

FINANCE AND ADMINISTRATION CABINET

Kentucky Retirement Systems (Amended at ARRS Committee)

105 KAR 1:365. Hybrid cash balance plan.

RELATES TO: KRS 16.505, ~~16.543, 16.577,~~ 16.578, 16.583, 61.505, 61.510, 61.542, ~~61.543,~~ 61.552, ~~61.559, 61.565, 61.592,~~ 61.5955, 61.597, ~~61.615,~~ 61.625, 61.637, 61.640, 61.680, 61.702, 78.510, 78.545, ~~78.5510, 78.5512, 78.5514,~~ 78.5516, ~~78.5520, 78.5528,~~ 78.5532, 78.5536, 78.5540, 78.5542, ~~78.615, 78.635,~~ 38 U.S.C. ~~§~~ 4301-4335, 26 U.S.C. ~~§~~ 414(u)

STATUTORY AUTHORITY: KRS 61.505(1)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority on behalf of the Kentucky Retirement Systems and the County Employees Retirement System to promulgate ~~full~~ administrative regulations that are consistent with the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. KRS 16.583, 61.597, 78.5512, and 78.5516 create a hybrid cash balance plan tier for members of the State Police Retirement System, Kentucky Employees Retirement System, and County Employees Retirement System with participation dates on or after January 1, 2014, or members making an election pursuant to KRS 61.5955 and 78.545. This administrative regulation establishes the procedures and requirements for the administration of the hybrid cash balance plan tier.

Section 1. Definitions.

(1) ~~["Decompression" means service purchased by a member for a period of time not to exceed ninety (90) days between the member's discharge from active-duty military service and the member's return to employment with a participating employer, if the member returned from military leave and did not immediately return to work, in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Decompression shall be credited to the member's account after the member has paid the employee contributions that would have been paid by the member for this period of time in accordance with KRS 16.543, 61.543, and 78.615. The employer also shall pay the employer contributions for this period of time in accordance with KRS 61.565 and 78.635.]~~

~~[(2)] ["Military omitted" means service purchased by a member with a participation date on or after January 1, 2014, who was called to active-duty military in accordance with KRS 61.552(1) and 78.545. Military omitted is credited to the member's account only if the member has paid the employee contributions that would have been paid by the member for this period of time in accordance with KRS 16.543, 61.543, and 78.615. The employer also shall pay the employer contributions for this period of time in accordance with KRS 61.565 and 78.635.]~~

~~[(3)]~~ "Nonvested member" means a member of the Systems who has less than five (5) years of service credited under KRS 16.543, 61.543, and 78.615 and who participates in the hybrid cash balance plan tier based on:

- (a) A participation date on or after January 1, 2014, or
- (b) Opting into the hybrid cash balance plan with a participation date between September 1, 2008 and December 31, 2013.

~~[(2)]~~ ~~[(4)]~~ "Vested member" means a member of the Systems who has five (5) or more years of service credited under KRS 16.543, 61.543, and 78.615 and who participates in the hybrid cash balance plan tier based on:

- (a) A participation date on or after January 1, 2014, or

(b) Opting into the hybrid cash balance plan with a participation date between September 1, 2008 and December 31, 2013.

Section 2. Military Service Credit.

(1)

(a) Decompression service shall mean service purchased by a member for a period of time not to exceed ninety (90) days between the member's discharge from active-duty military service and the member's return to employment with a participating employer, if the member returned from military leave and did not immediately return to work, in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. 4301-4333.

(b) Decompression shall be credited to the member's account after the member has paid the employee contributions that would have been paid by the member for this period of time in accordance with KRS 16.543, 61.543, and 78.615.

(c) The employer shall pay the employer contributions for the period of decompression in accordance with KRS 61.565 and 78.635.

(2)

(a) Military omitted service shall mean service purchased by a member with a participation date on or after January 1, 2014, who was called to active-duty military in accordance with KRS 61.552(1) and 78.545.

(b) Military omitted shall be credited to the member's account only if the member has paid the employee contributions that would have been paid by the member for this period of time in accordance with KRS 16.543, 61.543, and 78.615.

(c) The employer shall pay the employer contributions for the period of military omitted in accordance with KRS 61.565 and 78.635.

Section 3. Application.

(1) Systems. This administrative regulation ~~shall apply~~*applies* to the hybrid cash balance plan tier within each of the Systems.

(2) Members. Except as provided in subsections (3) and (4) of this section, this administrative regulation ~~shall apply~~*applies* solely to members who begin participating in the Systems on or after January 1, 2014, and who do not have a participation date in any other state-administered retirement system that is prior to January 1, 2014.

(3) Irrevocable Election. This subsection ~~shall apply~~*applies* only to members with a participation date in the Systems between September 1, 2008 and December 31, 2013, who have not received a retirement benefit from the Systems.

(a) Pursuant to KRS 61.5955 and 78.545, a member with a participation date in the Systems between September 1, 2008 and December 31, 2013, may make a one-time, irrevocable election to receive the benefits and rights provided under the hybrid cash balance plan tier as defined in KRS 16.583, 61.597, 78.5512, and 78.5516 in lieu of benefits he or she is currently eligible to receive from the Systems.

1. A member with a participation date based on service in the Systems or service in another state-administered retirement system prior to September 1, 2008 shall not be eligible to make this one-time, irrevocable election upon separation of accounts in accordance with KRS 61.680, 78.5542, and 105 KAR 1:020.

2. A member with a participation date in the Systems between September 1, 2008 and December 31, 2013 who also has service in another state-administered retirement system between September 1, 2008 and December 31, 2013 shall be eligible to make this one-time, irrevocable election only upon separation of the member's account in the Systems from the member's account in the other state-administered retirement system as ~~established~~*indicated* in Section ~~6(6)~~*5(6)* of this administrative regulation and in accordance with KRS 61.680, 78.5542, and 105 KAR 1:020.

(b)

1. Eligible members who make the one-time, irrevocable election as described in paragraph (a) of this subsection shall only be entitled to retain purchased service that is recontribution of a refund, omitted, omitted with interest, decompression, or service purchased in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA); the agency shall remove any other purchased service from total months of service credit and refund the cost of that service back, plus interest, to the source of the purchase.

2. Eligible members who make the one-time, irrevocable election as described in paragraph (a) of this subsection shall not retain any active duty military service pursuant to KRS 61.552(1) and 78.545, unless the eligible member is currently participating in one (1) of the systems and pays the military omitted.

(c) Members eligible to make the one-time, irrevocable election as described in paragraph (a) of this subsection shall be provided information detailing the potential results of ~~that/such an/~~ election via Member Self Service on the Web site maintained by the agency, which shall reflect service credit purchases retained and refunded as described in paragraph (b) of this subsection, and may receive additional information from the agency's counselors upon request.

(d) The agency shall provide Form 2013, Hybrid Cash Balance Plan Opt-In Election, on which the member can make a one-time, irrevocable election as described in paragraph (a) of this subsection, available to the member via Member Self Service on the Web site maintained by the agency.

(e) The agency shall not process an eligible member's one-time, irrevocable election as described in paragraph (a) of this subsection until a complete and correct Form 2013, Hybrid Cash Balance Plan Opt-In Election, is on file at the retirement office.

(f) The effective date of the eligible member's one-time, irrevocable election as described in paragraph (a) of this subsection shall be the date on which the completed Form 2013, Hybrid Cash Balance Plan Opt-In Election, is received at the retirement office.

(4) Prior Participation that has been refunded. This subsection ~~shall apply/applies/~~ to a member with a participation date with the Systems prior to January 1, 2014, who terminates employment, and who takes a refund of accumulated contributions pursuant to KRS 61.625 and 78.545.

(a) If ~~that/such a/~~ person is reemployed on or after January 1, 2014, in a regular full-time position required to participate in one of the Systems and does not have a participation date with any other state-administered retirement plan prior to January 1, 2014, the person ~~shall become/becomes/~~ a member of the hybrid cash balance plan tier.

(b) If ~~that/such a/~~ member purchases his or her previously refunded service in accordance with KRS 61.552(3) and 78.545(7), the purchased service shall only be used to determine the member's years of service credited and shall not be used to determine the member's participation date.

Section 4. ~~**Section 3.**~~ Construction of Administrative Regulation. KRS 16.505 to 16.652, KRS 61.510 to 61.705, KRS 78.510 to 78.852, and KAR Title 105 ~~of the Kentucky Administrative Regulations/~~ shall apply to the hybrid cash balance plan tier except ~~if/where/~~ required by or as necessary for the administration of the hybrid cash balance plan tier under KRS 16.583, 61.597, 78.5512, and 78.5516.

Section 5. ~~**Section 4.**~~ Trust Assets. All contributions made with respect to each Systems' hybrid cash balance plan tier shall be held in the trust for the respective System. ~~**There shall be no segregation of/**~~ Assets for the hybrid cash balance plan tier ~~**shall not be segregated**~~ from the assets for other tiers for the respective System.

Section 6. ~~Section 5.~~ Reciprocity.

(1) All service credit with other state-administered retirement systems, including the Judicial and Legislators' Plan and the Teachers' Retirement System, shall be used for determining a member's years of service credited for purposes of eligibility for annuitization, unless:

(a) The member has separated ~~the member's account~~~~their account(s)~~ with another state-administered retirement systems by filing a complete Form 2022, Separation of Accounts;~~or~~

(b) The member previously retired based on the service with the other state-administered retirement system.

(2) Service credit in another state-administered retirement system shall not be used for determining whether a member who is not eligible to retire in the hybrid cash balance plan tier has the five (5) years of service required in order to receive a full refund of his or her accumulated account balance under KRS 16.583(5)(b), 61.597(5)(b), 78.5512(5)(b), and 78.5516(5)(b).

(3) Service credit in the cash balance plan tier ~~shall~~~~will~~ be counted as service for the other state-administered retirement systems and as service for hospital and medical insurance and managed care plan coverage pursuant to KRS 61.702 and 78.5536.

(4) ~~In no event will~~ The same service credit ~~shall~~~~not~~ be counted for benefit calculation purposes for more than one state-administered retirement system or tier under any circumstances.

(5) A member who is participating in the hybrid cash balance tier in more than one of the Systems ~~shall~~~~will~~ have to retire at the same time and elect the same retirement benefit option in all applicable Systems, unless the member has requested that his or her accounts be separated in accordance with 105 KAR 1:020.

(6) A member with a participation date in the Systems between September 1, 2008 and December 31, 2013 may make a one-time, irrevocable election to have each system treat his or her service credit in that system without regard to any other service credit, by filing a Form 2022, Separation of Accounts, requesting that his or her accounts be separated in accordance with KRS 61.680 and 78.5542. If so requested, "final compensation" shall be based on the creditable compensation earned under each system separately.

(a) Members who are eligible and seeking to make the one-time, irrevocable election to separate accounts shall be provided information detailing the potential results of ~~that~~~~such an~~ election from the agency's counselors.

(b) The agency shall provide Form 2022, Separation of Accounts, on which the member can make the one-time, irrevocable election to separate accounts.

(c) The agency shall not process an eligible member's one-time, irrevocable election to separate accounts until the member has received the information required by~~indicated in~~ paragraph (a) of this subsection and a complete and correct Form 2022, Separation of Accounts, is on file at the retirement office.

(d) The effective date of the eligible member's one-time, irrevocable election to separate accounts shall be the date on which the completed Form 2022, Separation of Accounts, is received at the retirement office.

Section 7. ~~Section 6.~~ Lump-sum Distributions upon Termination of Employment or Death for Nonvested Members.

(1) Termination of Employment. A nonvested member eligible for a refund pursuant to KRS 61.625 and 78.545 shall only be refunded his or her accumulated contributions, and shall forfeit any accumulated employer credit.

(2) Death before Retirement. Upon the death of a nonvested member, the beneficiary designated by the member pursuant to KRS 61.542(1)-(2) and 78.545(2) (or if no designated beneficiary, the member's estate) shall only be entitled to receive a lump-sum

payment of the nonvested member's accumulated contributions, and shall not be entitled to receive payment of any accumulated employer credits.

(3) Rollovers. A nonvested member or the designated beneficiary of a nonvested member who receives a refund of accumulated contributions may elect to have the refunded accumulated contributions paid directly to an eligible retirement plan in accordance with 105 KAR 1:270 and 105 KAR 1:345.

Section 8. ~~fSection 7.~~ Lump-sum Distributions upon Termination or Distributions upon Death of Vested Members.

(1) Termination of Employment.

(a) Upon termination of employment with all employers participating in the same Systems in which the member has service credit, a vested member who is not otherwise eligible to retire may elect to take a refund of his or her accumulated account balance.

(b)

1. Upon termination of employment with all employers participating in one or more of the Systems, a vested member who is eligible for retirement may elect to take a refund of his or her accumulated account balance, in lieu of other retirement payment options provided in KRS 16.583(7), 61.597(7), 78.5512(7), and 78.5516(7).

2. The member's election to take a refund of his or her accumulated account balance as described in subparagraph 1 of this paragraph shall be treated as a retirement and the member shall be a retired member ineligible to participate or accrue additional benefits in the Systems upon subsequent reemployment with any participating employer pursuant to KRS 61.637 and 78.5540. Additionally, the member who has made the election described in subparagraph 1 of this paragraph shall be subject to all requirements and restrictions for reemploying with a participating employer in KRS 61.637, 78.5540 and 105 KAR 1:390.

(2) Death before Retirement.

(a) Upon the death of a vested member participating in the Systems, the vested member's designated beneficiary (or if no designated beneficiary, the member's estate) ***shall be*** entitled to a lump-sum distribution of the vested member's accumulated account balance in accordance with KRS 61.625(1)(a) and 78.545(5). The designated beneficiary may also be entitled to the other payment options available for a death before retirement pursuant to KRS 16.578, 61.640, and 78.5532.

(b) Upon the death of a vested member who is not participating in the Systems at the time of death and who has not taken a refund or retirement benefit, if the vested member has fewer than twelve (12) years of service credited, the vested member's designated beneficiary (or if no designated beneficiary the member's estate) ***shall be*** entitled to a lump-sum distribution of the member's accumulated account balance in accordance with KRS 61.625(1)(a) and 78.545(5). If the vested member has twelve (12) or more years of service credited, the designated beneficiary may also be entitled to other payment options available for a death before retirement pursuant to KRS 16.578, 61.640, and 78.5532.

(3) Rollover. A vested member or the designated beneficiary of a vested member who takes a lump-sum distribution of the vested member's accumulated account balance under this section may elect to have the lump-sum distribution paid directly to an eligible retirement plan in accordance with 105 KAR 1:270 and 105 KAR 1:345.

Section 9. ~~fSection 8.~~ Eligibility for an Annuity.

(1) At Normal Retirement Age. Subject to Section ~~6~~5 of this administrative regulation, a vested member who reaches normal retirement age under the applicable System's statutory provisions and who terminates employment with all participating employers

~~shall be~~ eligible to retire and may elect to annuitize his or her accumulated account balance or take a lump-sum distribution of his or her accumulated account balance as provided in Section ~~8(1)(b)7(1)(b)~~ of this administrative regulation.

(2) Additional Eligibility for Annuitization for Members with Hazardous position Service. A member who has hazardous position service as provided in KRS 16.505-16.652, 61.592 and 78.5520, who has 25 or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or any other Kentucky state-administered system, and who terminates employment with all employers participating in the Systems ~~shall be~~ eligible to retire and may elect to annuitize his or her accumulated account balance or take a lump-sum distribution of his or her accumulated account balance as provided in Section ~~8(1)(b)7(1)(b)~~ of this administrative regulation.

(3) Additional Eligibility for Annuitization for Members with Service Only in a Nonhazardous Position. A member with exclusively nonhazardous position service who is at least age fifty-seven (57), who has an age plus years of service total of at least eighty-seven (87) years, and who terminates employment with all employers participating in the Systems ~~shall be~~ eligible to retire and may elect to annuitize his or her accumulated account balance or take a lump-sum distribution of his or her accumulated account balance as provided in Section ~~8(1)(b)7(1)(b)~~ of this administrative regulation.

(4) Annuitization. A member who elects to annuitize his or her accumulated account balance may receive a retirement benefit determined in accordance with actuarial assumptions and actuarial methods adopted under subsection (6) of this section and in effect on the member's retirement date.

(5) Return of Contributions. If the retirement benefit payment option selected by the vested member includes a guaranteed return of contributions, that retirement benefit payment option shall be interpreted to mean that guarantee applies to the accumulated account balance.

(6) Board Action with respect to Annuitization. The ~~actions of the~~ Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees of the County Employees Retirement System ~~shall~~ adopt actuarial assumptions and methods that will apply to a specific fiscal year prior to the start of that fiscal year~~are incorporated by reference under this administrative regulation. Each Board shall adopt the actuarial assumptions that will apply to a specific fiscal year prior to the start of that fiscal year.~~

(7) Eligibility for Retiree Hospital and Medical Benefit. Only a member who is receiving a monthly annuitized benefit ~~shall be~~ eligible for hospital and medical insurance and managed care plan coverage. A member who takes a lump-sum refund or lump-sum retirement benefit ~~shall~~ not be eligible for hospital and medical insurance and managed care plan coverage.

Section 10. ~~Section 9.~~ Disability retirement. A member participating in the hybrid cash balance plan tier in one or more of the Systems whose disability retirement allowance is discontinued pursuant to KRS 61.615 and 78.5528 shall begin receiving retirement benefits, if eligible, under KRS 16.583(6), 61.597(6), 78.5512(6), or 78.5516(6)~~, or 16.583(6)~~, but shall not be eligible for early retirement benefits under KRS 61.559, 78.5510, 78.5514, or 16.577.

Section 11. ~~Section 10.~~ Purchase of Service Credit.

(1) Members participating in the hybrid cash balance plan tier shall only be eligible to purchase service credit that is recontribution of a refund, omitted, omitted with interest, military omitted, decompression, or under the Uniformed Services Employment and Reemployment Rights Act (USERRA), and shall not be eligible to make any other types of service purchases.

(2) Uniformed Services Employment and Reemployment Rights Act (USERRA) Service.

(a) Years of service credited shall be determined as required by USERRA.

(b) In order to receive service credit for military omitted, decompression, or under the Uniformed Services Employment and Reemployment Rights Act (USERRA), the member shall pay the member contributions in accordance with KRS 16.543, 61.543, and 78.615, as though the member was employed during the period of his or her active military duty or decompression.

(c) The employer shall pay all employer contributions owed in accordance with KRS 61.552, 61.565, 78.545, and 78.635.

(3) Repayment of Refunded Contributions Plus Interest Credits or Accumulated Account Balance.

(a) Upon reemployment with a participating employer in a regular full-time position required to participate in the Systems or participation in another state-administered retirement system, a nonvested member who took a refund of his or her member contributions plus interest credits may regain the refunded service credit by repaying, with interest at a rate determined by the board of the respective retirement system, the amount refunded with post-tax employee contributions or a rollover or transfer allowed under the Internal Revenue Code. Although the repayments of refunded contributions plus interest credit shall be used to determine the member's service credited, the repayment of the amount refunded shall not be used to determine a member's participation date.

(b) Upon reemployment with a participating employer in a regular full-time position required to participate in the Systems or participation in another state-administered retirement system, a vested member who was not eligible to retire and who took a refund of his or her accumulated account balance may regain the refunded service credit by repaying, with interest at a rate determined by the board of the respective retirement system, the amount refunded with post-tax employee contributions or a rollover or transfer allowed under the Internal Revenue Code. Although the repayments of the refunded accumulated account balance shall be used to determine the member's service credited, the repayment of the amount refunded shall not be used to determine a member's participation date.

(4) Omitted Service. Any person who is entitled to service credit in the hybrid cash balance plan tier that was not reported in accordance with KRS 16.543, 61.543, or 78.615 may pay the amount of member contributions that would have been due on that service in order to receive credit for the service in the hybrid cash balance plan tier. However, the service shall not be credited to the member's account until employer contributions for the service are received by the Systems. Once member and employer contributions have been received, accumulated employer credits shall be reflected in the member's account.

Section 12. ~~[Section 11.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 2013, "Hybrid Cash Balance Plan Opt-In Election", February 2021; and

(b) Form 2022, "Separation of Accounts", September 2022.

(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, 8 a.m. to 4:30 p.m. This material is also available on the Kentucky Public Pensions Authority's Web site at kyret.ky.gov.

(49 Ky.R. 1537, 1900; eff. 7-5-2023.)

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