

## Continuing Coverage in Retirement

### 1. Key Dates for Establishing Retiree Coverage

- a. If a Participating Agency joined NYSHIP prior to March 1, 1972, the enrolled employees are eligible for benefits into retirement if their most recent date of employment with the employer is prior to April 1, 1977.
- b. A Participating Agency is not required to offer retirement benefits to enrolled employees if their most recent date of employment with the employer is on or after April 1, 1977.
- c. A Participating Agency may establish a service requirement greater than 5 years for employees hired on or after April 1, 1975.

### 2. Regular Retirement Eligibility Rules

An enrolled employee of a Participating Agency which elected to participate in the New York State Health Insurance Program **prior** to March 1, 1972, is eligible to continue coverage in retirement provided that he or she meets the requirements **under a., b. and c.** below.

An enrolled employee of a Participating Agency which elected to participate in the New York State Health Insurance Program **after** March 1, 1972, is eligible to continue coverage in retirement *if* the employee is a member of a class or category of employees for which the Participating Agency has elected administratively or through collective bargaining to provide coverage in retirement and he or she meets the requirements **under a., b. and c.** below.

#### *Completion of the Minimum Service Period*

- a. The employee had at least 5 years of service in a benefits eligible position, **not necessarily continuous**, with the Participating Agency from which he or she is retiring, subject to the following:
  - 1) The Participating Agency may elect administratively or through collective negotiations to establish a service requirement greater than 5 years for purposes of determining eligibility for coverage in retirement for all employees or a class or category of employees whose most recent date of employment with the employer is on or after April 1, 1975. **If a Participating Agency does not have an established service requirement, the Agency must abide by the minimum service requirement of 5 years.**
  - 2) If an employee has less service than established by the Participating Agency for coverage in retirement, such employer may elect administratively or through collective bargaining to provide for continuation of coverage in retirement for all employees or a class or category of employees who have met the applicable period of required

service with one or more public employers, provided the employee has served a minimum of one year with the Participating Agency from whose service he or she will retire. A Participating Agency so electing to recognize prior public service shall agree to do so for all employees or all employees in a class or category who meet the conditions specified.

Participating Agencies may recognize the previous service an employee has with another NYSHIP Participating Employer/Agency and/or the State. In addition, the employer/agency may also recognize other public service the employee has with any public employer outside NYSHIP, including the federal government or United States military. Once an agency has chosen to recognize public service outside of NYSHIP, the agency must do so for all employees or all employees in that class or category who, on retirement, have other public service.

- 3) Participating Agencies may count periods of service an employee has with the agency in a non-benefits eligible position toward the eligibility requirement for continuing health insurance in retirement. Such service may be prorated to a full-time equivalent (e.g., 10 years at half-time equals five years of service) at the discretion of the employer, provided the method of calculation is equitably applied. Employers who wish to adopt this policy must submit a statement of its written policy to the Employee Benefits Division.
- 4) The Participating Agency may elect administratively or through collective bargaining to establish as ineligible for coverage in retirement all employees or a class or category of employees whose most recent date of employment with the employer is on or after April 1, 1977.
- 5) If the Participating Agency elects to provide coverage in retirement for School Board Members, the retiree must have **at least 20 years** of service in that position.
- 6) If the Participating Agency elects to provide coverage in retirement for unpaid board members, the retiree must have **at least 20 years** of service in that position.

#### *Membership in a Retirement System*

- b. The employee must satisfy either 1) or 2) below:
  - 1) The employee is eligible to retire or has retired as a member of a retirement system administered by the State of New York or one of its political subdivisions including the New York State and Local Retirement System, New York State Teachers' Retirement System, or New York State and Local Police and Fire Retirement System or under optional retirement programs, for example, Teachers Insurance and Annuity Association/College Retirement Equities Fund (TIAA-CREF), established under article 3, part V of the Education Law;

or

- 2) If the employee is not a member of a retirement system administered by the State or one of its political subdivisions, one of the following conditions must be satisfied in order to continue coverage in retirement:
  - a. The enrollee must meet the Employee Retirement System's age requirement in effect at the time he or she last entered service. Employees who are members of certain retirement systems such as the Local Police & Fire Retirement Systems are eligible to retire after a specific number of years of service regardless of age, or;
  - b. The enrollee must be qualified to receive Social Security disability payments.
- c. The employee is enrolled in the New York State Health Insurance Program as an enrollee or dependent, or in an alternative employer sponsored health plan offered by the agency at the time of retirement. If an employee who otherwise meets the eligibility requirements for coverage in retirement is not enrolled as an enrollee or dependent at the time of retirement, he or she may not enroll at a later date.

Note: Employees who have met the Agency's requirement for retiree health benefits and leave employment but defer receipt of a pension **must be** considered retired for health insurance purposes. Such an employee must still meet the requirements in **a.** or **b.** of this section. When an enrollee retires for health insurance purposes but delays collecting his or her pension, this is called "constructive retirement."

Note: If an employee is not yet eligible to have coverage as a retiree, he or she may be eligible to vest for health insurance purposes and continue coverage until retirement. (See Section 3.14) If an employee whose employment is terminated is not eligible to continue coverage in retirement or as a vestee, his or her coverage must be terminated. COBRA Continuation must be offered. (See Section 3.12)

### 3. Disability Retirement Rules

**These rules only apply to Participating Agencies that offer health insurance coverage in retirement.**

- a. An enrolled employee who has been granted a **work-related disability retirement** by a retirement system administered by the State of New York or one of its civil divisions is eligible to continue coverage as a retiree regardless of age or length of service with the Participating Agency.
  - 1) When an employee receives a retroactive, work-related disability retirement, and health insurance has been cancelled due to nonpayment

during a period of leave without pay necessitated by the work-related disability, the Participating Agency has the option of allowing the employee to re-enroll in NYSHIP retroactively effective on the date of retirement, or on a current basis.

- b. An enrolled employee who has been granted an **ordinary** (non-work related) **disability retirement** by a retirement system administered by the State of New York or one of its civil divisions is eligible to continue coverage in retirement provided the employee meets the agency's eligibility service requirements except for age.
  - 1) When an employee receives a retroactive, ordinary disability retirement, and health insurance has been cancelled due to non-payment during a period of leave without pay or vested status as a result of the disability, the Participating Agency has the **option** of allowing the employee to reenroll in NYSHIP (if all other eligibility requirements are met). To reinstate coverage, the employee **must** pay all missed payments (based upon coverage in effect at the time health insurance ceased) up to the effective date of the disability retirement. Then, that enrollee has a three month late enrollment waiting period based on the date the individual signed the transaction form (PS-503.1) before coverage is effective.
  - 2) No application for reinstatement of coverage may be accepted more than one year from the date of the cover letter for the notice of determination issued by the New York State and Local Employees' Retirement System. If extenuating circumstance exist, contact the Employee Benefits Division for advice.
  - 3) A Participating Agency should have a written policy in effect regarding disability retirement and reinstatement of NYSHIP coverage. The policy must be applied consistently in a non-discriminatory manner.
- c. An enrolled employee who is not a member of any New York State retirement system who has qualified for Social Security disability payments is considered to be retired for health insurance purposes, regardless of age, provided that he or she has met the Participating Agency's service requirement. The employee must present a certificate of Social Security insurance award to the Participating Agency as proof of his or her Social Security status.

Note: For additional clarification on Disability Retirement Rules see Policy Memo 62r1 & 102r1.

#### 4. NYSHIP Coverage as a Dependent at the Time of Retirement

An employee who meets the requirements for coverage in retirement, but who is covered under the New York State Health Insurance Program at the time of retirement as a dependent of another employee, may at any time thereafter enroll as a retiree.

## 5. Retirement Eligibility and Employment with Another Participating Employer

When an employee has established eligibility to continue coverage in retirement through one Participating Agency, that eligibility shall not be impaired by subsequent employment and/or enrollment through another Participating Agency, except when the employee establishes eligibility for coverage in retirement through the second employer. When such eligibility is established through the second employer, the liability of the first employer to provide coverage in retirement is terminated.

## 6. Re-Enrolling as a Retiree

An employee who continues coverage in retirement may elect to cancel his or her coverage and subsequently reenroll, at any time, subject to late enrollment procedures (see Section 2.7).

## 7. Payment of Premium by Retirees:

- a. If an employee who continues coverage in retirement is a member of the New York State and Local Employee's Retirement System, the New York State and Local Policemen's and Firemen's Retirement System or the New York State Teachers' Retirement System, health insurance deductions, if any, may be taken from his or her monthly retirement allowance. The Participating Agency will remit only the employer's share of the premium each month to the Employee Benefits Division. (See list of contribution rates offered by NYSHIP, Section 1.5)
- b. If an employee who continues coverage in retirement is not a member of one of the retirement systems listed under 2.b.1) above, he or she must remit the employee share of the health insurance premium, if any, directly to the Participating Agency. The Participating Agency will be billed for the entire premium and is responsible for remitting payment each month to the Employee Benefits Division.

## 8. Credit for Accumulated but Unused Sick Leave

A Participating Agency may elect administratively or through collective bargaining to provide an additional contribution toward the cost of a retiree's coverage on the basis of any unused sick leave accruals he or she may have at the time of retirement, provided the employee was subject to an established plan for the regular earning and accumulation of such credits. A Participating Agency must be consistent in applying their decisions regarding sick leave credit.

- a. In no case may sick leave credits be applied toward health insurance premium costs either while the enrollee is in vested status or after retiring from vested status. Sick leave credits can be applied toward the premium **only** if retiring directly from active employment.

- b. Such use of sick leave credits may be extended only to those who retire after the Participating Agency's election to provide this benefit. It may not be extended retroactively to employees who retired before that date.