, 2010~~2014~~, and the version of the form prescribed by the current appendix ~~until June 30, 2014. After June 30, 2014, the retirement system shall only accept the form prescribed by the current appendix.~~

(D) Any benefit or lump sum payment that is owed and unpaid to an alternate payee at the time of the alternate payee's death shall be paid to the estate of the alternate payee.

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Rule Amplifies: 145.561, 3105.80, 3105.81, 3105.82, 3105.821,
3105.83, 3105.84, 3105.85, 3105.86, 3105.87,
3105.88, 3105.89, 3105.90
Prior Effective Dates: 1/1/02 (Emer.); 3/22/02; 1/1/03; 8/22/03; 1/1/10,
1/1/14

145-1-73

Withdrawal of application for refund or money purchase or additional annuity lump sum payments.

(A)

- (1) Except as provided in paragraph (A)(2), (B), or (E) of this rule, a member or contributor of the public employees retirement system may withdraw a refund application by returning all uncashed refund payments to the retirement system not later than thirty days after issuance of the initial payment, along with a written request over the member's or contributor's signature to withdraw the application.
- (2) A member or contributor who requested a rollover of a refund or lump sum payment to a financial institution may withdraw the application if both of the following occur:
 - (a) The member or contributor submits to the retirement system, not later than thirty days after issuance of the initial rollover payment, a written request over the member's or contributor's signature to withdraw the application;
 - (b) The financial institution transmits to the retirement system, not later than sixty days after issuance of the initial rollover payment, the amounts transmitted to the financial institution.

(B)

- (1) Except as provided in paragraph (B)(2) or (E) of this rule, a beneficiary who elects to receive a lump sum payment of the member's contributions in lieu of a benefit pursuant to division (A) or (B) of section 145.45 of the Revised Code or article XI of the combined plan document may withdraw an application for that payment by returning all uncashed refund payments to the retirement system not later than thirty days after issuance of the initial payment, along with a written request over the beneficiary's signature to withdraw the application and a completed application for a benefit under division (A) or (B) of section 145.45 of the Revised Code or article XI of the combined plan document.
- (2) A qualified spouse who elects to rollover the member's contributions to a financial institution may withdraw a refund application if all of the following occur:
 - (a) The qualified spouse submits to the retirement system, not later than thirty

days after issuance of the initial rollover payment, a written request over the spouse's signature to withdraw the application;

- (b) The qualified spouse submits to the retirement system, not later than thirty days after issuance of the initial rollover payment, a completed application for benefits pursuant to division (A) or (B) of section 145.45 of the Revised Code or article XI of the combined plan document;
 - (c) The financial institution transmits to the retirement system, not later than sixty days after issuance of the initial rollover payment, the amounts transmitted to the financial institution.
- (C) If a member participating in the member-directed or combined plan, or the member's beneficiary, withdraws an application as provided in this rule, the member or the beneficiary is not entitled to any investment gains or losses on the amount that was paid from the member's individual defined contribution account for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the payment(s) is reestablished in the account by the retirement system as provided in this rule. The amount paid from the member's individual defined contribution account that is returned to the retirement system as provided in this rule shall be credited to the member's individual defined contribution account and invested in the same OPERS investment options and in the same proportion as the account existed immediately prior to the refund.
- (D) Any non-vested amounts forfeited by a member participating in the member-directed plan or the member's beneficiary who withdraws a refund application under this rule shall be restored to the member's individual defined contribution account or retiree medical account, as defined in rule 145-4-01 of the Administrative Code. Investment gains and losses shall not be applied to the amounts for the period that the amounts were not in the member's individual defined contribution account.
- (E) A member, contributor, or beneficiary may not withdraw a refund application as provided in this rule if any of the following have occurred:
- (1) The retirement system has made a distribution from a retiree medical account or 401(h) retiree medical account, as those terms are defined in rule 145-4-01 of the Administrative Code;
 - (2) The retirement system has paid a portion of the refund or lump sum payment to satisfy a court order.

- (3) The retirement system has made a distribution in accordance with paragraph (E) of rule 145-1-21 of the Administrative Code.
 - (4) In the case of an application for payment under section 145.63 of the Revised Code, the member, contributor, or beneficiary fails to also withdraw the individual's application for a refund or for retirement, disability, or annuity payments under section 145.384 of the Revised Code.
- (F) A member, contributor, or beneficiary who withdraws an application for an additional annuity payment under section 145.63 of the Revised Code is not entitled to any investment gains or losses on the additional annuity account for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the account is reestablished by the retirement system. The member's additional annuity account shall be credited based on the daily value of the OPERS stable value fund on the date the account is reestablished by the retirement system.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.06
Rule Amplifies: 145.384, 145.40, 145.401
Prior Effective Dates: 1/1/04 (Emer.), 2/16/04, 1/1/06, 4/6/07 (Emer.),
7/1/07, 1/12/08

145-1-74

Re-employment restrictions applicable to a member.

(A) For the purpose of this rule and section 145.38 or 145.382 of the Revised Code:

- (1) "Effective retirement benefit date" means the date upon which a retirement allowance begins.
- (2) "Ohio retirement system" means public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, highway patrol retirement system, and Cincinnati retirement system.

(B)

- (1) Forfeiture of a retirement allowance under section 145.38 of the Revised Code for employment in a position covered by another Ohio retirement system shall apply only to a PERS retirant whose effective retirement benefit date is on or after September 1, 1991.
- (2) A PERS retirant who has received a retirement allowance for less than two months and who becomes employed in a position covered by an Ohio retirement system shall forfeit such allowance for any month in which the PERS retirant is so employed during the two month period immediately following such retirant's effective retirement benefit date.
- (3) Notwithstanding paragraphs (B)(1) and (B)(2) of this rule, forfeiture of a retirement allowance shall not apply to a PERS retirant who is employed in a position covered by an Ohio retirement system if the retirant was continuously employed in the position for at least two months prior to the effective retirement benefit date in this system.

(C)

(1)

- (a) Where a member of this system who also has established membership in another Ohio retirement system or systems is terminating all employment covered by all the systems, and is electing to take a retirement benefit from one or more of the other systems as of the effective retirement benefit date, the member shall elect to:
 - (i) Apply for a benefit if eligible pursuant to section 145.32, 145.33, 145.332, 145.37 or 145.46 of the Revised Code or article IX of

the combined or member-directed plan document; or

(ii) Apply for a refund of contributions pursuant to section 145.40 of the Revised Code or article VIII of the combined or member-directed plan document.

(b) If, as of the effective retirement benefit date from an Ohio retirement system the member has sufficient service credit to qualify for a benefit in this system, the member's effective retirement benefit date shall be the first of the month following the later of the member's benefit date in the Ohio retirement system or attainment of eligibility for a benefit in this system, but not more than ninety days prior to receipt by the public employees retirement system of the member's completed retirement application.

(2)

(a) A member of this system who also is a member of an Ohio retirement system and who has applied for a retirement benefit in the that system may continue employment in the position covered by this system, provided that contributions made to this system after the member's effective retirement benefit date in the Ohio retirement system shall accrue only a benefit as described in section 145.384 of the Revised Code.

(b) If the member ~~has been continuously employed in such position for at least two months prior to the member's effective retirement benefit date in the Ohio retirement system~~ does not terminate all employment as described in paragraph (C)(1)(a) of this rule, the member may, upon termination of all service, elect to ~~have the~~ apply for a refund of contributions to this system made prior to the effective retirement benefit date in the Ohio retirement system also accrue to the benefit described in paragraph (C)(2)(a) of this rule. The

(c) A member described in paragraph (C)(2)(b) of this rule may elect, at any time prior to commencement of a benefit under section 145.384 of the Revised Code, to have deposited to an additional annuity account described in section 145.62 of the Revised Code the member's refund amount under paragraph (C)(2)(b) of this rule. The accrual of allowable interest shall not begin until after the effective retirement benefit date in the Ohio retirement system additional annuity account is established.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.38
Rule Amplifies: 145.38, 145.382
Prior Effective Dates: 8/1/92, 3/17/94, 2/3/00, 4/5/01, 1/1/03, 1/1/06, 1/7/13
(Emer.), 3/24/13, 3/23/15 (Emer.), 6/6/15

145-1-75 **Re-employment of a retireant.****(A) Definitions**

For the purpose of this rule and section 145.362, 145.37, 145.38, 145.382, 145.384, or 145.385 of the Revised Code:

- (1) "PERS retireant" means any former member of the public employees retirement system who retires as provided in section 145.32, 145.331, 145.332, or 145.37 of the Revised Code and is receiving a retirement allowance as provided in section 145.33, 145.331, 145.332, or 145.46 of the Revised Code.
- (2) "Combined retirement" means retirement based upon section 145.37 of the Revised Code.
- (3) "A contract to provide services, or for services, as an independent contractor" means an agreement that establishes a relationship in which the individual is an independent contractor and not a public employee.
- (4) "Disability benefit recipient" means an individual defined in division (N) of section 145.01 of the Revised Code.
- (5) "Employed" means the relationship between a public employer and an individual who is a public employee rather than an independent contractor.
- (6) "Other system retireant" means an individual defined in division (A)(2) of section 145.38 of the Revised Code.

(B) Elective positions

- (1) The provisions of section 145.38 of the Revised Code, and this rule shall apply to an age and service or other system retireant who is elected to an office, or is appointed to an elective office, of the state or its political subdivisions covered by this retirement system.
- (2) The provisions of section 145.362 of the Revised Code, and these rules shall apply to a disability retireant who is elected to an office of the state or its political subdivisions covered by this retirement system.

(C) Employed positions

A PERS retireant who has received a retirement allowance for less than two months and who becomes employed by a public employer shall forfeit the retirement

allowance for any month in which such retirant is employed during the two month period immediately following such retirant's effective retirement benefit date.

(D) Employment by legislative authority

(1) A PERS retirant may be employed irrespective of the length of time such retirant has received a retirement benefit:

(a) In a position authorized by section 101.31, 121.03 or 121.04 of the Revised Code; or

(b) In a position to which appointment is made by the governor with the advice and consent of the senate; or

(c) As the head of a division of a state department.

(2) A retirant described in paragraph (D)(1) of this rule, upon employment, shall elect in writing to the retirement system to have such employment covered either by:

(a) Section 145.38 of the Revised Code; or

(b) Section 145.382 of the Revised Code and paragraph (D)(3) of this rule.

(3)

(a) A retirant described in paragraph (D)(1) of this rule who elects to have such employment covered by section 145.382 of the Revised Code, upon employment, shall become a member of the retirement system based upon such employment with all obligations and rights except those pursuant to section 145.45 of the Revised Code, and shall forfeit such retirant's retirement allowance.

(b) Upon termination of employment, the retirant shall have a retirement allowance recalculated based on an allowance described in section 145.33 or 145.46 of the Revised Code utilizing the retirant's original service and service after retirement covered by section 145.382 of the Revised Code.

(E) Health care coverage

- (1) The public employer for which a PERS retirant is employed on February 9, 1994, or after, shall provide health care coverage for such retirant if such coverage is provided to its employees doing comparable work or in a comparable position.
- (2) The employer shall notify the retirement system of the status of health care coverage for a PERS retirant who is re-employed.
- (3) ~~If the retirant is covered under the employer's health care plan, health care claims paid by the retirement system shall be reduced by the benefits provided under the employer's health care plan.~~ If the retirant should be covered under the employer's health care plan as required by section 145.38 of the Revised Code but fails to enroll in the employer's health care plan, ~~the retirement system shall not pay any reduced or primary coverage claims for any period that the retirant failed to enroll in the employer's health care plan~~ the retirant is ineligible to participate in a plan provided under section 145.58 of the Revised Code.

(F) Restoration to service by a disability benefit recipient shall be governed by section 145.362 of the Revised Code and rule 145-2-22 of the Administrative Code.

(G) Determinations

A retirant or benefit recipient may request a determination from the retirement system as to the effect on the benefit of the retirant or recipient of a return to employment or restoration to service covered by Chapter 145. of the Revised Code, rule 145-2-22 of the Administrative Code, or other employment.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.38
Rule Amplifies: 145.362, 145.37, 145.38, 145.382
Prior Effective Dates: 2/19/60, 9/6/88, 8/1/92, 2/1/93, 3/17/94, 1/31/98,
8/1/98, 4/5/01, 2/14/02, 1/1/03, 1/1/06, 1/1/07, 1/1/09,
7/11/09, 1/7/13 (Emer.), 3/24/13, 5/8/14, 11/6/14

145-1-76 Benefits payable to a re-employed retiree.

(A)

(1) Benefits payable to a PERS or other system retiree pursuant to section 145.384 of the Revised Code shall be effective as provided in that section.

(2) Benefits payable to the beneficiary of a PERS or other system retiree shall be effective the first of the month following the retiree's date of death.

(B) A PERS or other system retiree may withdraw an application for benefits in the same method as described in rule 145-1-71 of the Administrative Code.

(C) Unless voided by an event as described in division (G) of section 145.384 of the Revised Code, the designation of a beneficiary by a PERS or other system retiree shall apply for all re-employment periods except for a period for which a benefit has already been paid or for which a retiree is accruing a supplemental benefit. A designation shall be made on a form provided by the public employees retirement board, signed by the retiree and filed with the board.

(D) If a retiree makes an application for a benefit pursuant to division (B)(2) of section 145.384 of the Revised Code, the retiree shall select a plan of payment as described in division (B) of section 145.46 of the Revised Code and designate a beneficiary.

(E) For those contributors whose benefit under section 145.384 of the Revised Code is commenced under the single-life plan in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, not later than one year after the effective date of the benefit described in this paragraph, a contributor who was married on the effective date of the benefit may elect the joint-life plan based on the actuarial equivalent of the contributor's single life annuity as determined by the board. The election shall be made on a form approved by the retirement system and shall be effective on the effective date of the benefit paid under the single-life plan. Any benefit overpayment may be recovered as provided in section 145.563 of the Revised Code.

(F) Except as provided in section 145.384 of the Revised Code or this rule, beneficiary and plan of payment changes shall be made in accordance with rules 145-2-44 and 145-2-47 of the Administrative Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

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09/29/2015

Date

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Statutory Authority: 145.09
Rule Amplifies: 145.38, 145.383, 145.384
Prior Effective Dates: 8/1/92, 4/5/01, 1/1/03, 6/20/03, 10/27/06, 4/1/08
(Emer.), 6/23/08, 1/1/10, 1/7/13 (Emer.), 3/24/13,
9/1/13 (Emer.), 9/16/13

145-1-77 **Reemployment of member-directed or combined plan participant.**

- (A) This rule amplifies sections 145.38 and 145.384 of the Revised Code and rules 145-1-74 to 145-1-76 of the Administrative Code.
- (B) As used in rule 145-1-74 of the Administrative Code, "PERS retirant" includes a member or former member of the public employees retirement system who is or has received a payment under article IX of the combined plan document or member-directed plan document, and has not withdrawn the application for retirement pursuant to rule 145-1-71 of the Administrative Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.38, 145.384
Prior Effective Dates: 1/1/03, 1/1/06, 1/7/13 (Emer.), 3/24/13, 3/23/15 (Emer.), 6/6/15

145-1-78 **Retirement of a member pursuant to section 145.383 of the Revised Code.**

(A) For purposes of section 145.383 of the Revised Code and this rule:

- (1) "Active position" means a position for which contributions were being received by a state retirement system at the time of retirement pursuant to section 145.383 of the Revised Code.
- (2) "PERS annual earnable salary" means a member's earnable salary for each active position reported by a public employer to the public employees retirement system for a calendar year. If a member has held an active position for less than a calendar year this system shall convert the earnable salary to an annual amount.
- (3) "Other retirement system annual compensation" means a member's annual compensation for an active position as certified to this system by the state teachers retirement system or the school employees retirement system.
- (4) "Highest annual compensation" means the highest of the PERS annual earnable salary or the other retirement system annual compensation for an active position.
- (5) "Position" means employment for which a member is covered and contributing to a state retirement system.
- (6) "State retirement system" means the public employees retirement system, school employees retirement system or state teachers retirement system.
- (7) "Other retirement system" means the school employees retirement system or state teachers retirement system.

(B)

- (1) When a member holds more than one active position in this system, no active positions in an other retirement system, and is electing to take a retirement benefit pursuant to section 145.383 of the Revised Code, the member shall:
 - (a) Apply for a benefit pursuant to section 145.32, 145.33, 145.332, or 145.46 of the Revised Code, for the active position which has the highest PERS annual salary, and,

(b) Select which other active position or positions upon which the member shall continue to contribute to this system.

(2) In computing the benefit described in paragraph (B)(1) of this rule all service credit in this system shall be used.

(C)

(1) When a member holds one or more active positions in this system and one or more active positions in an other retirement system, and the active position which has the highest annual compensation is in this system, the member shall:

(a) Apply for a benefit pursuant to section 145.32, 145.33, 145.332 or 145.46 of the Revised Code, for the active position which has the highest annual compensation, and,

(b) Select which other active position or positions upon which the member shall continue to contribute to this system or an other retirement system.

(2) In computing the benefit described in paragraph (C)(1) of this rule all service credit in this system shall be used.

(D) Employment in any position covered by this system that begins subsequent to the effective retirement benefit date under section 145.383 of the Revised Code shall be subject to section 145.38 or 145.382 of the Revised Code, and rule 145-1-75 of the Administrative Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.383
Rule Amplifies: 145.383
Prior Effective Dates: 4/5/01, 1/1/03, 1/7/13 (Emer.), 3/24/13

145-1-79

Reemployment covered by section 145.381 of the Revised Code.

A board, commission, or legislative authority that proposes to continue the employment as a reemployed retirant or rehire as a reemployed retirant in the same position, a person who is or most recently has been employed by a public employer in a position that is customarily filled by a vote of members of a board or commission or by the legislative authority of a county, municipal corporation, or township, shall certify on a form provided by the public employees retirement system that the employer has done both of the following:

- (A) Not less than sixty days before the employment as a reemployed retirant was to begin, gave public notice that the person is or will be retired and is seeking employment with the public employer;
- (B) Between fifteen and thirty days before the employment as a reemployed retirant was to begin and after complying with paragraph (A) of this rule, held a public meeting on the issue of the person being employed by the public employer.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.381
Rule Amplifies: 145.381
Prior Effective Dates: 10/23/03 (Emer.), 1/12/04, 1/1/06

145-1-80

Effect of applicant's death on payment plan.

- (A) If a member has filed an application for retirement pursuant to section 145.32, 145.33, 145.331, 145.332, 145.37 or 145.46 of the Revised Code or article IX of the combined or member-directed plan documents and the member's death occurs subsequent to the effective retirement benefit date, the beneficiary and benefit payable shall be determined by the plan of payment and beneficiary designated by the member on the application for retirement benefits.
- (B) If a PERS retirant or other system retirant as defined in section 145.38 of the Revised Code, or a retirant described in section 145.382, or 145.383 of the Revised Code has filed an application for a benefit pursuant to section 145.382, 145.383 or 145.384 of the Revised Code, and the retirant dies subsequent to the effective date of the benefit, the benefit payable to the beneficiary shall be determined by the plan specified by the retirant on the application.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.38
Rule Amplifies: 145.32, 145.33, 145.331, 145.332, 145.37, 145.38,
145.382, 145.383, 145.384, 145.46
Prior Effective Dates: 2/15/67, 8/6/90, 2/3/92, 2/1/93, 11/2/00, 3/22/02,
1/1/03, 6/6/05 (Emer.), 8/11/05, 1/1/09, 1/7/13
(Emer.), 3/24/13

145-1-81 Retirement plans.

(A) As used in Chapters 145-1 to 145-4 of the Administrative Code:

- (1) "Traditional pension plan" means the PERS defined benefit plan established under sections 145.201 to 145.79 of the Revised Code.
- (2) "Combined plan" means the PERS combined defined benefit/defined contribution plan established under section 145.81 of the Revised Code. Unless specifically identified otherwise within the text of the Administrative Code, references to the combined plan document refer to the version that includes amendments adopted through March 23, 2015.
- (3) "Member-directed plan" means the PERS defined contribution plan established under section 145.81 of the Revised Code. Unless specifically identified otherwise within the text of the Administrative Code, references to the member-directed plan document refer to the version that includes amendments adopted through March 23, 2015.

(B) The text of the combined and member-directed plan documents shall not be incorporated into this or any other rule of the Administrative Code. Current versions of the plan documents are available on the web site of the public employees retirement system at www.opers.org.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.80
Rule Amplifies: 145.81
Prior Effective Dates: 1/1/03, 1/1/06, 5/8/14, 3/23/15 (Emer.), 6/6/15

145-1-82

Exceptions to duty to notify.

- (A) This rule amplifies sections 145.16, 145.17, and 145.171 of the Revised Code.
- (B) The public employees retirement system is not required to inform a public employee of the requirements of section 145.19 of the Revised Code if either of the following apply:
- (1) The public employee fails to file the statement required under section 145.16 of the Revised Code.
 - (2) The head of each department, as defined in section 145.01 of the Revised Code, fails to provide the notice required by section 145.17 of the Revised Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.80
Rule Amplifies: 145.171, 145.81
Prior Effective Dates: 1/1/03

145-1-83

Application of USERRA to one hundred eighty-day election period.

- (A) This rule amplifies sections 145.19 and 145.191 of the Revised Code.
- (B) As used in this rule, "service in the uniformed services" and "uniformed services" have the same meanings as in section 145.302 of the Revised Code.
- (C) This rule applies to a member whose service in the uniformed services occurs during the member's one hundred eighty day election period as described in section 145.19 or 145.191 of the Revised Code.
- (D) Upon a member described in paragraph (C) of this rule being reemployed with the same public employer that employed the member prior to the member's service in the uniformed services, the member may, not later than ninety days after the reemployment, apply to the public employees retirement system on a form provided by the system to reestablish all or a portion of the member's one hundred eighty day election period.
- (1) On receipt of the application, the system shall request from the public employer that employed the member prior to the military service a certification that the member was employed by the public employer prior to, and returned to employment with the employer within three months of honorable discharge or release from, service in the uniformed services. If the public employer can so certify, the employer shall do so.
- (2) The member shall submit to the system report(s) of separation (form DD214) or other satisfactory documentation as evidence of the member's military service.
- (E) On receipt of the certification and documentation under paragraph (D) of this rule and approval of the certification, the system shall reestablish the member's election period as follows:
- (1) If all of the member's one hundred eighty day election period was interrupted by the member's service in the uniformed services, the member shall have one hundred eighty days after the date certification is approved by the system to make an election under section 145.19 or 145.191 of the Revised Code.
- (2) If a portion of the member's one hundred eighty day election period was interrupted by the member's service in the uniformed services, the member shall have the same portion of the member's one hundred eighty day election period after the date certification is approved by the system to make an

election under section 145.19 or 145.191 of the Revised Code.

(F) The election of a member under this rule takes effect as follows:

- (1) For members who are eligible to make an election under section 145.191 of the Revised Code, the election shall take effect on January 1, 2003.
- (2) For members who are eligible to make an election under section 145.19 of the Revised Code, the election shall take effect on the date employment began.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.16, 145.191
Prior Effective Dates: 11/15/03

145-1-88 **Changes to election to participate.**

(A) This rule amplifies section 145.814 of the Revised Code and section 2.03 of the combined and member-directed plan documents.

(B) As used in this rule and rules 145-1-89, 145-2-18, and 145-3-40 of the Administrative Code:

(1) "Eligible member" has the same meaning as in section 145.814 of the Revised Code and includes a member who was not eligible to make an election under section 145.19 or 145.191 of the Revised Code due to the member's status as a law enforcement or public safety officer and who is not currently contributing as a law enforcement or public safety officer;

(2) "Amount on deposit" means the sum of the amounts available to a member to purchase service credit in the member's new plan as described in section 6.01 of the combined plan or section 6.01 or 6.02 of the member-directed plan.

(C)

(1) As used in this rule, "total service credit" means the sum of a member's service credit in the traditional pension plan, service credit in the combined plan, and contributing months in the member-directed plan.

(2) Subject to the requirements of this rule and rule 145-1-89 of the Administrative Code, in addition to the enrollment period described in sections 145.19 and 145.191 of the Revised Code, an eligible member who is actively contributing to the retirement system may elect to participate in a different plan as follows:

(a) For elections ~~effective~~effective on or before July 1, 2015, during the following periods of service as a public employee:

(i) Once prior to attaining five years of total service credit;

(ii) Once after attaining five and prior to ~~attaining~~attaining ten years of total service credit;

(iii) Once after attaining ten years of total service credit.

(b) For elections effective on and after August 1, 2015, once at any time prior to retirement under any of the plans defined in rule 145-1-81 of the

Administrative Code or a refund from the member's current plan.

- (3) An election that is not used within the specified time period may not be made in a subsequent time period.
- (D) Except as provided in rule 145-1-89 of the Administrative Code, an election under this rule applies only to employer and employee contributions made after the effective date of the election.
- (E) An election to transfer to the traditional pension plan under section 10.03(a) of the combined plan document for the payment of a disability benefit is irrevocable. ~~If the eligible~~Any member ~~subsequently that~~ returns to service as a public employee; ~~the member~~ following receipt of a disability benefit shall remain a member of the traditional pension plan and is not eligible to make an election under paragraph (C) of this rule.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.80
Rule Amplifies: 145.81, 145.814
Prior Effective Dates: 1/1/03, 11/15/03, 1/1/06; 1/1/09, 1/1/11, 7/7/13
(Emer.), 9/16/13, 3/23/15 (Emer.), 6/6/15

145-1-89 Transfer of contributions under rule 145-1-88 of the Administrative Code.

- (A) This rule amplifies section 145.814 of the Revised Code and section 2.04 and article VI of the combined and member-directed plan documents.
- (B) Except as provided in paragraph (C) of this rule, an eligible member who elects a different plan under rule 145-1-88 of the Administrative Code may have the amounts on deposit for the prior plan transferred in accordance with the member's new plan if one of the following applies:
- (1) The member, by an election under rule 145-1-88 of the Administrative Code, will cease participation in the member-directed plan and begin participating in the combined plan or traditional pension plan;
 - (2) The member, by an election under rule 145-1-88 of the Administrative Code, will cease participating in the combined plan and begin participating in the traditional pension plan.
- (C) For an election under rule 145-1-88 of the Administrative Code that is effective on or before July 1, 2015, the eligible member may transfer the amounts described in paragraph (B) of this rule to the member's new plan not later than one hundred eighty days after the effective date of the election. For an election that is effective on and after August 1, 2015, an eligible member may transfer such amounts at any time prior to retirement or distribution under any of the plans defined in rule 145-1-81 of the Administrative Code or a refund from the member's current plan.
- (D)
- (1) For a member described in paragraph (B)(1) or (2) of this rule who will begin participating in the traditional pension plan, the amount on deposit shall be transferred in accordance with rule 145-2-18 of the Administrative Code.
 - (2) For a member described in paragraph (B)(1) of this rule who will begin participating in the combined plan, the amount on deposit shall be transferred in accordance with rule 145-3-40 of the Administrative Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2020

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.80
Rule Amplifies: 145.81, 145.814
Prior Effective Dates: 1/1/03, 3/23/15 (Emer.), 6/6/15

145-2-01 Service credit definitions.

- (A) For service purchased or restored in the traditional pension plan under sections 145.28, 145.295, 145.2911, 145.2913, 145.31, and 145.311 of the Revised Code, "eighteen months of contributing service credit in the system," means eighteen months of contributing service credit under the traditional pension plan, inclusive of service credit transferred from a prior plan to the traditional pension plan pursuant to rule 145-2-18 of the Administrative Code.
- (B) For purposes of division (H)(1) of section 145.01 of the Revised Code, "contributing service in this system" means contributing service credit under the traditional pension plan.

Effective:

Five Year Review (FYR) Dates: 09/29/2016

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.01, 145.28, 145.295, 145.2911, 145.2913, 145.31,
145.311
Prior Effective Dates: 6/19/47, 12/4/89, 10/3/92, 1/1/03, 1/1/09, 1/1/11,
1/7/13 (Emer.), 3/24/13

145-2-32**Crediting of interest to beneficiaries lump sum payments.**

For purposes of determining the interest credited to a deceased member's account under section 145.471 of the Revised Code, interest shall be earned through the last day of the month prior to the first payment to a beneficiary under section 145.43 of the Revised Code.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.431, 145.471

145-2-50

Acturial reduction factors.

The public employees retirement board shall, based on the recommendation of the board's actuary, establish the percentage rate for the reductions described in division (A)(2) of section 145.33 of the Revised Code.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2016

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.33
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13

145-2-54

Enhanced refund.

(A) As used in this rule:

- (1) "Eligible contributions" means amounts contributed by a member under section 145.47 of the Revised Code and, if applicable, the amounts paid by the member to purchase or restore service credit under section 145.302 or 145.31 of the Revised Code. "Eligible contributions" does not include contributions that were used in the payment of a disability benefit under section 145.36 of the Revised Code or were refunded to the member because the system was not authorized to accept the contributions.
- (2) "Service credit" has the same meaning as defined in section 145.401 of the Revised Code.

(B) For purposes of division (B) of section 145.401 of the Revised Code:

- (1) If a member has, or at the time of death had, at least five years of service credit but less than ten years of service credit, the amount shall equal thirty-three per cent of the member's eligible contributions.
- (2) If a member has, or at the time of death had, at least ten years of service credit, the amount shall equal sixty-seven per cent of the member's eligible contributions.

Five Year Review (FYR) Dates: 09/29/2015 and 09/29/2016

CERTIFIED ELECTRONICALLY

Certification

09/29/2015

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.401
Rule Amplifies: 145.401
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13

145-3-21

Purchase of service credit by combined plan members.

- (A) This rule amplifies division (C) of section 145.82 of the Revised Code and section 3.05 of the combined plan document.
- (B) A member participating in the combined plan may purchase service credit under section 145.20, 145.201, 145.291, 145.292, 145.293, 145.299, 145.2915, 145.302, or 145.47 of the Revised Code, former section 145.295, 145.2911, or 145.2913 of the Revised Code as they existed prior to January 7, 2013, or section 3.11 or 3.12 of the combined plan document.
- (C) For purposes of determining the member's eligibility to purchase service credit under section 145.28, 145.295, 145.2911, or 145.2913 of the Revised Code or section 3.11 of the combined plan document, "eighteen months of contributing service credit in the system" means eighteen months of contributing service credit under the combined plan, inclusive of service credit transferred from a prior plan to the combined plan pursuant to rule 145-3-40 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 09/24/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.80
Rule Amplifies: 145.01, 145.20, 145.201, 145.28, 145.29, 145.291,
145.292, 145.293, 145.295, 145.299, 145.2911,
145.2913, 145.2915, 145.301, 145.302, 145.47,
145.81, 145.82
Prior Effective Dates: 1/1/03, 12/24/04, 1/1/09, 1/7/13 (Emer.), 3/24/13,
7/7/13 (Emer.), 9/16/13

145-4-01 **Health care definitions.**

As used in this chapter:

- (A) "401(h) retiree medical account" means the retiree medical account of a benefit recipient within the account established by the public employees retirement board under rule 145-4-02 of the Administrative Code and described in rules ~~145-4-26~~145-4-40, ~~145-4-28~~145-4-42, and ~~145-4-30~~145-4-44 of the Administrative Code.
- ~~(B)~~ "115 trust" means the Ohio public employees retirement system trust agreement for funding employee benefit plans, the assets of which qualify for exclusion from federal income taxation under section 115 of the Internal Revenue Code of 1986, 26 U.S.C.A. 115.
- ~~(B)~~(C) "Age and service retirant" means a former member who is receiving a retirement allowance pursuant to section 145.33, 145.331, 145.332, 145.37 or 145.46 of the Revised Code or section 9.03 of the combined plan document.
- ~~(C)~~(D) "Benefit recipient" means the primary benefit recipient who is eligible for health care coverage, if living. If the member or primary benefit recipient is deceased, "benefit recipient" shall mean the survivor benefit recipient who is eligible for health care coverage.
- ~~(D)~~(E) "Disability benefit recipient" has the same meaning as in section 145.01 of the Revised Code and includes a member or former member who is receiving a disability benefit pursuant to article X of the combined plan document.
- ~~(E)~~(F) "Health care coverage" means the coverage authorized under sections 145.58 and 145.584 of the Revised Code, excluding the reimbursement of the medicare part A and B premium premiums, the and dental and vision coverage, and the health reimbursement arrangement.
- ~~(F)~~(G) "Health reimbursement arrangement" or "HRA" means the public employees retirement system of Ohio health reimbursement arrangement plan, effective October 1, 2015, funded by the 115 trust or such other funding vehicle or mechanism established by the retirement system, from which the reimbursement of qualifying medical expenses may be made. The text of the HRA shall not be incorporated into this or any other rule of the Administrative Code. The current version of the HRA is available at www.opers.org.
- ~~(F)~~(H) "Initial benefit payment" has the same meaning as in rule 145-1-65 of the Administrative Code.

- ~~(G)~~(I) "Monthly health care allowance" or "monthly allowance" means the monthly amount that is allocated to each individual enrolled in health care coverage or health reimbursement arrangement. ~~This~~ For health care coverage, this allowance shall be used to purchase health care coverage sponsored by the board and is based on the self-supporting rate, as determined by the board, and as adjusted by the member or primary benefit recipient's qualified years of employer contributions. For a medicare-eligible benefit recipient who is not subject to rule 145-4-62 of the Administrative Code, the monthly allowance shall be determined by the board and offered in the form of a notional credit to the health reimbursement arrangement consistent with the provisions of that plan. For effective dates of retirement on and after January 1, 2015, the monthly health care allowance shall also be based on the member or primary benefit recipient's attained age at the time of initial enrollment in the coverage.
- ~~(H)~~(J) "Ohio retirement system" means the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, or highway patrol retirement system.
- ~~(I)~~(K) "Primary benefit recipient" means an age and service retirant or disability benefit recipient is eligible for health care coverage.
- ~~(J)~~(L) "Qualified medical expense" means medical care, as defined in section 213(d) of the Internal Revenue Code of 1986, 26 U.S.C.A. 213(d), and applicable regulations thereunder and are excludable from income in accordance with sections 105 and 106 of the Internal Revenue Code.
- ~~(K)~~(M) "Qualified years of employer contributions" means years of employer contributions and the years purchased or transferred under section 145.295, 145.2911, or 145.37 of the Revised Code that, if earned or obtained in the public employees retirement system, would be the equivalent of the years of employer contributions. Qualified years of employer contributions do not include the contributions that are the basis of a lump sum pursuant to division (I)(2)(b) or (I)(3)(b) of section 145.332 of the Revised Code.
- ~~(L)~~(N) "Retiree medical account" means the voluntary employees beneficiary association (VEBA) established by the public employees retirement board in accordance with section 501(c)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 501, and described in the document entitled the "public employees retirement system of Ohio VEBA health plan" that was effective on January 1, 2003, and includes amendments adopted through March 23, 2015. The text of the public employees retirement system of Ohio VEBA health plan shall not be incorporated into this or any other rule of the Administrative Code. The current version is available at www.opers.org.

~~(M)~~(O) "Self-supporting rate" means the adjusted per capita cost for providing health care coverage for any given year, as determined by the board.

~~(N)~~(P) "Service manager" means the individual or entity appointed by the public employees retirement system to administer the retiree medical accounts or the 401(h) retiree medical accounts.

~~(O)~~(Q) "Survivor benefit recipient" means a qualified spouse or child who is eligible for health care coverage and receiving a benefit pursuant to section 145.45 or 145.46 of the Revised Code or section 9.03 of the combined plan document.

~~(P)~~(R) "Years of employer contributions" means the years or portions of a year for which the member's employer contributed to the public employees retirement system under section 145.302, 145.48, or 145.483 of the Revised Code, section 3.02 of the combined plan document, or article VI of the combined or member-directed plan document. Beginning January 1, 2014, "years of employer contributions" means the years or portions of a year described in this paragraph for which the member's monthly earnable salary on and after January 1, 2014, is one thousand dollars or greater.

Effective:

Five Year Review (FYR) Dates: 09/29/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/07, 1/1/09, 1/7/13 (Emer.), 3/24/13, 1/1/14, 1/1/15

145-4-02

Health care fund.

- (A) Within the funds described in section 145.23 of the Revised Code, there shall be a separate ~~account~~ accounts established pursuant to section 401(h) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401, and section 115 of the Internal Revenue Code of 1986, 26 U.S.C.A. 115, for the purpose of funding the coverage authorized under sections 145.58 and 145.584 of the Revised Code. ~~This account~~ These accounts shall be known as the "401(h) ~~account~~ health care fund." The assets in the 401(h) ~~account~~ health care fund shall be accounted for separately from the other assets of the public employees retirement system, but may be commingled with the other assets of the system for investment purposes. Investment earnings and expenses shall be allocated on a reasonable basis. All assets in the 401(h) ~~account~~ health care fund shall be held in trust for the exclusive benefit of members, benefit recipients, and eligible dependents.
- (B) Contributions to the 401(h) ~~account~~ health care fund shall be funded by employer contributions as described in sections 145.48, 145.51, 145.58 and 145.584 of the Revised Code. Contributions to the 401(h) ~~account~~ health care fund are subordinate to the contributions to the funds for retirement benefits under the traditional pension plan and combined plan. At no time shall contributions to the 401(h) account be in excess of twenty-five per cent of the total aggregate actual contributions made to the trust for the traditional pension plan and combined plan, excluding contributions to fund past service credit. In any event, such contributions shall be reasonable and ascertainable.
- (C) Forfeitures shall be used to fund health care coverage, qualified medical expenses, dental and vision coverage, administrative expenses of the 401(h) ~~account~~ health care fund, and to reimburse reimbursement of the medicare part A and B premium premiums, if provided by the system, and as provided in rule ~~145-4-30145-4-44~~ of the Administrative Code and section 145.584 of the Revised Code.
- (D) The assets of the 401(h) ~~account~~ health care fund shall only be used for the payment of health care coverage, qualified medical expenses, dental and vision coverage, and to reimburse reimbursement of the medicare part A and B premium premiums, if provided by the system.
- (E) At no time prior to the satisfaction of all liabilities under this rule and sections 145.58 and 145.584 of the Revised Code shall any assets in the 401(h) ~~account~~ health care fund be used for, or diverted to, any purpose other than as provided in paragraph (D) of this rule and for the payment of administrative expenses. Assets in the 401(h) ~~account~~ health care fund may not be used for retirement, disability, or survivor benefits, or for any other purpose for which the other funds of the system are used.
- (F) Upon satisfaction of all liabilities under this rule, any assets in the 401(h) account, if

any, that are not used as provided in paragraph (E) of this rule shall be returned to the employers, in accordance with section 401(h)(5) of the Internal Revenue Code. Upon satisfaction of all liabilities under this rule, any assets in the 115 trust, if any, that are not used as provided in paragraph (E) of this rule shall revert to a vehicle designated by the public employees retirement board, and in no case will the assets be distributed to any entity that is not a state, a political subdivision of a state, or an entity the income of which is excluded from gross income under section 115 of the Internal Revenue Code.

- (G) It is the intent of the public employees retirement board in adopting this rule to comply in all respects with sections 115, 401(a) and 401(h) of the Internal Revenue Code and regulations interpreting those sections. In applying this rule, the board will apply the interpretation that achieves compliance with those sections and preserves the qualified status of the system as a governmental plan in accordance with sections 401(a) and 414(d) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401 and 414.
- (H) This rule is intended to codify past practices and procedures of the system with respect to ~~the funding and payment of health care~~ the coverage authorized under sections 145.58 and 145.584 of the Revised Code and does not confer any new rights to members, retirants, survivors, beneficiaries, or their dependents.

Effective:

Five Year Review (FYR) Dates: 09/29/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/07, 1/1/09, 1/7/13 (Emer.), 3/24/13; 1/1/14

TO BE RESCINDED

145-4-03 **Health care coverage.**

- (A) Health care coverage for an eligible primary benefit recipient may be available upon application on a form provided by the public employees retirement system. A primary benefit recipient may enroll an eligible dependent as defined in rule 145-4-09 of the Administrative Code.
- (B)
- (1) Except as provided in this paragraph, applications for health care coverage must be received by the public employees retirement system not later than sixty days after the benefit recipient's initial benefit payment. During this sixty-day period, the applicant may make one change to the filed application. If the application is received more than sixty days after the initial benefit payment or the benefit recipient fails to file an application within that period, the benefit recipient shall be treated as described in paragraph (E) of this rule.
- (2) The system may accept and process an application received more than sixty days after the benefit recipient's initial benefit payment if either of the following occur:
- (a) The system determines that a physical or mental incapacity prevented the benefit recipient from making application within the initial sixty day benefit period. The effective date of coverage shall be determined in accordance with rule 145-4-04 of the Administrative Code.
- (b) The benefit recipient did not apply for coverage and later submits an application due to involuntary termination of coverage under another group plan. The benefit recipient shall submit the application within thirty-one days of the involuntary termination together with proof of such termination. If the application is received on or before the tenth day of a month, the coverage is effective on the first day of the month following receipt of the application. Otherwise, the coverage is effective on the first day of the second month following receipt of the application.
- (C) Upon the recommendation of the actuary retained by the board, the board shall determine annually the portion of the self-supporting rate it may pay for eligible benefit recipients and eligible dependents enrolled in health care coverage.
- (D) An ineligible individual, as defined in rule 145-4-06 of the Administrative Code, may remain enrolled in a health care plan administered by a third party health care

administrator(s). Such ineligible individual shall pay all required premiums directly to the health care administrator in the time and manner prescribed by the third party health care administrator. New enrollments to this plan shall not be permitted on or after January 1, 2014. Except to the extent required under paragraph (I) of this rule, the retirement system shall not be responsible for any premiums, claims, or withholding of premiums for such health care plan.

(E)

- (1) An eligible benefit recipient may defer enrollment in health care coverage. The deferral applies to both the benefit recipient and the benefit recipient's dependents.
- (2) A benefit recipient who is described in paragraph (E)(1) of this rule or who waived coverage under a version of this rule in effect prior to January 1, 2014, may enroll by filing an application for enrollment in health care coverage during one of the following:
 - (a) The annual open enrollment period for health care coverage, except that the deferral or waiver remains effective until January first of the next year;
 - (b) Within sixty days of involuntary termination of coverage under another group plan, and with proof of such termination, except that the deferral or waiver remains effective until the first day of the month following receipt if the application is received by the tenth day of the preceding month, otherwise the deferral or waiver remains effective until the first day of the second month following receipt of the application.

- (F) An individual who is eligible for health care coverage from more than one benefit may not enroll for health care coverage simultaneously under more than one benefit.

(G)

- (1) Regardless of the reason for eligibility, all enrolled benefit recipients and dependents shall enroll in medicare part B at the benefit recipient or eligible dependent's first eligible date.
- (2) All enrolled benefit recipients and dependents shall enroll in medicare part A at the benefit recipient or eligible dependent's first eligible date if the benefit recipient or dependent can do so without payment of a premium for the

coverage.

- (3) For any period that a benefit recipient or dependent is eligible but fails to enroll in medicare part A or B as required by this paragraph, the health care claims paid by the retirement system shall be reduced by the coverage the individual should have received if enrolled in medicare part A or B.

- (H) The retirement system shall offer continuation coverage, as applicable, in accordance with the requirements of the Consolidated Omnibus Budget and Reconciliation Act of 1985 ("COBRA"), 42 United States Code 300gg-1.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

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Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
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3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/09, 1/1/11, 1/1/12, 9/10/12, 12/10/12, 1/7/13
(Emer.), 3/24/13, 1/1/14, 1/1/15

TO BE RESCINDED

145-4-04

Effective date of health care coverage.

- (A) Except as otherwise provided in this rule or rule 145-4-03 of the Administrative Code, the effective date of health care coverage shall be the later of the following:
- (1) The effective benefit date of the benefit that is the basis of the health care coverage, or
 - (2) The first day of the month during which an application for the benefit is received by the public employees retirement system.
- (B) For benefit recipients of survivor benefits under section 145.45 of the Revised Code and article XI of the combined plan document, the effective date of health care coverage shall be the effective date of the survivor benefit, but shall not exceed more than one year prior to the date on which the system receives an application for enrollment in health care coverage.
- (C) If the retirement system or health care administrator has not paid claims for health care coverage for an eligible benefit recipient or eligible dependent, the benefit recipient may elect an effective date of health care coverage that is after the date described in paragraph (A) of this rule but is not later than sixty days after the initial benefit payment. An election under this paragraph shall be made not later than sixty days after the initial benefit payment.
- (D) The effective date of health care coverage shall be on the first day of a month.

Replaces: 145-4-01(C)

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

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3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/12, 12/10/12

TO BE RESCINDED

145-4-05

Rescission of coverage.

The health care, dental, and vision coverage of an enrolled benefit recipient or dependent shall be rescinded if the individual is convicted of falsification under section 2921.13 of the Revised Code regarding any coverage or performs an act, practice or omission that constitutes fraud or makes an intentional misrepresentation of material fact regarding the coverage. The effective date of the termination of coverage shall be the earlier of the date of the conviction or the act, practice or omission that constitutes fraud or an intentional misrepresentation of material fact, unless otherwise limited by Ohio law. The retirement system shall notify the individual of the rescission at least thirty days prior to processing the rescission. The rescission of a benefit recipient's coverage applies to all enrolled dependents and all coverage options.

Replaces: 145-4-03(I)

Effective:

Five Year Review (FYR) Dates: 09/29/2015

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3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/09, 1/1/11, 1/1/12, 9/10/12, 12/10/12, 1/7/13
(Emer.), 3/24/13, 1/1/14, 1/1/15

145-4-06

Eligibility for health care in traditional pension and combined plans.

- (A) For effective dates of benefits before January 1, 2014, “ineligible individual” means all of the following:
- (1) A former member receiving benefits pursuant to section 145.32, 145.33, 145.331, 145.332, or 145.46 or former section 145.34 of the Revised Code or section 9.03 of the combined plan document for whom eligibility is established after June 13, 1986, and who, at the time of establishing eligibility, has accrued less than ten years of service credit, exclusive of credit obtained pursuant to section 145.297 or 145.298 of the Revised Code, credit obtained after January 29, 1981, pursuant to section 145.293 or 145.301 of the Revised Code, credit obtained after May 4, 1992, pursuant to section 145.28 of the Revised Code, and credit obtained in the combined plan after January 1, 2003, pursuant to section 145.28, 145.293, or 145.301 of the Revised Code;
 - (2) The spouse of the former member;
 - (3) The beneficiary of the former member receiving benefits pursuant to section 145.46 of the Revised Code or section 9.03(e) of the combined plan document, as amended on January 7, 2013.
- (B) For effective dates of benefits on and after January 1, 2014, but before January 1, 2015, “ineligible individual” means any individual who does not meet any of the following:
- (1) A former member receiving benefits pursuant to section 145.32, 145.33, 145.331, 145.332, or 145.46 or former section 145.34 of the Revised Code or section 9.03 of the combined plan document with an effective date of benefits on and after January 1, 2014, but before January 1, 2015, and who has accrued at least ten years of qualified years of employer contributions.
 - (2) The spouse of the former member;
 - (3) The beneficiary of the former member receiving benefits pursuant to section 145.46 of the Revised Code or section 9.03(e) of the combined plan document, as amended on January 7, 2013.
- (C) For effective dates of benefits on or after January 1, 2015, “ineligible individual” means any individual who does not meet any of the following:

- (1) A former member receiving benefits pursuant to section 145.32, 145.33, 145.332, or 145.46 or former section 145.34 of the Revised Code or section 9.03 of the combined plan document with an effective date of benefits on and after January 1, 2015, and who has attained age sixty and has accrued at least twenty qualified years of employer contributions or is any age and has accrued at least thirty qualified years of employer contributions.
 - (2) A former member receiving benefits pursuant to section 145.331 of the Revised Code who is one of the following:
 - (a) Had an effective date of benefits under section 145.361 of the Revised Code prior to January 1, 2015, and had accrued at least ten qualified years of employer contributions; or
 - (b) Had an effective date of benefits under section 145.361 of the Revised Code on or after January 1, 2015, and attained age sixty and has accrued at least twenty years of qualified employer contributions or is any age and has accrued at least thirty qualified years of employer contributions.
 - (3) The spouse of the former member;
 - (4) The beneficiary of the former member receiving benefits pursuant to section 145.46 of the Revised Code or section 9.03(e) of the combined plan document, as amended on January 7, 2013.
- (D) Beginning January 1, 2014, as used in section 145.58 of the Revised Code, an “ineligible individual” includes a disability benefit recipient who has an effective date of benefits that is on or after January 1, 2014, and has been receiving a disability benefit for more than five years unless the recipient meets one of the following:
- (1) The recipient has met the eligibility requirements described in paragraph (C) of this rule;
 - (2) The recipient qualifies for federal hospital insurance benefits under the Social Security Amendments of 1965, 79 Stat. 291, 42 U.S.C.A. 1395c, on the basis of a disability and has not attained age sixty-five;
 - (3) The recipient is not eligible to participate in medicare part A at no cost to the recipient and has not attained age sixty-five.

- (E) A member participating in the combined plan shall be a member of the traditional pension plan for purposes of the coverage described in sections 145.58 and 145.584 of the Revised Code.

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Five Year Review (FYR) Dates: 09/29/2018

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Date

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Rule Amplifies: 145.58, 145.584, 145.82
Prior Effective Dates: 4/15/04, 1/1/07, 1/7/13 (Emer.), 3/24/13, 1/1/14,
1/1/15, 1/21/15 (Emer.), 4/17/15

TO BE RESCINDED

145-4-07 Reenrollment following voluntary termination of health care coverage.

(A) An eligible benefit recipient enrolled in health care coverage under rule 145-4-03 of the Administrative Code may voluntarily terminate coverage. The termination of coverage applies to both the benefit recipient and the benefit recipient's dependents. The effective date of the termination of coverage shall be determined as follows:

- (1) If the termination of coverage is received by the retirement system not later than sixty days after issuance of the initial benefit payment and the public employees retirement system has not paid claims for health care coverage of the benefit recipient or dependent, the termination is effective on the effective date of benefits. The benefit recipient shall be treated as an individual who did not enroll in coverage under paragraph (E)(1) of rule 145-4-03 of the Administrative Code.
- (2) If the termination of coverage is received by the retirement system more than sixty days after the issuance of the initial benefit payment but not later than the tenth day of a month, the termination is effective on the first day of the month following receipt of the termination.
- (3) If the termination of coverage is received by the retirement system more than sixty days after the issuance of the initial benefit payment and after the tenth day of a month, the termination is effective on the first day of the second month following receipt of the termination.

(B) A benefit recipient who voluntarily terminated coverage as described in paragraph (A) of this rule on or after January 1, 2014, may reenroll in coverage by one of the following actions:

- (1) During the annual open enrollment period, the benefit recipient applies for health care coverage and provides proof of creditable coverage in another health care plan that is effective through December thirty-first of the plan year immediately preceding participation in this plan; or
- (2) Within sixty days of involuntary termination of health care coverage under another plan, the benefit recipient submits and application for health care coverage and provides proof of creditable coverage in the prior plan. This enrollment will become effective on the first day of the month following receipt of the application if the application is received not later than the tenth day of the month; otherwise, the enrollment becomes effective on the first day of the second month following receipt of the application.

(C) This rule does not apply to any of the following:

- (1) Rule 145-4-13 of the Administrative Code;
- (2) A benefit recipient whose disenrollment occurred under rule 145-4-17 of the Administrative Code;
- (3) A benefit recipient whose health care coverage has been suspended for failure to submit the documentation necessary to administer the individual's enrollment in the coverage.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/14 (Emer.), 1/10/14

145-4-08

Eligibility for health care coverage for years of employer contributions in traditional pension and combined plans.

For purposes of determining eligibility for health care coverage and the monthly health care allowance, the public employees retirement system shall aggregate years of employer contributions earned and purchased in both the traditional pension plan and the combined plan if both of the following apply:

(A) The member is eligible to retire independently from both the traditional pension plan and the combined plan;

(B) The member applies for retirement under both the traditional pension plan and the combined plan with the same effective date of benefits under both plans.

Replaces: 145-4-22

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.58, 145.82
Prior Effective Dates: 1/1/07, 1/1/15

145-4-09

Definition of "eligible dependent" for health care coverage.

"Eligible dependent" ~~means any~~ is a dependent for purposes of sections 105 and 106 of the Internal Revenue Code of 1986, 26 U.S.C.A. 105, 106, and is described as one of the following:

- (A) The spouse of a primary benefit recipient. ~~The spouse shall be an individual of the opposite gender who establishes a marriage by a valid marriage certificate recognized by Ohio law.~~
- (B) The biological or legally adopted child of a primary benefit recipient who is under the age of twenty-six or is permanently and totally disabled prior to age twenty-two. For purposes of this paragraph "permanently and totally disabled" means the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months.
- (C) The grandchild of a primary benefit recipient for whom the benefit recipient has been ordered pursuant to section 3109.19 of the Revised Code, or equivalent order from another state, to provide for the health care coverage.
- (D) For effective dates of disability benefits on and after January 1, 2014, an eligible dependent of a disability benefit recipient described in paragraph (B) or (C) of this rule who has been receiving a disability benefit for more than five years if the disability benefit recipient meets one of the following:
 - (1) At the time the disability benefit commenced, the disability benefit recipient has thirty or more qualified years of employer contributions; or
 - (2) At the time the disability benefit commenced, the disability benefit recipient has attained age sixty and has twenty or more qualified years of employer contributions.
- (E) For coverage periods commencing on and after January 1, 2018, an eligible dependent described in paragraph (B) or (C) of this rule may be enrolled in health care coverage only if the primary benefit recipient had at least twenty qualified years of employer contributions at the time the benefit commenced.

Effective:

Five Year Review (FYR) Dates: 09/26/2018

Certification

Date

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Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/05, 10/27/06, 1/1/09, 1/1/11, 1/1/15

TO BE RESCINDED

145-4-10 Enrollment of eligible dependents outside of open enrollment period.

(A) A benefit recipient may enroll an eligible dependent in health care coverage at any time outside of the annual health care open enrollment period if any of the following apply:

- (1) The primary benefit recipient may enroll a new spouse upon marriage;
- (2) The benefit recipient may enroll an eligible child upon the birth or adoption of that child;
- (3) The benefit recipient may enroll an eligible dependent who has involuntarily lost health care coverage from another source;
- (4) The primary benefit recipient is ordered to enroll a child pursuant to a national medical support order;
- (5) The dependent first achieves an eligibility threshold described in rule 145-4-09 of the Administrative Code.

(B) Enrollment of an eligible dependent under this rule shall be made on an application provided by the public employees retirement system and must be received not later than sixty days after of the occurrence of the event described in paragraph (A) of this rule.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58
Prior Effective Dates: 1/1/07, 1/1/11

145-4-11

Rescission of coverage.

The health care, dental, and vision coverage of an enrolled benefit recipient or dependent and eligibility for participation in the health reimbursement arrangement plan shall be rescinded if the individual is convicted of falsification under section 2921.13 of the Revised Code regarding any coverage or plan or performs an act, practice or omission that constitutes fraud or makes an intentional misrepresentation of material fact regarding the coverage or plan. The effective date of the termination of coverage or plan participation shall be the earlier of the date of the conviction or the act, practice or omission that constitutes fraud or an intentional misrepresentation of material fact, unless otherwise limited by Ohio law. The retirement system shall notify the individual of the rescission at least thirty days prior to processing the rescission. The rescission of a benefit recipient's coverage applies to all enrolled dependents and all coverage and plan options.

Replaces: 145-4-05

Effective:

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Certification

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3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/09, 1/1/11, 1/1/12, 9/10/12, 12/10/12, 1/7/13
(Emer.), 3/24/13, 1/1/14, 1/1/15

145-4-13

Waiver program grandfathered.

(A) This rule applies to a benefit recipient who irrevocably waived health care coverage under the version of rule ~~145-4-04~~145-4-32 of the Administrative Code in effect prior to January 1, 2007, and an individual who irrevocably waived health care coverage in another Ohio retirement system prior to January 1, 2007.

(B)

(1) In the event that an eligible benefit recipient of this system who also was an eligible benefit recipient of another Ohio retirement system irrevocably waived health care coverage under rule ~~145-4-04~~145-4-32 of the Administrative Code in order to be covered by the other Ohio retirement system, this system shall transfer to the other system annually for covered benefit recipients and dependents for each month covered an amount equal to the sum of:

(a) The lesser of this system's average monthly medical cost including health maintenance organization or health insuring corporation cost per benefit recipient less the cost paid by the benefit recipient, or the other system's average monthly medical cost including health maintenance organization or health insuring corporation cost per benefit recipient.

(b) The lesser of this system's average monthly cost of the prescription drug program per benefit recipient, or the other system's average monthly cost of the prescription drug program per benefit recipient.

(c) The lesser of the monthly cost of the medicare part B premium that would be reimbursed by this system for the benefit recipient, or the monthly cost of the medicare part B premium that would be reimbursed by the other system for the benefit recipient.

(2) This system shall transfer the amounts due pursuant to paragraph (B)(1) of this rule no later than the last business day of February each year for the preceding calendar year after the following occur:

(a) This system receives from the other system a list containing the names of benefit recipients and the number of months during which the recipients were covered by the other system for the preceding calendar year; and

(b) This system prepares an itemized accounting of the amount transferred for each such benefit recipient.

- (C) Where an eligible benefit recipient or dependent of an eligible benefit recipient of this system has waived health care coverage in another Ohio retirement system prior to January 1, 2007, this system shall be responsible to provide health care coverage only if the other Ohio retirement system pays annually to this system for covered benefit recipients and dependents for each month covered, an amount equal to the sum of:
- (1) The lesser of this system's average monthly medical including health maintenance organization or health insuring corporation cost per benefit recipient less the cost paid by the benefit recipient, or the other system's average monthly medical including health maintenance organization or health insuring corporation cost per benefit recipient.
 - (2) The lesser of this system's average monthly cost of the prescription drug program per benefit recipient, or the other system's average monthly cost of the prescription drug program per benefit recipient.
 - (3) The lesser of the monthly cost of the medicare part B premium that would be reimbursed by this system for the benefit recipient, or the monthly cost of the medicare part B premium that would be reimbursed by the other system for the benefit recipient.
- (D) For coverage years commencing on and after January 1, 2016, eligibility for health care coverage of dependents of eligible benefit recipients described in paragraph (C) of this rule shall be determined by rule 145-4-14 of the Administrative Code. A dependent may enroll in other available coverage as defined in rule 145-4-14 of the Administrative Code or, if the dependent does not voluntarily terminate coverage, elect continuation coverage from this system as described in paragraph (H) of rule ~~145-4-03~~145-4-30 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 09/26/2018

Certification

Date

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Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 8/1/98, 2/3/00, 1/1/03, 1/1/07, 4/6/07 (Emer.), 7/1/07,
1/1/09, 1/7/13 (Emer.), 3/24/13, 1/1/15

145-4-17 **Payment of health care charges and disenrollment for nonpayment.**

(A)

(1) ~~Enrolled benefit~~ **Benefit recipients enrolled in health care coverage sponsored by the public employees retirement system shall pay all health care premiums and associated costs through deduction from the benefit.**

(2) If the benefit does not satisfy the amounts due, the public employees retirement system or designated third party shall bill the benefit recipient for the amount due or the remainder of the amount due after partial deduction from the available benefit.

(B) A benefit recipient who fails to timely remit payment for amounts due pursuant to paragraph (A)(2) of this rule shall be disenrolled from all health care coverage as provided in this rule.

(1) A benefit recipient may prevent disenrollment only by remitting all amounts due prior to the due date.

(2) A benefit recipient who has failed to remit the amount due by the due date shall be notified of disenrollment from health care coverage not less than fifteen days prior to the date on which the retirement system will process the disenrollment.

(3) The effective date of disenrollment shall be the last day of the month following the month the benefit recipient failed to remit the amount due, in coordination with the centers for medicare and medicaid services, as necessary.

(4) Any unpaid amounts due through the effective date of disenrollment shall be deducted from the benefit following disenrollment.

(5) Disenrollment of a benefit recipient pursuant to this rule applies to all enrolled dependents and coverage options.

(C) A benefit recipient whose coverage was terminated pursuant to this rule may re-enroll in coverage once during the annual open enrollment period if full payment of all amounts due is received by the first day of December of the year preceding the coverage period.

(D) A second termination of coverage pursuant to this rule is permanent and ends all eligibility to participate in this plan.

Effective:

Five Year Review (FYR) Dates: 09/26/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584
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3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/09, 1/1/11, 1/1/12, 9/10/12, 1/7/13 (Emer.),
3/24/13

TO BE RESCINDED

145-4-22

Eligibility for health care coverage for years of employer contributions in traditional pension and combined plans.

For purposes of determining eligibility for health care coverage and the monthly health care allowance, the public employees retirement system shall aggregate years of employer contributions earned and purchased in both the traditional pension plan and the combined plan if both of the following apply:

- (A) The member is eligible to retire independently from both the traditional pension plan and the combined plan;
- (B) The member applies for retirement under both the traditional pension plan and the combined plan with the same effective date of benefits under both plans.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.58, 145.82
Prior Effective Dates: 1/1/07, 1/1/15

145-4-26

Dental and vision coverage.

- (A) The public employees retirement system may offer dental or vision coverage that is administered by a third party administrator(s) to individuals who are receiving a benefit from the system and eligible dependents. For purposes of this rule, "benefit" includes monthly amounts paid to an individual pursuant to section 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, 145.361, 145.37, 145.384, 145.45, or 145.46 of the Revised Code, or section 9.02, article X, or article XI of the combined plan document.
- (B) The dental and vision coverage offered by the system shall be administered consistent with health care coverage as follows: enrollment in the coverage as described in paragraphs (B), (E), and (F) of rule 145-4-30 of the Administrative Code and paragraph (D) of rule 145-4-62 of the Administrative Code; effective dates of coverage as described in rule 145-4-32 of the Administrative Code; and enrollment of dependents as described rules 145-4-30, 145-4-34, 145-4-36, 145-4-62, 145-4-62, and 145-4-66 of the Administrative Code.
- (C) The following provisions also apply to the dental and vision coverage offered by the system:
- (1) An individual enrolled in dental or vision coverage can voluntarily terminate his or her enrollment in the coverage only at the end of each calendar year by filing the notice of cancellation on a form provided by the system during the annual open enrollment period.
 - (2) The system may require the automatic withholding of coverage premiums from the benefit paid to the enrolled individuals or, if necessary, may require the direct payment of premiums by the individual to the system or the third party administrator(s).
- (D) The retirement system shall offer continuation coverage, as applicable, in accordance with the requirements of the Consolidated Omnibus Budget and Reconciliation Act of 1985 ("COBRA"), 42 U.S.C.A. 300gg-1.

Replaces: 145-4-60

Effective:

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Certification

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Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/15

145-4-28

Health care plan provisions regarding the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

(A) As used in this rule:

- (1) "Electronic protected health information" means protected health information that is transmitted by electronic media or maintained in electronic media.
- (2) "Enrollment/disenrollment information" means information on whether the individual is participating in the health plan, or is enrolled in or has disenrolled from a health insurance issuer, health maintenance organization, or health insuring corporation offered by the plan.
- (3) "Plan" means any health plan maintained by the Ohio public employees retirement system under the authority granted in section 145.58 of the Revised Code.
- (4) "Plan administration functions" means administrative functions performed by the plan sponsor of a health plan on behalf of the health plan and excludes functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor.
- (5) "Plan sponsor" means the Ohio public employees retirement system.
- (6) "Protected health information" means individually identifiable health information that is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any other form or medium.
- (7) "Summary health information" means information (1) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor has provided health coverage under the plan; and (2) from which the information described at 42 C.F.R. Section 164.514(b)(2)(i), 67 F.R. 53270 (2002), has been deleted, except that the geographic information described in 42 C.F.R. Section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

(B) The plan may disclose to the plan sponsor enrollment/disenrollment information at any time.

(C) The plan (or a health insurance issuer, health maintenance organization, or health insuring corporation with respect to the plan) may disclose summary health information to the plan sponsor, provided that the plan sponsor requests the summary health information for the purpose of (1) obtaining premium bids from health plans for providing health insurance coverage under the plan; or (2) modifying, amending, or terminating the plan.

(D)

- (1) Unless otherwise permitted by law, and subject to the conditions of disclosure described in paragraph (E) of this rule and obtaining written certification pursuant to paragraph (G) of this rule, the plan (or a health insurance issuer, health maintenance organization, or health insuring corporation on behalf of the plan) may disclose protected health information and electronic protected health information to the plan sponsor, provided that the plan sponsor uses or discloses such protected health information and electronic protected health information only for plan administrative purposes. "Plan administration purposes" means administration functions performed by the plan sponsor on behalf of the plan, such as quality assurance, claims processing, auditing, and monitoring and other administrative services related to the plan. Plan administration functions do not include functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor or any employment-related actions or decisions.
- (2) Notwithstanding any provisions of this plan to the contrary, in no event shall the plan sponsor be permitted to use or disclose protected health information or electronic protected health information in a manner that is inconsistent with 45 C.F.R. Section 164.504(f), 68 F.R. 8381 (2003).

(E)

- (1) Plan sponsor agrees that with respect to any protected health information (other than enrollment/disenrollment information and summary health information, and information disclosed pursuant to a signed authorization that complies with the requirements of 45 C.F.R. Section 164.508, 67 F.R. 53268 (2002), which are not subject to these restrictions) disclosed to it by the plan (or a health insurance issuer, health maintenance organization, or health insuring corporation on behalf of the plan), plan sponsor shall:
- (a) Not use or further disclose the protected health information other than as permitted or required by the plan or as required by law;
- (b) Ensure that any agent, including a subcontractor, to whom it provides protected health information received from the plan agrees to the same restrictions and conditions that apply to the plan sponsor with respect to protected health information;
- (c) Not use or disclose the protected health information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the plan sponsor;
- (d) Report to the plan any use or disclosure of the protected health information of which it becomes aware that is inconsistent with the uses or disclosures provided for;

- (e) Make available protected health information to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") right to access in accordance with 45 C.F.R. Section 164.524, 67 F.R. 53271 (2002);
 - (f) Make available protected health information for amendment, and incorporate any amendments to protected health information, in accordance with 45 C.F.R. Section 164.526, 65 F.R. 82802 (2002);
 - (g) Make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. Section 164.528;
 - (h) Make its internal practices, books, and records relating to the use and disclosure of protected health information received from the plan available to the secretary of health and human services for purposes of determining compliance by the plan with HIPAA's privacy requirements;
 - (i) If feasible, return or destroy all protected health information received from the plan that the plan sponsor still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
 - (j) Ensure that the adequate separation between plan and plan sponsor (i.e., the firewall), required by 45 C.F.R. Section 164.504(f)(2)(iii), is established.
- (2) Plan sponsor further agrees that if it creates, receives, maintains, or transmits any electronic protected health information (other than enrollment/disenrollment information and summary health information, and information disclosed pursuant to a signed authorization that complies with the requirements of 45 C.F.R. Section 164.508, which are not subject to these restrictions) on behalf of the plan, it will:
- (a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the plan;
 - (b) Ensure that the adequate separation between the plan and plan sponsor (i.e., the firewall), required by 45 C.F.R. Section 164.504(f)(2)(iii) is supported by reasonable and appropriate security measures;
 - (c) Ensure that any agent, including a subcontractor, to whom it provides

electronic protected health information agrees to implement reasonable and appropriate security measures to protect the information; and

(d) Report to the plan any security incident of which it becomes aware, as follows: plan sponsor will report to the plan, with such frequency and at such times as agreed, the aggregate number of unsuccessful, unauthorized attempts to access, use, disclose, modify, or destroy electronic protected health information or to interfere with systems operations in an information system containing electronic protected health information; in addition, plan sponsor will report to the plan as soon as feasible any successful unauthorized access, use, disclosure, modification, or destruction of electronic protected health information or interference with systems operations in an information system containing electronic protected health information.

(F)

(1) The plan sponsor shall allow only those employees or other persons under the control of the plan sponsor who are involved in the administration of the health plan access to the protected health information. No other persons shall have access to protected health information. These specified employees (or classes of employees) shall only have access to and use of protected health information to the extent necessary to perform the plan administration functions that the plan sponsor performs for the plan. In the event that any of these specified employees does not comply with the provisions of this rule, that employee shall be subject to disciplinary action by the plan sponsor for non-compliance pursuant to the plan sponsor's employee discipline and termination procedures.

(2) The plan sponsor shall ensure that the provisions of this rule are supported by reasonable and appropriate security measures to the extent that the persons designated above create, receive, maintain, or transmit electronic protected health information on behalf of the plan.

(G) The plan (or a health insurance issuer, health maintenance organization, or health insuring corporation with respect to the plan) shall disclose protected health information to the plan sponsor only upon the receipt of a certification by the plan sponsor that the plan has been amended to incorporate the provisions of 45 C.F.R. Section 164.504(f)(2)(ii), and that the plan sponsor agrees to the conditions of disclosure set forth in paragraph (E) of this rule.

Replaces: 145-4-50

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/09, 1/1/11, 1/7/13 (Emer.), 3/24/13, 1/1/14

145-4-30

Pre-medicare coverage sponsored by the system.

(A) This rule applies to health care coverage sponsored by the Ohio public employees retirement system to eligible recipients and dependents who are not yet eligible for coverage under medicare. Health care coverage for an eligible primary benefit recipient may be available upon application on a form provided by the public employees retirement system. A primary benefit recipient may enroll an eligible dependent as defined in rule 145-4-09 of the Administrative Code. Except as provided in paragraph (G) of this rule, eligibility for coverage described in this rule terminates upon the individual's attainment of eligibility for coverage under medicare.

(B)

(1) Except as provided in this paragraph, applications for health care coverage must be received by the public employees retirement system not later than sixty days after the benefit recipient's initial benefit payment. During this sixty-day period, the applicant may make one change to the filed application. If the application is received more than sixty days after the initial benefit payment or the benefit recipient fails to file an application within that period, the benefit recipient shall be treated as described in paragraph (E) of this rule.

(2) The system may accept and process an application received more than sixty days after the benefit recipient's initial benefit payment if either of the following occur:

(a) The system determines that a physical or mental incapacity prevented the benefit recipient from making application within the initial sixty day benefit period. The effective date of coverage shall be determined in accordance with rule 145-4-32 of the Administrative Code.

(b) The benefit recipient did not apply for coverage and later submits an application due to involuntary termination of coverage under another group plan. The benefit recipient shall submit the application within thirty-one days of the involuntary termination together with proof of such termination. If the application is received on or before the tenth day of a month, the coverage is effective on the first day of the month following receipt of the application. Otherwise, the coverage is effective on the first day of the second month following receipt of the application.

(C) Upon the recommendation of the actuary retained by the board, the board shall determine annually the portion of the self-supporting rate it may pay for eligible benefit recipients and eligible dependents enrolled in health care coverage.

(D) An ineligible individual, as defined in rule 145-4-06 of the Administrative Code, may remain enrolled in a health care plan administered by a third party health care

administrator(s). Such ineligible individual shall pay all required premiums directly to the health care administrator in the time and manner prescribed by the third party health care administrator. New enrollments to this plan shall not be permitted on or after January 1, 2014. Except to the extent required under paragraph (I) of this rule, the retirement system shall not be responsible for any premiums, claims, or withholding of premiums for such health care plan.

(E)

(1) An eligible benefit recipient may defer enrollment in health care coverage. The deferral applies to both the benefit recipient and the benefit recipient's dependents.

(2) A benefit recipient who is described in paragraph (E)(1) of this rule or who waived coverage under a version of this rule in effect prior to January 1, 2014, may enroll by filing an application for enrollment in health care coverage during one of the following:

(a) The annual open enrollment period for health care coverage, except that the deferral or waiver remains effective until January first of the next year;

(b) Within sixty days of involuntary termination of coverage under another group plan, and with proof of such termination, except that the deferral or waiver remains effective until the first day of the month following receipt if the application is received by the tenth day of the preceding month, otherwise the deferral or waiver remains effective until the first day of the second month following receipt of the application.

(F) An individual who is eligible for health care coverage from more than one benefit may not enroll for health care coverage simultaneously under more than one benefit.

(G)

(1) Except as provided in paragraph (G)(2) of this rule and regardless of the reason for eligibility, all enrolled benefit recipients and dependents shall enroll in medicare parts A and B at the benefit recipient or eligible dependent's first eligible date.

(2) A benefit recipient approved for early medicare coverage shall enroll in and provide the retirement system with evidence of the medicare coverage not later than thirty days after the recipient is notified of coverage by the centers for medicare and medicaid services. The system may cover or coordinate the benefit recipient's retroactive claims with medicare and continue the coverage or coordination for not more than four months following the date the recipient was notified of coverage by the centers for medicare and

medicaid services.

When the coordination period described in this paragraph or other medicare coordination period required for end-stage renal disease expires, the benefit recipient is no longer eligible for participation in pre-medicare coverage sponsored by the retirement system and may be eligible to participate in the plans described in rule 145-4-60 of the Administrative Code.

(H) The retirement system shall offer continuation coverage, as applicable, in accordance with the requirements of the Consolidated Omnibus Budget and Reconciliation Act of 1985 ("COBRA"), 42 United States Code 300gg-1.

(I) Benefit recipients under this rule are not eligible for coverage during any period of benefit suspension or forfeiture.

Replaces: 145-4-03

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3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/09, 1/1/11, 1/1/12, 9/10/12, 12/10/12, 1/7/13
(Emer.), 3/24/13, 1/1/14, 1/1/15

145-4-32Effective date of pre-medicare health care coverage.

(A) Except as otherwise provided in this rule or rule 145-4-30 of the Administrative Code, the effective date of health care coverage shall be the later of the following:

(1) The effective benefit date of the benefit that is the basis of the health care coverage, or

(2) The first day of the month during which an application for the benefit is received by the public employees retirement system.

(B) For benefit recipients of survivor benefits under section 145.45 of the Revised Code and article XI of the combined plan document, the effective date of health care coverage shall be the effective date of the survivor benefit, but shall not exceed more than one year prior to the date on which the system receives an application for enrollment in health care coverage.

(C) If the retirement system or health care administrator has not paid claims for health care coverage for an eligible benefit recipient or eligible dependent, the benefit recipient may elect an effective date of health care coverage that is after the date described in paragraph (A) of this rule but is not later than sixty days after the initial benefit payment. An election under this paragraph shall be made not later than sixty days after the initial benefit payment.

(D) The effective date of health care coverage shall be on the first day of a month.

Replaces: 145-4-04

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58
Prior Effective Dates: 8/20/76, 12/9/88, 4/1/93, 6/29/96, 5/4/00, 10/9/00,
3/22/02, 8/8/02, 1/1/03, 4/15/04, 1/1/05, 1/1/07,
1/1/12, 12/10/12

145-4-34

Eligibility for pre-medicare health care coverage for the dependents and survivors of this system's members and retirants.

- (A) Health care coverage may be available to an eligible survivor benefit recipient or an eligible dependent upon application on a form provided by the public employees retirement system.
- (B) An eligible survivor benefit recipient may enroll in health care coverage if the survivor benefit recipient is an eligible dependent, as defined in rule 145-4-09 of the Administrative Code.
- (C) The primary benefit recipient, or surviving spouse of an age and service retirant or member, who is enrolled in health care coverage or participating in the health reimbursement arrangement, may enroll an eligible dependent in pre-medicare health care coverage while the dependent continues to be eligible under this rule and rule 145-4-09 of the Administrative Code. A survivor benefit recipient who is a surviving child of the member may enroll in health care coverage regardless of a surviving spouse's enrollment, provided the child continues to be eligible under this rule and rule 145-4-09 of the Administrative Code.
- (D) A spouse of a primary benefit recipient shall cease to be eligible for health care coverage on the first day of the month following the date of the final decree of divorce or dissolution from the primary benefit recipient.
- (E) An eligible dependent described in paragraph (B) of rule 145-4-09 of the Administrative Code shall cease to be eligible for health care coverage on the first day of the month following the dependent's twenty-sixth birthday. An eligible dependent described in paragraph (C) of rule 145-4-09 of the Administrative Code shall cease to be eligible for health care coverage on the first day of the month following the eighteenth birthday of the primary benefit recipient's child who is the parent of the primary benefit recipient's enrolled grandchild.
- (F) Upon the death of a primary benefit recipient, any individual who would have been treated as an eligible dependent of the primary benefit recipient but for the recipient's death shall be treated as an eligible dependent of the primary benefit recipient for purposes of this chapter until the individual reaches the age limitation set forth in rule 145-4-09 of the Administrative Code.
- (G) A benefit recipient shall inform the retirement system, in writing, not later than thirty days after an eligible dependent no longer meets the requirements of this rule.
- (H) The retirement system may require a benefit recipient to certify the status of an individual as an eligible dependent for purposes of health care coverage. Failure to provide certification within sixty days of the request by the retirement system shall result in the denial or withdrawal of health care coverage for such individual until the next annual health care open enrollment period.

Replaces: 145-4-08

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Five Year Review (FYR) Dates:

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Date

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Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58
Prior Effective Dates: 1/1/05, 10/27/06, 1/1/09, 1/1/11, 1/1/15

145-4-36

Enrollment of eligible dependents outside of open enrollment period.

(A) A benefit recipient may enroll an eligible dependent in pre-medicare health care coverage at any time outside of the annual health care open enrollment period if any of the following apply:

- (1) The primary benefit recipient may enroll a new spouse upon marriage;
- (2) The benefit recipient may enroll an eligible child upon the birth or adoption of that child;
- (3) The benefit recipient may enroll an eligible dependent who has involuntarily lost health care coverage from another source;
- (4) The primary benefit recipient is ordered to enroll a child pursuant to a national medical support order;
- (5) The dependent first achieves an eligibility threshold described in rule 145-4-09 of the Administrative Code.

(B) Enrollment of an eligible dependent under this rule shall be made on an application provided by the public employees retirement system and must be received not later than sixty days after of the occurrence of the event described in paragraph (A) of this rule.

Replaces: 145-4-10

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58
Prior Effective Dates: 1/1/07, 1/1/11

145-4-38

Reenrollment following voluntary termination of pre-medicare health care coverage.

(A) An eligible benefit recipient enrolled in health care coverage under rule 145-4-30 of the Administrative Code may voluntarily terminate coverage. The termination of coverage applies to both the benefit recipient and the benefit recipient's dependents. The effective date of the termination of coverage shall be determined as follows:

(1) If the termination of coverage is received by the retirement system not later than sixty days after issuance of the initial benefit payment and the public employees retirement system has not paid claims for health care coverage of the benefit recipient or dependent, the termination is effective on the effective date of benefits. The benefit recipient shall be treated as an individual who did not enroll in coverage under paragraph (E)(1) of rule 145-4-30 of the Administrative Code.

(2) If the termination of coverage is received by the retirement system more than sixty days after the issuance of the initial benefit payment but not later than the tenth day of a month, the termination is effective on the first day of the month following receipt of the termination.

(3) If the termination of coverage is received by the retirement system more than sixty days after the issuance of the initial benefit payment and after the tenth day of a month, the termination is effective on the first day of the second month following receipt of the termination.

(B) A benefit recipient who voluntarily terminated coverage as described in paragraph (A) of this rule on or after January 1, 2014, may reenroll in coverage by one of the following actions:

(1) During the annual open enrollment period, the benefit recipient applies for health care coverage and provides proof of creditable coverage in another health care plan that is effective through December thirty-first of the plan year immediately preceding participation in this plan; or

(2) Within sixty days of involuntary termination of health care coverage under another plan, the benefit recipient submits and application for health care coverage and provides proof of creditable coverage in the prior plan. This enrollment will become effective on the first day of the month following receipt of the application if the application is received not later than the tenth day of the month; otherwise, the enrollment becomes effective on the first day of the second month following receipt of the application.

(C) This rule does not apply to any of the following:

(1) Rule 145-4-13 of the Administrative Code;

(2) A benefit recipient whose disenrollment occurred under rule 145-4-17 of the

Administrative Code:

- (3) A benefit recipient whose health care coverage has been suspended for failure to submit the documentation necessary to administer the individual's enrollment in the coverage.
- (4) A benefit recipient who is eligible for medicare.

Replaces: 145-4-07

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
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Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/14 (Emer.), 1/10/14

145-4-40

401(h) retiree medical account.

- (A) A 401(h) retiree medical account under this rule shall be invested by the public employees retirement board with other funds held in the 401(h) account. For balances held in each 401(h) retiree medical account for calendar years prior to and ending on December 31, 2014, interest or other earnings shall be credited at a rate and at such intervals as determined by the board. On and after January 1, 2015, 401(h) retiree medical accounts shall not earn interest or other earnings. An administrative fee may be assessed against a 401(h) retiree medical account as determined by the board.
- (B) A 401(h) retiree medical account established under this rule shall be available solely for the payment of the qualified medical expenses of a benefit recipient or eligible dependent.
- (C) Payment or reimbursement of a qualified medical expense shall occur only after submission of a claim and approval pursuant to rule 145-4-42 of the Administrative Code. Payment of a qualified medical expense shall occur only by payment of a premium for health care coverage. Reimbursement of a qualified medical expense shall occur by direct payment to the benefit recipient. Payment or reimbursement is limited to expenses not paid by social security, medicare, or any other medical and health insurance coverage held by the benefit recipient or eligible dependent, or their employers. Payment or reimbursement may not be made for qualified medical expenses that are deductible by the benefit recipient under any other section of the Internal Revenue Code.

Replaces: 145-4-26

Effective:

Five Year Review (FYR) Dates:

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Rule Amplifies: 145.58, 145.584
Prior Effective Dates: 1/1/07, 1/1/09, 1/7/13 (Emer.), 3/24/13, 1/1/14, 1/1/15

145-4-42

Administration of 401(h) retiree medical account-claims and appeals.

(A) An individual eligible for payment or reimbursement of a qualified medical expense shall submit a claim to the service manager. The service manager shall determine if the claim is a qualified medical expense, and if the claim is approved, the service manager shall make payment or reimburse the qualified medical expense not later than thirty days after the date of approval to the individual's direct deposit account on file with the public employees retirement system under rule 145-2-70 of the Administrative Code.

(B) If a claim is denied, in whole or in part, by the service manager, the service manager shall provide the claimant with written notice of its decision within thirty days after receipt of the claim, unless special circumstances require an extension of time for review of the claim.

(1) If special circumstances require an extension of time for the service manager to review a claim, the claimant shall be advised, in writing, of the extension, the special circumstances giving rise to the extension, and the date by which the service manager expects to render its decision. The extension period shall not be more than ninety days after receipt of the claim.

(2) Any denial of a claim shall clearly describe the reason for the denial, the authority upon which the service manager relied in making the decision, any additional information necessary for the claimant to complete the claim, and the steps the claimant may take to submit the claim for review pursuant to paragraph (C) of this rule.

(3) In the event written notice of a denial of a claim is not provided to the claimant in the manner set forth in paragraph (B)(2) of this rule, the claim shall be deemed denied as of the date on which the service manager's time period for rendering its decision expires.

(C) Any claimant whose request for payment or reimbursement has been denied, in whole or in part, or the claimant's authorized representative, may appeal the denial by submitting to the service manager a written request for a review of the denied claim. Except as provided in this paragraph, a request for review must be received by the service manager not later than sixty days from the date the claimant received written notification of the service manager's initial denial of the claimant's request or from the date the claim was deemed denied. The service manager, upon the written application of the claimant or authorized representative, may in its discretion agree in writing to an extension of the sixty-day period.

During the period for filing a request for review of a denied claim described in this paragraph, the service manager shall permit the claimant to review relevant documents and submit to the service manager written issues and comments concerning the claim.

(D) Upon receiving a request for a review of a denied claim, the service manager shall promptly conduct an internal review of the denied claim and shall provide written notice to the claimant of its decision not later than sixty days after the date on which the request for review was received by the service manager, unless special circumstances require an extension of time for reviewing the denied claim. In the event special circumstances require an extension of time, the service manager shall, prior to the expiration of the initial sixty-day period described in this paragraph, provide the claimant with written notice of the following:

(1) The special circumstances which require an extension of time for review;

(2) The date by which the service manager expects to render its decision. In no event shall such extension exceed a period of one hundred twenty days from the date on which the service manager received the claimant's request for review.

(E) The service manager's decision shall meet all of the following:

(1) Be written to the claimant in a manner designed to be understood by the claimant;

(2) Include specific reasons for their decision;

(3) Include specific references to the pertinent Administrative Code or Internal Revenue Code provisions on which the decision is based.

(F) The service manager may, in its discretion, determine that a hearing is required in order to properly consider the claimant's request for review of a denied claim. In the event the service manager determines that a hearing is required, that determination shall constitute a special circumstance permitting an extension of time in which to consider the claimant's request for review.

(G) The claims procedures set forth in this rule shall be strictly adhered to by the claimant or the representative of the claimant. No judicial or arbitration proceedings with respect to any claim for payment or reimbursement, to the extent any such proceedings may be available under applicable law, shall be commenced by any claimant until the proceedings set forth in this rule have been exhausted in full.

Replaces: 145-4-28

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Certification

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145-4-44

Administration of 401(h) retiree medical account-forfeiture and unclaimed accounts.

- (A) Amounts standing to the credit of a benefit recipient in the 401(h) retiree medical account at the time of death may be used by an eligible dependent of the benefit recipient for payment or reimbursement of qualified medical expenses.
- (B) The 401(h) retiree medical account shall be forfeited and used as provided in paragraph (C) of this rule if any of the following occur:
- (1) The primary benefit recipient is not survived by any eligible dependents;
 - (2) All eligible dependents cease to meet the criteria set forth in rule 145-4-09 of the Administrative Code;
 - (3) The service manager has not received any claims for reimbursement from an eligible dependent within two years of the death of the benefit recipient;
 - (4) An eligible dependent has made a claim for reimbursement within two years of the benefit recipient's death, but fails to make a claim at least once within the twenty-four-month period following the date of the most recent claim was submitted.
- (C) Forfeitures shall be used to fund the administrative expenses of the 401(h) account and may be used as a credit against future employer contributions to the 401(h) account.

Replaces:

145-4-30

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9/16/13

TO BE RESCINDED

145-4-50 Health care plan provisions regarding the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

(A) As used in this rule:

- (1) "Electronic protected health information" means protected health information that is transmitted by electronic media or maintained in electronic media.
- (2) "Enrollment/disenrollment information" means information on whether the individual is participating in the health plan, or is enrolled in or has disenrolled from a health insurance issuer, health maintenance organization, or health insuring corporation offered by the plan.
- (3) "Plan" means any health plan maintained by the Ohio public employees retirement system under the authority granted in section 145.58 of the Revised Code.
- (4) "Plan administration functions" means administrative functions performed by the plan sponsor of a health plan on behalf of the health plan and excludes functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor.
- (5) "Plan sponsor" means the Ohio public employees retirement system.
- (6) "Protected health information" means individually identifiable health information that is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any other form or medium.
- (7) "Summary health information" means information (1) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor has provided health coverage under the plan; and (2) from which the information described at 42 C.F.R. Section 164.514(b)(2)(i), 67 F.R. 53270 (2002), has been deleted, except that the geographic information described in 42 C.F.R. Section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

(B) The plan may disclose to the plan sponsor enrollment/disenrollment information at any time.

(C) The plan (or a health insurance issuer, health maintenance organization, or health insuring corporation with respect to the plan) may disclose summary health

information to the plan sponsor, provided that the plan sponsor requests the summary health information for the purpose of (1) obtaining premium bids from health plans for providing health insurance coverage under the plan; or (2) modifying, amending, or terminating the plan.

(D)

- (1) Unless otherwise permitted by law, and subject to the conditions of disclosure described in paragraph (E) of this rule and obtaining written certification pursuant to paragraph (G) of this rule, the plan (or a health insurance issuer, health maintenance organization, or health insuring corporation on behalf of the plan) may disclose protected health information and electronic protected health information to the plan sponsor, provided that the plan sponsor uses or discloses such protected health information and electronic protected health information only for plan administrative purposes. "Plan administration purposes" means administration functions performed by the plan sponsor on behalf of the plan, such as quality assurance, claims processing, auditing, and monitoring and other administrative services related to the plan. Plan administration functions do not include functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor or any employment-related actions or decisions.
- (2) Notwithstanding any provisions of this plan to the contrary, in no event shall the plan sponsor be permitted to use or disclose protected health information or electronic protected health information in a manner that is inconsistent with 45 C.F.R. Section 164.504(f), 68 F.R. 8381 (2003).

(E)

- (1) Plan sponsor agrees that with respect to any protected health information (other than enrollment/disenrollment information and summary health information, and information disclosed pursuant to a signed authorization that complies with the requirements of 45 C.F.R. Section 164.508, 67 F.R. 53268 (2002), which are not subject to these restrictions) disclosed to it by the plan (or a health insurance issuer, health maintenance organization, or health insuring corporation on behalf of the plan), plan sponsor shall:
 - (a) Not use or further disclose the protected health information other than as permitted or required by the plan or as required by law;
 - (b) Ensure that any agent, including a subcontractor, to whom it provides protected health information received from the plan agrees to the same restrictions and conditions that apply to the plan sponsor with respect to

protected health information;

- (c) Not use or disclose the protected health information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the plan sponsor;
 - (d) Report to the plan any use or disclosure of the protected health information of which it becomes aware that is inconsistent with the uses or disclosures provided for;
 - (e) Make available protected health information to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") right to access in accordance with 45 C.F.R. Section 164.524, 67 F.R. 53271 (2002);
 - (f) Make available protected health information for amendment, and incorporate any amendments to protected health information, in accordance with 45 C.F.R. Section 164.526, 65 F.R. 82802 (2002);
 - (g) Make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. Section 164.528;
 - (h) Make its internal practices, books, and records relating to the use and disclosure of protected health information received from the plan available to the secretary of health and human services for purposes of determining compliance by the plan with HIPAA's privacy requirements;
 - (i) If feasible, return or destroy all protected health information received from the plan that the plan sponsor still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
 - (j) Ensure that the adequate separation between plan and plan sponsor (i.e., the firewall), required by 45 C.F.R. Section 164.504(f)(2)(iii), is established.
- (2) Plan sponsor further agrees that if it creates, receives, maintains, or transmits any electronic protected health information (other than enrollment/disenrollment information and summary health information, and

information disclosed pursuant to a signed authorization that complies with the requirements of 45 C.F.R. Section 164.508, which are not subject to these restrictions) on behalf of the plan, it will:

- (a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the plan;
- (b) Ensure that the adequate separation between the plan and plan sponsor (i.e., the firewall), required by 45 C.F.R. Section 164.504(f)(2)(iii) is supported by reasonable and appropriate security measures;
- (c) Ensure that any agent, including a subcontractor, to whom it provides electronic protected health information agrees to implement reasonable and appropriate security measures to protect the information; and
- (d) Report to the plan any security incident of which it becomes aware, as follows: plan sponsor will report to the plan, with such frequency and at such times as agreed, the aggregate number of unsuccessful, unauthorized attempts to access, use, disclose, modify, or destroy electronic protected health information or to interfere with systems operations in an information system containing electronic protected health information; in addition, plan sponsor will report to the plan as soon as feasible any successful unauthorized access, use, disclosure, modification, or destruction of electronic protected health information or interference with systems operations in an information system containing electronic protected health information.

(F)

- (1) The plan sponsor shall allow only those employees or other persons under the control of the plan sponsor who are involved in the administration of the health plan access to the protected health information. No other persons shall have access to protected health information. These specified employees (or classes of employees) shall only have access to and use of protected health information to the extent necessary to perform the plan administration functions that the plan sponsor performs for the plan. In the event that any of these specified employees does not comply with the provisions of this rule, that employee shall be subject to disciplinary action by the plan sponsor for non-compliance pursuant to the plan sponsor's employee discipline and termination procedures.

- (2) The plan sponsor shall ensure that the provisions of this rule are supported by reasonable and appropriate security measures to the extent that the persons designated above create, receive, maintain, or transmit electronic protected health information on behalf of the plan.
- (G) The plan (or a health insurance issuer, health maintenance organization, or health insuring corporation with respect to the plan) shall disclose protected health information to the plan sponsor only upon the receipt of a certification by the plan sponsor that the plan has been amended to incorporate the provisions of 45 C.F.R. Section 164.504(f)(2)(ii), and that the plan sponsor agrees to the conditions of disclosure set forth in paragraph (E) of this rule.

Effective:

Five Year Review (FYR) Dates: 09/29/2015

Certification

Date

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145-4-60

Plans offered to medicare-eligible benefit recipients.

- (A) Rules 145-4-60 to 145-4-68 apply to the plans sponsored by the public employees retirement system and offered to medicare-eligible benefit recipients and their dependents.
- (B) "Public employee" and "public employer" have the same meanings as in section 145.01 of the Revised Code.
- (C) Upon a benefit recipient or dependent becoming eligible for medicare, the system may provide an eligible benefit recipient with access to a monthly allowance through a health reimbursement arrangement. A benefit recipient who is a public employee shall not participate in the health reimbursement arrangement sponsored by the system during any month that the recipient is a public employee.
- (D) The system may provide to a medicare-eligible benefit recipient who is a public employee health care coverage that supplements medicare as described in rules 145-4-62 through 145-4-68 of the Administrative Code. In its sole discretion, the system may also make this coverage available on a temporary basis to eligible benefit recipients who are not public employees until such time as the benefit recipient completes an initial enrollment in a medicare supplemental plan that is not sponsored by the system and that allows for participation in the health reimbursement arrangement.
- (E) Medicare-eligible benefit recipients are not eligible for coverage or allowances described in paragraph (C) or (D) of this rule during any period of benefit suspension or forfeiture.
- (F) The retirement system shall offer continuation coverage, as applicable, in accordance with the requirements of the Consolidated Omnibus Budget and Reconciliation Act of 1985 ("COBRA"), 42 United States Code 300gg-1.

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Rule Amplifies: 145.58, 145.584

145-4-62

Coverage for medicare-eligible benefit recipient during public employment.**(A) Public employer or other coverage**

- (1) As used in section 145.38 of the Revised Code, "comparable coverage" does not include medicare coverage.**
- (2) A public employer that employs a primary benefit recipient shall provide health care coverage for such benefit recipient consistent with the provisions of section 145.38 of the Revised Code. At the time the employer provides notice of employment under section 145.38 of the Revised Code, the employer shall also notify the retirement system of the status of health care coverage for the employed benefit recipient.**
- (3) If the benefit recipient is covered under the public employer's health care coverage and the benefit recipient is also enrolled in coverage that supplements medicare that is sponsored by the public employees retirement system, this system's coverage shall pay only the covered qualified medical expenses not paid or reimbursed by the employer's coverage or medicare.**

(B) Except as provided in rule 145-4-68 of the Administrative Code, health care coverage that supplements medicare may be available to medicare-eligible benefit recipients who are public employees upon application on a form provided by the system and received by the system not later than sixty days after public employment commences. A primary benefit recipient enrolled in the coverage described in this paragraph may enroll an eligible dependent as defined in rule 145-4-09 of the Administrative Code.

(C) Upon the recommendation of the actuary retained by the board, the board shall determine annually the portion of the self-supporting rate it may pay for eligible benefit recipients and eligible dependents enrolled in health care coverage described in paragraph (B) of this rule.

(D)

- (1) An eligible benefit recipient may defer enrollment in health care coverage under paragraph (B) of this rule. The deferral applies to both the benefit recipient and the benefit recipient's dependents**
- (2) A benefit recipient who is described in paragraph (E)(1) of this rule may enroll by filing an application for enrollment in health care coverage during one of the following:**
 - (a) The annual open enrollment period for health care coverage, except that the deferral or waiver remains effective until January first of the next year;**

(b) Within sixty days of involuntary termination of coverage under another group plan, other than a public employer's coverage described in paragraph (A) of this rule, and with proof of such termination, except that the deferral or waiver remains effective until the first day of the month following receipt if the application is received by the tenth day of the preceding month, otherwise the deferral remains effective until the first day of the second month following receipt of the application.

(E) Except as provided in rule 145-4-68 of the Administrative Code, a benefit recipient is eligible for the health care coverage described in this rule while the recipient is a public employee. Eligibility for this coverage shall extend through the earlier of thirty days after the date a benefit recipient is notified of ineligibility for this coverage due to termination of public employment or the benefit recipient is a participant in the health reimbursement arrangement. The benefit recipient is eligible for participation in the health reimbursement arrangement on the first day of the month following termination of public employment.

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Five Year Review (FYR) Dates:

Certification

Date

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Rule Amplifies: 145.38, 145.58, 145.584

145-4-64

Eligibility for health care coverage for the medicare-eligible dependents and survivors of this system's members and retirants during public employment.

- (A) Except as provided in rule 145-4-68 of the Administrative Code, the health care coverage described in paragraph (B) of rule 145-4-62 of the Administrative Code may be available to medicare-eligible survivor benefit recipients who are public employees upon application on a form provided by the system and received by the system not later than sixty days after public employment commences.
- (B) The primary benefit recipient, or surviving spouse of an age and service retirant or member, who is enrolled in the health care coverage described in paragraph (A) of this rule, may enroll an eligible dependent in the coverage while the dependent continues to be eligible under rule 145-4-09 of the Administrative Code.
- (C) A spouse of a primary benefit recipient shall cease to be eligible for health care coverage on the first day of the month following the date of the final decree of divorce or dissolution from the primary benefit recipient.
- (D) An eligible dependent described in paragraph (B) of rule 145-4-09 of the Administrative Code shall cease to be eligible for health care coverage on the first day of the month following the dependent's twenty-sixth birthday. An eligible dependent described in paragraph (C) of rule 145-4-09 of the Administrative Code shall cease to be eligible for health care coverage on the first day of the month following the eighteenth birthday of the primary benefit recipient's child who is the parent of the primary benefit recipient's enrolled grandchild.
- (E) Upon the death of a primary benefit recipient, any individual who would have been treated as an eligible dependent of the primary benefit recipient but for the recipient's death shall be treated as an eligible dependent of the primary benefit recipient for purposes of this chapter until the individual reaches the age limitation set forth in rule 145-4-09 of the Administrative Code.
- (F) A benefit recipient shall inform the retirement system, in writing, not later than thirty days after an eligible dependent no longer meets the requirements of this rule.
- (G) The retirement system may require a benefit recipient to certify the status of an individual as an eligible dependent for purposes of health care coverage. Failure to provide certification within sixty days of the request by the retirement system shall result in the denial or withdrawal of health care coverage for such individual until the next annual health care open enrollment period.

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Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58, 145.584

145-4-66

Enrollment of eligible dependents outside of open enrollment period.

(A) A benefit recipient enrolled in coverage described in paragraph (B) of rule 145-4-62 of the Administrative Code may enroll an eligible dependent in health care coverage at any time outside of the annual health care open enrollment period if any of the following apply:

- (1) The primary benefit recipient may enroll a new spouse upon marriage;
- (2) The benefit recipient may enroll an eligible child upon the birth or adoption of that child;
- (3) The benefit recipient may enroll an eligible dependent who has involuntarily lost health care coverage from another source;
- (4) The primary benefit recipient is ordered to enroll a child pursuant to a national medical support order;
- (5) The dependent first achieves an eligibility threshold described in rule 145-4-09 of the Administrative Code.

(B) Enrollment of an eligible dependent under this rule shall be made on an application provided by the public employees retirement system and must be received not later than sixty days after of the occurrence of the event described in paragraph (A) of this rule.

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Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58

145-4-68**Return to HRA following termination of public employment and reenrollment.**

Regardless of the coverage options exercised by a benefit recipient during a period of public employment, a benefit recipient who terminated public employment, became eligible for participation in the health reimbursement arrangement, and entered a second period of public employment during the same plan year shall not be eligible for participation in the health reimbursement arrangement for the remainder of the plan year.

If eligible, such benefit recipient may enroll in or remain enrolled in the coverage described in paragraph (B) of rule 145-4-62 of the Administrative Code until the later of the end of the plan year or termination of public employment, at which time the recipient is eligible for participation in the health reimbursement arrangement.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	111.15
Statutory Authority:	145.09, 145.58
Rule Amplifies:	145.58, 145.584

145-4-70

Reimbursement of medicare part "A" premium.

- (A) The public employees retirement system shall make available to each eligible benefit recipient and spouse, in its sole discretion, one of the following: the coverage equivalent to medicare part A hospital coverage or an amount determined by the public employees retirement board to reimburse the premium of such coverage as described in section 145.584 of the Revised Code.
- (B) If the board provides a reimbursement amount described in paragraph (A) of this rule, it shall be effective once all of the following have occurred:
- (1) The benefit recipient or spouse provides proof of enrollment in medicare part A coverage in the form of the notice of award or invoice containing the medicare part A premium amount and effective date;
 - (2) The benefit recipient or spouse certifies to the retirement system that the premium amount is not reimbursed from another source;
 - (3) One of the following are in effect: coverage described in paragraph (B) of rule 145-4-62 of the Administrative Code or a medicare supplemental plan that is not sponsored by the system and that would allow for participation in the health reimbursement arrangement.
- (C) The retirement system shall not pay to an eligible individual more than one monthly medicare part A premium reimbursement for any month of enrollment in medicare part A or to an individual who is receiving more than one monthly retirement allowance from this system.
- (D) The system may periodically request evidence of an eligible individual's medicare part A enrollment and premium amount and may specify a deadline for receipt of such information. If an eligible individual fails to provide the requested information or certification, the system may, following notice to the individual, suspend or cancel the premium reimbursement for any month that the certification is not received. Any reimbursement paid for which the individual was not eligible may be collected as provided in section 145.563 of the Revised Code.
- (E) A benefit recipient or spouse who enrolls in medicare part A during the 2016 general enrollment period may receive reimbursement of the July 2016 medicare part A premium in accordance with this rule, except that the coverage or plan described in paragraph (B)(3) of this rule does not yet need to be in effect.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.584

145-4-72

Reimbursement of medicare part "B" premium.

(A) The public employees retirement board shall determine the monthly amount paid to reimburse for medicare part "B" coverage, if any. The amount paid shall be the following, except that the board shall make no payment that exceeds the amount paid by the recipient for the coverage:

(1) For calendar year 2013, \$96.40;

(2) For calendar year 2014, \$96.40;

(3) For calendar year 2015, \$63.62;

(4) For calendar year 2016, \$31.81;

(5) For calendar year 2017 and each year thereafter, zero.

(B) The amount described in paragraph (A) of this rule shall be reimbursed to an eligible benefit recipient in each monthly benefit payment when such benefit recipient submits both of the following:

(1) Proof of enrollment in and evidence of the premium amount paid for medicare part B coverage;

(2) Certification that the benefit recipient is not receiving reimbursement for the premium and that it is not being paid by any other source.

(C) Except as provided in paragraph (D) of this rule, the effective date for the reimbursement of the premium amount pursuant to division (C) of section 145.58 of the Revised Code and this rule shall be the later of:

(1) The effective date of medicare part B coverage;

(2) The first day of the month following receipt by the system of the information described in paragraph (B) of this rule.

(D) If the benefit recipient's initial benefit payment was issued not later than thirty days prior to receipt of the information described in paragraph (B) of this rule, the effective date for the reimbursement shall be the first day of the month following the later of:

(1) The effective date of health care coverage under rule 145-4-04 or 145-4-62 of the Administrative Code or an allowance under paragraph (C) of rule 145-4-60 of the Administrative Code;

(2) The effective date of medicare part B coverage.

(E) The retirement system shall not pay more than one monthly medicare part B premium

to an eligible benefit recipient who is receiving more than one monthly retirement allowance from this system.

(F) If a benefit recipient fails to certify the amount paid for medicare part B coverage, the board may, following notice to the benefit recipient, suspend the premium reimbursement for any month that certification is not received. The board shall not reimburse the benefit recipient for any period of suspension.

Replaces: 145-4-11

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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Statutory Authority: 145.09, 145.58
Rule Amplifies: 145.58
Prior Effective Dates: 8/20/76, 9/6/88, 3/22/02, 1/1/03, 1/1/07, 1/1/09,
4/5/10, 1/7/13 (Emer.), 3/24/13