

FINANCE AND ADMINISTRATION CABINET

Kentucky Retirement Systems

(Emergency Amended After Comments)

105 KAR 1:415E. Reimbursement of hospital and medical insurance premiums for Medicare eligible retired members reemployed with a participating employer.

RELATES TO: KRS 16.505, 61.505, 61.510, 61.701, 61.702, 78.510, 78.5536, 42 U.S.C. 1395y(b)

STATUTORY AUTHORITY: KRS 61.505(1)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852. KRS 61.702 and 78.5536 provide for the systems operated by the Kentucky Public Pensions Authority to offer group hospital and medical insurance coverage to retired members and some spouses and dependents. This administrative regulation establishes eligibility requirements, procedures, and necessary documentation and forms for the reimbursement of hospital and medical insurance benefit premiums paid by Medicare eligible retired members who were reemployed in a ~~regular full-time~~ position with a participating employer and were informed by the Kentucky Retirement Systems or the Kentucky Public Pensions Authority that they were not eligible for enrollment in an existing group hospital and medical insurance plan through the Kentucky Public Pensions Authority from January 1, 2009~~March 1, 2017~~ through September 30, 2022.

Section 1. Definitions.

(1) Unless otherwise defined in this section, the definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation.

(2) Prior to April 1, 2021, "agency" means the Kentucky Retirement Systems, which administered the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "agency" means the Kentucky Public Pensions Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.

(3) "Boards" means the Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees of the County Employees Retirement System.

(4) "Complete" means all required sections of a form are filled out, the form has been fully executed by the recipient or the recipient's legal representative, and all supporting documentation required by the form is included with the form.

(5) "Eligible spouse and dependents" means spouses and dependent children of MEMs who are eligible to receive all or a portion of their premiums paid for by the Boards in accordance with KRS 61.702 and 78.5536.

(6) "File" means a form or document has been received at the retirement office by mail, fax, secure email, in-person delivery, or via Self Service on the Web site maintained by the agency (if available).

(7) "MEM" means:

(a) A Medicare eligible member who is retired and reemployed ~~in a regular full-time position~~ with a participating employer which offers or offered the member a hospital and medical insurance benefit, or by a participating employer which is or was prevented from offering a hospital and medical benefit to the member as a condition of reemployment under KRS 70.293, 95.022, or 164.952; and~~+~~

(b). A Medicare eligible member who is retired and whose spouse meets the following criteria:

1. The spouse is also a retired member,

2. The spouse is reemployed with a participating employer which offers the spouse a hospital and medical insurance benefit, or by a participating employer which is prevented from offering a hospital and medical benefit to the spouse as a condition of reemployment under KRS 70.293, 95.022, or 164.952.

3. The premium required to provide the spouse with hospital and medical insurance plan coverage is fully or partially paid based on the Medicare eligible retired member's benefits as provided in KRS 61.702(4) and 78.5536(4).

(8) "Monthly contribution rate" means:

(a) The amount determined by the boards as the maximum contribution the systems will pay toward the premium of a retired member who began participating in the systems on or before June 30, 2003; or

(b) For a retired member who began participating in the system on or after July 1, 2003, the amount per month earned by the retired member based on years of service as provided in KRS 61.702(4)(e) and 78.5536(4)(e).

(9) "Premium" means the monthly dollar amount required to provide hospital and medical insurance plan coverage for a recipient, spouse of a retired member, or dependent child.

(10) "Provide" when used in reference to a form or other document, means the agency makes a form or document available on its Web site (if appropriate) or makes a form or document available to a person by mail, fax, secure email, or via Self Service on the Web site maintained by the agency (if available).

(11) "Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.

Section 2. Group Hospital and Medical Insurance Plans Established for MEMs. Beginning October 1, 2022, a KEHP group hospital and medical insurance plan is available for MEMs and the eligible spouses and dependents of MEMs in accordance with KRS 61.702, 78.5536 and 42 U.S.C. 1395y(b).

Section 3. Eligibility for Reimbursement.

(1) A MEM, who was informed by the agency that he or she was not eligible for group hospital and medical insurance plan coverage through the systems, and who paid premiums for a group hospital and medical insurance plan for himself or herself as well as his or her eligible spouse and dependent(s) may request reimbursement for those premiums paid during the time period from **January 1, 2009**~~**March 1, 2017**~~ to September 30, 2022 as described in Section 4.

(a) MEMs are not eligible for reimbursement for any portion of premiums paid for themselves, spouses, and dependents on or after October 1, 2022, except as indicated in paragraph (b) of this subsection.

(b) For calendar year 2022 only, MEMs and eligible spouses and dependents of MEMs already enrolled in a hospital and medical insurance plan other than a KEHP group hospital and medical insurance plan may choose to remain on that plan through December 31, 2022 and have his or her reimbursement eligibility period extended to December 31, 2022.

(2) Payment of premiums for a group hospital and medical insurance plan for MEMs and eligible spouses and dependents of MEMs identified in subsection (1) of this Section shall be reimbursed upon submission of documentation as described in Section 4 if all or a portion of the MEM, MEM's eligible spouse's or dependent's group hospital and medical insurance coverage would have been paid for by the Boards pursuant to KRS 61.702 and 78.5536.

(3) A MEM shall not be eligible for reimbursement of premiums paid by or on behalf of the MEM or his or her eligible spouse or dependent if:

- (a) The MEM was not notified by the agency that he or she was ineligible for group hospital and medical insurance plan coverage through the agency, and
- (b) The MEM voluntarily chose to purchase or enroll in a hospital and medical insurance plan not offered by the agency.

Section 4. Request for Reimbursement.

(1) The agency shall provide the Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, to eligible MEMs.

(2) A MEM may request reimbursement for himself or herself, eligible spouse or dependent(s) by filing Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, which shall include all premiums for the entire time period for which the MEM is requesting reimbursement.

(a) MEMs may begin filing Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, on August 1, 2022.

(b) MEMs shall only file one (1) Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, for each entity that provided hospital and medical insurance coverage for the MEM and his or her eligible spouses and dependents.

(c) Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement shall only be filed once MEMs and MEM's eligible spouse or dependents are no longer paying premiums eligible for reimbursement.

(3)

(a) In order to receive the applicable reimbursement, MEMs must file the completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, with one (1) or more of the following proof of payment of premiums for hospital and medical insurance coverage that covers the entire time period for the requested reimbursement:

1. The employer certification of health insurance for medical reimbursement section of Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, completed by an employer to certify premiums paid by the MEM;
2. The insurance agent certification of health insurance for medical reimbursement section of Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, completed by an insurance agency or company to certify the premiums paid by or on behalf of the MEM;
3. A signed statement from the MEM's employer listing dates of hospital and medical insurance coverage amount of premiums deducted from wages and the cost of the single coverage; or
4. A signed statement or invoice from the MEM's insurance company listing the dates and cost of single hospital and medical insurance coverage, along with proof of payment such as a receipt or bank statement clearly indicating payment for the statement or invoice provided.

(b) If any provided documentation is deemed insufficient by the agency, the agency may request additional proof of medical and hospital insurance coverage or payment.

(4)

(a) A completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, must be filed no later than June 30, 2023.

(b) MEMs and eligible spouses or dependents of MEMs for whom a completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, is not on file on or before June 30, 2023 are not eligible for reimbursement, except as provided by subsection (5) of this section.

(5)

(a) If a MEM submits a Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, by the deadline indicated in subsection (4) of this Section that is not complete, then the MEM shall have until December 31, 2023 to file a completed Form 6260, including any documentation or proof of payments for the time period the MEM is requesting reimbursement that were missing from the initial incomplete Form 6260.

(b) MEMs and eligible spouses or dependents of MEMs for whom a completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, is not on file on or before December 31, 2023 are not eligible for reimbursement.

(6)

(a) If a MEM is deceased, the executor, administrator, or other representative of the MEM's estate may request reimbursement for the MEM, and any eligible spouse or dependents by filing a Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, and all other required documentation at the retirement office in compliance with this Section.

(b) The executor, administrator, or other representative of the MEM's estate shall also file an order appointing the executor, administrator, or other representative of the MEM's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court.

(7) If the last day to file a completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, under this section is a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the retirement office is actually and legally closed, or any other state or federal holiday that disrupts mail service, then the deadline shall be satisfied if the completed Form 6260 is on file by the end of the next business day.

Section 5. Funding. Pursuant to KRS 61.701, fund assets shall be dedicated for use toward health benefits, as provided in KRS 61.702 and 78.5536, and as permitted under 26 U.S.C. 105 and 106 of the United States Internal Revenue Code, to retired recipients and employees of employers participating in the systems, including MEMs. Fund assets shall also be dedicated for use toward eligible spouses and dependents of MEMs health benefits as provided in KRS 61.702 and 78.5536. Fund assets shall be used to reimburse eligible MEMs and eligible spouses and dependents of the MEM.

Section 6. Authorized Payments.

(1) The agency shall reimburse premiums paid by a MEM or the spouse of a MEM for a MEM who meets the eligibility requirements of Section 3 of this administrative regulation and the MEM's eligible spouse and dependents for each month between ~~January 1, 2009~~~~March 1, 2017~~ and September 30, 2022, except as provided in subsection (2) of this section:

(a) That are included on a timely-submitted, completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, in compliance with Section 4; and

(b) Where documented proof of payment of premiums was filed in compliance with Section 4.

(2) In the case of MEMs who choose to remain on their current hospital and medical insurance plan through December 31, 2022 in accordance with paragraph (1)(b) of Section 3 of this administrative regulation, the agency shall reimburse premiums paid by a MEM or the spouse of a MEM for a MEM who meets the eligibility requirements of Section 3 of this administrative regulation and the MEM's eligible spouse and dependents for each month between ~~January 1, 2009~~~~March 1, 2017~~ and December 31, 2022:

- (a) That are included on a timely-submitted, completed Form 6260, Medicare Secondary Payer Application for Medical Insurance Reimbursement, in compliance with Section 4; and
 - (b) Where documented proof of payment of premiums was filed in compliance with Section 4.
- (3) The amount the MEM or the estate of the MEM shall receive for each month of premium reimbursements authorized by subsection (1) or (2) of this section shall be the lesser of:
- (a) The monthly contribution rate in effect during the calendar year in which the premiums authorized for reimbursement were paid by the MEM or the spouse of the MEM had the MEM been eligible to enroll in the non-Medicare eligible group hospital and medical insurance plan established in accordance with KRS 61.702 and 78.5536, or
 - (b) The premiums paid by the MEM or the spouse of the MEM for hospital and medical insurance coverage for the MEM and his or her eligible spouse and dependents.
- (4)
- (a) The applicable monthly contribution rate referenced in paragraph (3)(a) of this section shall be based on the MEM's hazardous and nonhazardous service.
 - (b) The applicable monthly contribution rate referenced in paragraph (3)(a) of this Section shall not include the tobacco usage fee for the non-Medicare eligible group hospital and medical insurance plan.
- (5)
- (a) If a MEM or an estate of a MEM receives a payment from the agency that does not qualify for reimbursement in accordance with this administrative regulation, the MEM shall return the payment to the agency at the retirement office.
 - (b) If the MEM or an estate of a MEM fails to return the payment, the agency may withhold payment from the MEM's monthly retirement allowance payment or take other action to collect on the payment received in error.

Section 7. Incorporated by Reference.

- (1) Form 6260, "Medicare Secondary Payer Application for Medical Insurance Reimbursement", ~~September~~May 2022, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8:00 a.m. to 4:30 p.m. This material is also available on the agency's Web site at kyret.ky.gov.

DAVID L. EAGER, Executive Director

APPROVED BY AGENCY: September 14, 2022

FILED WITH LRC: September 15, 2022 at 10:20 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jessica Beaubien

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes eligibility requirements, procedures, and necessary documentation and forms for the reimbursement of hospital and medical insurance benefit premiums paid by Medicare eligible retired members who were reemployed in a position with a participating employer and were informed by the Kentucky Retirement Systems or the Kentucky Public Pensions Authority that they were not eligible for enrollment in an existing group hospital and medical insurance plan through the Kentucky Public Pensions Authority from January 1, 2009 through September 30, 2022.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish eligibility requirements, procedures, and necessary documentation and forms for the reimbursement of hospital and medical insurance benefit premiums paid by Medicare eligible retired members who were reemployed in position with a participating employer and were informed by the Kentucky Retirement Systems or the Kentucky Public Pensions Authority that they were not eligible for enrollment in an existing group hospital and medical insurance plan through the Kentucky Public Pensions Authority from January 1, 2009 through September 30, 2022.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852. KRS 61.702 and 78.5536 provide for the systems operated by the Kentucky Public Pensions Authority to offer group hospital and medical insurance coverage to retired members and some spouses and dependents. This administrative regulation establishes eligibility requirements and procedures for reimbursements of premiums paid by Medicare eligible retired members who are or were reemployed in a regular position with a participating employer during the period of January 1, 2009 through September 30, 2022, when a group hospital and medical insurance plan was not available for these retired members or their eligible spouses and dependents.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation will assist in the effective administration of the statutes by establishing eligibility requirements, procedures, and necessary documentation and forms for the reimbursement of hospital and medical insurance benefit premiums paid by Medicare eligible retired members who were reemployed in a position with a participating employer and were previously informed by the Kentucky Retirement Systems or the Kentucky Public Pensions Authority that they were not eligible for enrollment in an existing group hospital and medical insurance plan through the Kentucky Public Pensions Authority from January 1, 2009 through September 30, 2022.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation:

This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes:

This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Approximately 1,100 individuals who are retired members of the systems operated by the Kentucky Public Pensions Authority. An unknown number of spouses and dependents of retired members of the systems operated by the Kentucky Public Pensions Authority. One (1) entity that provides day-to-day operations for the three (3) public retirement systems: the Kentucky Public Pensions Authority. Three (3) public retirement systems: the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The Kentucky Public Pensions Authority is required to set-up an internal system for processing and paying the eligible reimbursement requests provided by this administrative regulation. The Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System will be responsible for paying for the eligible reimbursements from the Kentucky Retirement Systems insurance trust fund (KRS 61.702).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The cost of compliance for the Kentucky Public Pensions Authority consists solely of the costs associated with implementation of this administrative regulation, which should be minimal. The cost of compliance for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System is unknown because the cost will be dependent on several factors that are unknown at the time of filing of this administrative regulation: (i) the number of eligible retired members who timely request reimbursement in accordance with this administrative regulation, (ii) the periods during which the affected retired members paid for premiums, and (iii) whether the affected retired members may have had their premiums partially or entirely paid for by an employer.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The Kentucky Public Pensions Authority, the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System are able to ensure legal compliance.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The costs associated with the implementation of this administrative regulation should be minimal.

(b) On a continuing basis:

The continuing costs associated with the implementation of this administrative regulation should be minimal, particularly after the window for requesting reimbursement closes on June 30, 2023.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Administrative expenses of the Kentucky Public Pensions Authority, which will carry out the implementation and enforcement of this regulation pursuant to KRS 61.505, are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding is required to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied. All affected public retirement systems are treated in the same manner by this administrative regulation.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Public Pensions Authority and the three (3) public retirement systems for which it provides day-to-day operations: the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 61.505(1)(g).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year?

Unknown.

(d) How much will it cost to administer this program for subsequent years?

Unknown.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):None.

Expenditures (+/-):Unknown.

Other Explanation:

The cost of compliance for the Kentucky Public Pensions Authority consists solely of the costs associated with implementation of this administrative regulation, which should be minimal. The cost of compliance for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System is unknown because the cost will be dependent on several factors that are unknown at the time of filing of this administrative regulation: (i) the number of eligible retired members who timely request reimbursement in accordance with this administrative regulation, (ii) the periods during which the affected retired members paid for premiums, and (iii) whether the affected retired members may have had their premiums partially or entirely paid for by an employer.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

None.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

None.

(c) How much will it cost the regulated entities for the first year?

Unknown.

(d) How much will it cost the regulated entities for subsequent years?

Unknown.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):None.

Expenditures (+/-):Unknown.

Other Explanation:

The cost of compliance for the Kentucky Public Pensions Authority consists solely of the costs associated with implementation of this administrative regulation, which should be minimal. The cost of compliance for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System is unknown because the cost will be dependent on several factors that are unknown at the time of filing of this administrative regulation: (i) the number of eligible retired members who timely request reimbursement in accordance with this administrative regulation, (ii) the periods during which the affected retired members paid for premiums, and (iii) whether the affected retired members may have had their premiums partially or entirely paid for by an employer.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a "major economic impact" because it will not have a negative or adverse economic impact on the Kentucky Public Pensions Authority or the three (3) public retirement systems for which it provides day-to-day operations (the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System).