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Health care services - medicare part B reimbursement.

- (A) Pursuant to section 3307.39 of the Revised Code, each recipient of a service retirement, disability or survivor benefit under the plan described in sections 3307.50 to 3307.79 of the Revised Code who qualifies to enroll in medicare part B shall be eligible for reimbursement for a portion of the cost of the basic medicare part B premium provided the recipient provides the board with certification of participation in the medicare part B insurance program. Each recipient who qualifies for medicare part B in the future shall certify such participation. The board shall establish eligibility for medicare part B reimbursement and make reimbursement effective the first of the month following receipt of proper certification and such reimbursement shall be based upon service credit and a percentage an amount determined by the board, provided ~~the percentage shall not exceed three per cent~~ and the reimbursement amount shall not be less than twenty-nine dollars and ninety cents nor more than ninety per cent of the basic medicare part B premium. Certification of a survivor's medicare part B received within three months of the member's death shall be deemed as being received in the month of the member's death.
- (B) If a recipient dies and the recipient selected a plan of payment to provide benefits continuing after the recipient's death to more than one beneficiary pursuant to division (A)(4) of section 3307.60 of the Revised Code, the percentage monthly reimbursement amount for medicare part B for which the recipient was eligible shall be ~~allocated~~ divided equally among all beneficiaries and shall only be paid to a beneficiary if he or she becomes eligible, irrespective of each beneficiary's eligibility for medicare part B for the period specified in paragraph (C) of this rule.
- (C) Each beneficiary receiving a continuing monthly benefit pursuant to section 3307.60 of the Revised Code who qualifies to enroll in medicare part B shall be eligible for reimbursement for a portion of the cost of the medicare part B premium provided the recipient provides the board with certification of participation in the medicare part B insurance program. Each beneficiary who qualifies for medicare part B in the future shall certify such participation. For the time periods outlined in paragraphs (C)(1), (C)(2) and (C)(3) of this rule, the board shall establish eligibility for medicare part B reimbursement and make reimbursement effective the first of the month following receipt of proper certification ~~in accordance with paragraph (B) of this rule, if applicable. Such and such~~ reimbursement shall be based upon service credit and a percentage an amount determined by the board. The ~~percentage shall not exceed three per cent~~ and the reimbursement amount shall not be less than twenty-nine dollars and ninety cents nor more than ninety per cent of the basic medicare part B premium, except as provided in paragraph (B) of this rule. Certification of a beneficiary's medicare part B received within three months of the retiree's death shall be deemed as being received in the month of the retiree's death. Reimbursement shall be paid to beneficiaries for the period of time as follows:

- (1) The board shall make reimbursement for a portion of the cost of medicare part B to a beneficiary or beneficiaries who are receiving continuing monthly benefits pursuant to section 3307.60 of the Revised Code and who are qualified to enroll in the medicare part B insurance program before January 1, 2008.
- (2) When monthly benefits are paid to a beneficiary or beneficiaries named before January 1, 2008 pursuant to section 3307.60 of the Revised Code, the board shall make reimbursement for a portion of the cost of medicare part B to a beneficiary or beneficiaries who qualified to enroll in the medicare part B insurance program before January 1, 2008.
- (3) The board shall make reimbursement for a portion of the cost of medicare part B for a five-year period starting January 1, 2008 to all beneficiaries who began ~~are~~ receiving continuing monthly benefits pursuant to section 3307.60 of the Revised Code prior to January 1, 2008, and who are not covered by paragraph (C)(1) of this rule. During the five-year time period, reimbursement shall only be paid for the period of time the beneficiary qualifies for such reimbursement pursuant to paragraph (C) of this rule. After the five-year period, the board shall not provide any reimbursement and the beneficiary or beneficiaries shall be responsible for the full cost of the medicare part B premium.

For beneficiaries who begin receiving continuing benefits pursuant to section 3307.60 of the Revised Code effective January 1, 2008, or later, and are not covered by paragraph (C)(2) of this rule, the board shall make reimbursement for a portion of the cost of medicare part B for a five-year period beginning the later of January 1, 2008, or the beneficiary's effective date of receipt of the continuing benefit. During the five-year time period, reimbursement shall only be paid for the period of time the beneficiary qualifies for such reimbursement pursuant to paragraph (C) of this rule. After the five-year period, the board shall not provide any reimbursement and the beneficiary or beneficiaries shall be responsible for the full cost of the medicare part B premium.

- (4) The board shall make no reimbursement for the cost of medicare part B to any beneficiary or beneficiaries who do not otherwise qualify as outlined in paragraph (C) of this rule.
- (D) The recipient or beneficiary shall certify the amount paid by the recipient or beneficiary for medicare part B coverage, and no reimbursement amount provided under this rule shall exceed the amount paid by the recipient or beneficiary.

~~(D)~~(E) For purposes of section 3307.39 of the Revised Code and this rule, "basic premium" and "basic medicare part B premium" mean the amount of the standard monthly premium for individuals enrolled in medicare part B coverage as determined by the secretary of health and human services before any adjustments made to the premium, such as an increase in premium for late enrollment or an increase in premium due to a reduction in the premium subsidy based on income.

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3309-1-04

Election of retirement board members.

(A) The school employees retirement board shall conduct elections in accordance with Chapter 3309. of the Revised Code and this rule.

(B) Notifications

- (1) At a regular meeting of the retirement board but no later than July in the fiscal year in which an election of members to the board is required, the retirement board shall establish an election time schedule.
- (2) This schedule shall include, a statement of the requirements for nomination by petition, the date after which nominating petitions shall be available, the final date for receipt of completed nominating petitions, the final date for receipt of completed election ballots being the first Monday in March, and the date and place for the election count to be conducted under the supervision of judges as designated in paragraph (D) of this rule.

(C) Nominations

- (1) Candidates for board members shall be nominated by petition on forms provided by the school employees retirement system.
- (2)
 - (a) Not later than the last business day of September in the fiscal year in which an election is held for an employee member, notice of election posters shall be sent to employers and petitions and required forms shall be available to members.
 - (b) Any member, except a member receiving a disability benefit pursuant to section 3309.40 or 3309.401 of the Revised Code, who is not otherwise ineligible under Chapter 3309. of the Revised Code, may be nominated for election as an employee member of the board by petitions that contain at least five hundred valid nominating signatures with not less than twenty signatures of members from each of at least ten different counties in Ohio. The member's place of employment shall determine the county for such member.
- (3)
 - (a) Not later than the last business day of September in the fiscal year in which an election is held for a retirant member, a notice of election

shall be sent to retirants at their home addresses of record and petitions and required forms shall be available to retirants.

- (b) Any retirant, who is not otherwise ineligible under Chapter 3309. of the Revised Code, may be nominated for election as a retirant member by petitions which contain at least one hundred fifty valid nominating signatures, with not less than ten signatures of retirants from each of at least five different counties in Ohio. The retirant's place of residence shall determine the county of such retirant.

(4)

- (a) Petitions and completed required forms for a candidate must be received by the system by the petition filing date established by the retirement board pursuant to paragraph (B) of this rule to be valid.
- (b) Petition signatures and candidate eligibility shall be verified based on records of the retirement system and the requirements of Chapter 3309. of the Revised Code. Signatures that cannot be conclusively verified shall not be counted.
- (c) The names of qualified candidates shall be certified by a director of the retirement system and shall be subject to review and audit by the secretary of state. A qualified candidate is one who meets the requirements of Chapter 3309. of the Revised Code. In the event that there is a discrepancy between the certification by the officer of the retirement system and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and be final.
- (d) Based on the final certification, the names of qualified candidates shall be placed on the ballot for election.

(D) Voting

- (1) The retirement board may conduct an election by paper ballots or through electronic methods.
- (2)
 - (a) Voting materials for each voting member or retirant of the retirement system shall include a list of candidates, information on each candidate,

voting instructions, and any other materials the retirement board deems necessary.

- (b) Voting materials shall be sent to eligible members or retirants no later than the last business day in January in an election year at the address on file with the retirement system.
- (3)
- (a) For any election requiring a vote by members, the retirement board shall distribute ballots for such election to all members whose accounts have had contributions posted within the eighteen month period immediately preceding the month in which ballots are distributed; and
 - (b) To members whose accounts have not had contributions posted within the eighteen month period immediately preceding the month in which ballots are scheduled to be distributed, upon the members written request for a ballot.
- (4) The election count shall be monitored by a panel of judges consisting of representatives of the secretary of state and the attorney general. The representative of the secretary of state shall be the chief judge. If a representative from such offices is not available, a representative of the retirement system's independent auditor and/or the auditor of state may be substituted. If a representative of the secretary of state is not available, the chief judge, in order of precedence, shall be the representative of the attorney general, the representative of the auditor of state, or the representative of the retirement system's independent auditor.
- (5) If the ballot count results in a tie vote, the election shall be determined by a coin toss conducted by the judges with "heads" being assigned to the candidate whose last name is first alphabetically and "tails" assigned to the other candidate.
- (6) If a candidate is elected by a margin of less than one percent of the votes cast, a recount will automatically be conducted.
- (7) The chief judge shall provide a certification of the election results signed by all judges. The election results shall be submitted to the retirement board for its approval at the first regular retirement board meeting that is not less than thirty-one calendar days after certification of the results of the election.

- (8) Within thirty calendar days after the certification of the election count, an unsuccessful candidate may request a recount in writing to the retirement board together with a check payable to the retirement system for the costs of the recount in the amount of one hundred dollars; provided however, if the recount results in the requesting candidate winning the election, the cost shall be refunded.

(E) Vacancies

- (1) When an election is held to fill the vacant term of an elected member of the board, the election shall be held pursuant to paragraph (E) of this rule.
- (2) The retirement board by majority vote of the board shall declare the seat vacant and establish a board-meeting schedule to nominate, interview and select a successor member to fill the position.
- (3) The retirement board shall provide notice of the vacancy and the procedure and forms required to be considered as a qualified candidate to fill the vacancy.
 - (a) Candidates shall qualify under the same eligibility requirements as the predecessor in office.
 - (b) The names of qualified candidates shall be certified by a director of the retirement system and shall be subject to review and audit by the secretary of state. In the event that there is a discrepancy between the certification by the officer of the retirement system and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and be final.
- (4) At a public board meeting, each board member may nominate one candidate to fill the vacancy.
- (5) The board members shall interview the nominated candidates.
- (6) A successor member shall be elected from the list of candidates by a majority vote of the retirement board in a public meeting as follows:
 - (a) Two successive votes shall occur in order for one candidate to receive a majority. If no candidate receives a majority, successive votes shall continue with the candidate receiving the least number of votes eliminated after each vote until one candidate receives a majority vote

of the board or until only two candidates remain.

(b) In the event no candidate receives a majority vote and two candidates remain, one final vote shall occur. If neither candidate receives a majority vote, the winner shall be decided by a coin toss conducted by the election judge with "heads" assigned to the candidate whose last name is first in alphabetical order and "tails" to the other candidate.

(7) The election shall be monitored by a representative of the secretary of state, or if unavailable, by a representative of the attorney general, who shall serve as election judge and certify the results of the election.

(8) All documents regarding filling the vacancy, including resumes and forms required by the retirement system, shall be made available to any person upon request and payment of the cost of compiling, copying and mailing the documents.

(F) An employee member of the board who retires while a member of the board shall be eligible to become a retirant member of the board when three years have elapsed from the member's effective date of retirement and the date of the scheduled election for the retirant member seat.

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3309-1-09

Federal taxation.

(A) Notwithstanding any provision in rules of school employees retirement system ("SERS") or Chapter 3309. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a)(9), and the following:

(1) The entire interest of a member shall be distributed to the member:

(a) Not later than the required beginning date; or

(b) Beginning not later than the required beginning date over the life of the 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 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, 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 designated 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 the 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 to begin, pursuant to this section, until the end of the calendar year in which the member would have attained age seventy and one-half. When the beneficiary is the surviving spouse and the surviving spouse dies before distributions commence, then the surviving spouse shall be treated as the member for purposes of this rule.

(5) Any death benefit amount payable under Chapter 3309. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.

(B) When the retirement system is required to make a distribution in accordance with section 401(a)(9) of the Internal Revenue Code, and a member or retirant does not respond after notification of such event, the following shall apply notwithstanding any provision in SERS rules or Chapter 3309. of the Revised Code to the contrary.

(1) If the member is not eligible for a retirement allowance pursuant to section 3309.34, 3309.35, or 3309.38 of the Revised Code, the retirement system shall refund the member's account as authorized in section 3309.42 of the Revised Code.

(2) If the member is eligible for a retirement allowance pursuant to section 3309.34, 3309.35, or 3309.38 of the Revised Code, the retirement system shall calculate and pay a benefit as authorized in section 3309.36, 3309.38, or 3309.343 of the Revised Code, as a plan B, effective on the required beginning date as provided in paragraph (A)(2) of this rule.

(a) The member cannot purchase or receive any service credit after the effective date of the retirement allowance.

(b) A member who commences receipt of a retirement allowance under this rule, and who is married, may, not later than one year after the payment commenced, elect a plan of payment under division (B)(1), (B)(3)(b), or (B)(3)(c) of section 3309.46 of the Revised Code provided the spouse is named as the beneficiary. The election shall be made on a form provided by the retirement system and shall be effective on the later of the effective date of the retirement allowance or the marriage. Any overpayment may be recovered as provided in section 3309.70 of the Revised Code.

(c) If the member also was eligible for health care coverage pursuant to SERS rules and Chapter 3309. of the Revised Code, the member may, not later than sixty days after the commencement of payment of the retirement allowance, enroll for such health care coverage on a form provided by the retirement system. The effective date shall be no earlier than the first of the month after the retirement system receives the member's enrollment form.

(3) If the retirant is eligible for a benefit pursuant to section 3309.344 of the

Revised Code, the retirement system shall calculate and pay a single lump sum benefit as authorized in section 3309.344 of the Revised Code. If such retirant also is eligible for an annuity, the retirant may return the lump sum payment within sixty days of the receipt of the payment and request an annuity on a form provided by the retirement system.

- (4) If the benefit payment of a deceased member's spouse is subject to section 401(a)(9) of the Internal Revenue Code, then the retirement system shall treat the spouse as if the spouse was the member for the purposes of this rule.

(C)

- (1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code, 26 U.S.C. 415 are incorporated herein by reference. The 5.5 per cent interest rate assumption established by the Pension Funding Equity Act of 2004, which is applicable to any actuarial adjustments required because the member or retirant elects a form of payment to which section 415(b)(2)(E) of the Internal Revenue Code and section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3) apply based on the form of benefit and not the status of the plan, shall be effective as of that same date.

- (2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan describe in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year.

- (D) Effective January 1, 2007, to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37) and notwithstanding any provision in Chapter 3309. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under Chapter 3309. of the Revised Code had the member resumed employment and then terminated employment on account of death.

- (E) If there is a termination of the plan described in Chapter 3309 of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member, retirant, and beneficiary to the pension, annuity, or benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.

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3309-1-20

Validity of marriage.**For**

~~(A)~~ For the purpose of qualifying for, or receiving, any benefit as a spouse under Chapter 3309. of the Revised Code, the member's or retirant's marriage must be recognized by the state of Ohio. The school employees retirement board shall accept the following as proof of marriage:

~~(A)~~(1) An Ohio marriage certificate;

~~(B)~~(2) A non-Ohio marriage certificate if not otherwise prohibited by section 3101.01 of the Revised Code; or

~~(C)~~(3) In the absence of a marriage certificate, a decision rendered by a court, having jurisdiction in the state in which the member or retirant was domiciled at the time of death, that the relationship constituted a valid marriage at time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's or retirant's intestate personal property if not otherwise prohibited by section 3105.12 of the Revised Code.

(B) For purposes of complying with federal tax law, notwithstanding paragraph (A) of this rule, a member or retirant's marriage is valid so long as it is recognized by the state in which the marriage occurred. The school employees retirement board shall accept the following as proof of marriage:

(1) A marriage certificate; or

(2) In the absence of a marriage certificate, a decision rendered by a court, having jurisdiction in the state in which the member or retirant was domiciled at the time of death, that the relationship constituted a valid marriage at time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's or retirant's intestate personal property if not otherwise prohibited by section 3105.12 of the Revised Code.

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