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**MEMORANDUM #018---13HR**

**TO:** Agency Administrators

**FROM:** Carolyn Horwich, J.D., Director of Human Resources

**THROUGH:** Rip Colvin, Executive Director

**SUBJECT:** OPS Employees and State Group Insurance

**DATE:** June 24, 2013

As information and guidance come to the Justice Administrative Commission ("JAC") from the Department of Management Services ("DMS"), we are forwarding it to the agencies we administratively serve.

Attached to this memorandum are two documents. The first document is the most recent FAQ sheet from DMS regarding OPS employees; it focuses exclusively on State Group Insurance issues and may answer some of your outstanding questions.

The second document is a revised "General Information Sheet" for OPS employees, also from DMS. It has been revised primarily to reflect the availability of health insurance to certain OPS employees. You will notice that some portions of the document have been struck through. As the document is posted on DMS's website, rather than provide you with an amended version, it seemed prudent to show the document as it appears on the website, but with those sections that are not applicable to the agencies served by the JAC struck through.

If you have any questions, please do not hesitate to contact me at [Carolyn.Horwich@justiceadmin.org](mailto:Carolyn.Horwich@justiceadmin.org). Thank you.

OPS Employees FAQs  
Updated June 18, 2013  
State Group Insurance

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1. What should agencies be tracking right now?

If your agency is able to submit timesheets via People First, please be sure OPS employees maintain current timesheets and that they are approved on the last day of the reporting period. To accurately measure OPS employees who work from April 1 through September 30, 2013, all OPS timesheets will need to be submitted and approved by close of business on October 1, 2013.

If your agency is unable to submit OPS timesheets via People First, please continue to capture hours worked. A mass load template will be provided for you to submit hours to People First by close of business on October 1, 2013. Additional information forthcoming.

Also record any OPS employee hired on or after April 2, 2013. Any employee who is reasonably expected to work an average of 30 or more hours per week will be offered coverage during Open Enrollment.

Reminder: hours will be combined and averaged for employees who work in more than one OPS/variable hour position with the state.

2. When is an employee considered a new hire?

- First time employed by a state employer (list of employers provided to HR offices on May 9, 2013).
- If an employee is on unpaid leave for more than 26 weeks or if the length of termination before rehire by a state employer is greater than 26 weeks, then the employee is treated as a new hire.
- If the employee's unpaid leave or period of termination is between 4 and 26 weeks long *and* the break is longer than the period of time the employee worked, then the employee is a new hire if rehired.
  - For example, the employee terminates employment after working 7 weeks for an agency. If he begins working for another state employer 8 weeks after his employment ended, he is treated as a new hire.
  - If, however, the employee begins working for another state employer within the next 7 weeks, he is treated as if he never left and the hours not worked are included in the overall average.

OPS employees who are not considered new hires and return to employment pick up where they left off in their measurement and stability periods.

3. What are the premiums for health insurance going to be?

Full-time temporary employees will pay the same premiums as Career Service and equivalent employees, and they will also be eligible to participate in the spouse program.

Monthly Premium	Standard	Health Investor
Single	\$50	\$15
Family	\$180	\$64.30
Spouse Program (\$15/spouse)	\$30	\$30

4. Can these employees enroll in any other plans?

Yes. In addition to health insurance, full-time temporary employees can enroll in the following:

- Basic life (\$25,000) and pay the monthly \$4.54 premium;
- Dental, vision and the other supplemental insurance plans;
- Dependent care reimbursement account; and
- They are eligible for the state health savings account contribution if they enroll in a health investor health plan.

They are not eligible to enroll in optional life insurance, the medical reimbursement account or the limited purpose medical reimbursement account.

5. How will eligibility for OPS employees be determined?

- A special measurement period will be used to determine eligibility for coverage for all OPS employees working as of April 1, 2013.
  - If they work 30 hours on average or more per week from April 1 through September 30, they will be eligible to enroll in coverage during OE with an effective date of January 1, 2014.
  - If they do not work 30 hours or more, eligibility for future coverage will be determined at the end of the next OE measurement period.
- OPS employees hired between April 2, 2013 and September 30, 2013 who are reasonably expected to work 30 hours or more per week will also be eligible to enroll in coverage during OE.
- Employees hired April 2, 2013 and after and not reasonably expected to work 30 hours or more per week will not be eligible during OE to enroll in coverage for the next plan year. Eligibility for future coverage will be determined at the end of their new hire measurement period.

6. What if an OPS employee's hours increase from less than 30 to more than 30?

- If the OPS employee is in the new hire measurement period and his hours increase to reasonably be expected to work an average of 30 hours per week or more, he is eligible for coverage.
- If the OPS employee's hours increase any time outside of the new hire measurement period, eligibility will be determined in the next measurement period.

7. Once enrolled, how long do OPS employees get to keep their coverage?

- Coverage continues for 12 months, as long as they continue working for the state, even if their hours drop below an average of 30.
- Eligibility to continue coverage for the subsequent plan year will be determined annually by measuring hours worked during the OE measurement period.
- If covered OPS employees terminate employment, they are covered through the last day of the month following termination, provided premiums are paid in full. They are eligible to continue health, dental and vision coverage through COBRA if enrolled at the time of termination.

Agencies should plan for a 12-month coverage period when establishing annual budgets.

8. What happens if an OPS employee has coverage and is then determined to be ineligible during the OE measurement period?

- Coverage will end at the end of the 12-month stability period; however, they are eligible to continue coverage through COBRA. Eligibility for the subsequent plan year will be measured during the next OE measurement period.

9. Will this process be automated?

- The goal is to automate all processes through People First; however, manual processes will be in place until all requirements, programming and testing have been completed.

10. Who will pay the premium for OPS coverage?

- Employees and employers will make contributions for coverage based on the current premium contributions for Career Service employees.

During the hiring process, agencies may wish to determine if the OPS candidate is already working at another agency and any potential budgetary impacts.

11. Will agencies receive additional budget to pay these contributions?

The GAA includes \$24.2 million in reserves, including \$13.7 million in the General Revenue Fund and \$10.5 in trust funds, to provide premium payments for OPS employees enrolled in the State Group Health Insurance.

Funds may be released contingent upon Legislative Budget Commission approval. Strategies are being developed now to determine how the funds will be allocated and administered, dependent on the outcome of Open Enrollment.

**Definitions:**

**New hire measurement period** – the 12-month period beginning on the first day of the first month following an OPS employee’s start date in which the average hours worked weekly will be measured to determine eligibility for coverage.

**Open Enrollment (OE) measurement period** – the 12-month period from October 1 through the following September 30 in which the average hours worked weekly will be measured to determine eligibility for coverage for the subsequent stability period (plan year).

**Stability period** – the 12-month period following a measurement period during which eligible employees who enroll in coverage must be covered.

- Following the new hire measurement period, the stability period is dependent upon the hire date.
- Following the OE measurement period, the stability period is January 1 through December 31.

## General Information Sheet

### OTHER PERSONAL SERVICES EMPLOYMENT

#### WHAT IS OPS?

Other Personal Services (OPS) employment is a temporary employer/employee relationship used solely for accomplishing short term or intermittent tasks. OPS employees do not fill established positions and may not be assigned the duties of any vacant authorized position. OPS employees are at-will employees and are subject to actions such as pay changes, changes to work assignment, and terminations at the pleasure of the agency head or designee.

#### HOW ARE OPS EMPLOYEES TRACKED?

Each OPS employee shall have their name, social security number, employment category, employment start date, number of hours worked, and amount of compensation maintained by the agency in the human resource information system, in accordance with section 110.131(2) (a), Florida Statutes.

#### HOW ARE OPS EMPLOYEES PAID?

OPS employees are paid for the actual number of hours they work. All work hours over 40 within a workweek are paid at one and one-half times the employee's hourly rate of pay when the position is designated as "included" or "nonexempt" under the federal Fair Labor Standards Act (FLSA). However, even though physicians, lawyers, teachers and certain highly paid (minimum \$27.63 per hour) computer-related occupations are paid on an hourly basis, such OPS employees maintain exempt status and are not subject to the FLSA overtime provisions.

#### WHAT BENEFITS ARE APPLICABLE TO OPS EMPLOYEES?

- State of Florida 401(a) FICA Alternative Plan\* - mandatory
- Workers' Compensation - mandatory
- Reemployment Assistance (Unemployment Compensation) - mandatory
- Participation in state group insurance (must meet eligibility requirements, please consult with your servicing HR office for details)
- Deferred Compensation - voluntary
- Employee Assistance Program - voluntary

\*See Page 2 of this Information Sheet for more information about the FICA Alternative Plan

#### WHAT BENEFITS ARE NOT APPLICABLE TO OPS EMPLOYEES?

- Any form of paid leave
- Paid holidays
- Participation in the Florida Retirement System
- Reinstatement rights or retention rights

#### APPLICABLE LAWS/RULES:

- Sections 110.131, 110.1315 and 216.011(1)(dd), Florida Statutes
- Rules 60L-33.005 and 60L-34.001, Florida Administrative Code

## **STATE OF FLORIDA 401(a) FICA ALTERNATIVE PLAN FOR OTHER PERSONAL SERVICES EMPLOYEES**

The State Personnel System sponsors a qualified retirement plan for temporary or seasonal OPS employees, whether full-time or part-time. This is a mandatory plan that meets all federal requirements to be an alternative to Social Security coverage while in OPS employment. Unless the OPS employee meets the criteria for exemption from participation, they will be automatically enrolled upon hire.

### **HOW DOES THE PLAN WORK?**

- OPS employees are not subject to Social Security taxes while covered by this plan. (However, they do participate in Medicare coverage, so they are still subject to Medicare taxes.)
- OPS employees contribute to this plan with pre-tax money. They pay taxes on their contributions or earnings only when they withdraw them.
- OPS employees make contributions to an individual account in their name, which is updated daily. Only they (or their designated beneficiary) can receive distributions from this account.
- If OPS employees leave a position covered by this plan for any reason, they have several distribution options, such as taking a lump-sum withdrawal of their account balance (subject to normal taxes and, if applicable, withdrawal penalties); continuing to save the accumulated funds for retirement purposes; or rolling their monies into another qualified tax-deferred plan.

### **HOW IS THE PLAN ADMINISTERED?**

- Bencor, Inc. is the plan administrator and the Department of Financial Services, Office of Deferred Compensation manages the state's contract with Bencor, Inc.
- Bencor, Inc. uses Diversified Investment Advisors and Transamerica Financial Life Insurance Company to provide investment choices which participants control. Bencor Administrative Services will automatically place all contributions in the Guaranteed Pooled Account for participants who decide not to choose their investment funds.
- The [State of Florida FICA Alternative Plan Enrollment Form with Plan Brochure](#) has information on the different investment options that are available and contains the form that participants need to complete in order to designate a beneficiary and choose their investment funds. The beneficiary designation on this form should be completed and returned directly to Bencor, Inc., even if no investment choices are made. The [State of Florida FICA Alternative Plan Enrollment Form with Plan Brochure](#) can also be accessed at:  
[http://www.dms.myflorida.com/human\\_resource\\_support/human\\_resource\\_management/other\\_personal\\_services\\_employment\\_ops](http://www.dms.myflorida.com/human_resource_support/human_resource_management/other_personal_services_employment_ops)

- ~~Bencor, Inc. sends an annual statement for each calendar year the employee is in the plan.~~
- ~~**Customer Service: BENCOR Administrative Services, toll-free at 1-888-258-3422**  
This phone line is staffed Monday through Friday, from 8:30 a.m. to 5:00 p.m. (EST).  
Additional account information and online services are available on the BENCOR website at [www.bencorplans.com](http://www.bencorplans.com).~~

~~**WHO IN OPS EMPLOYMENT IS NOT COVERED (EXEMPTIONS)?**~~

~~OPS employees are mandatorily exempt from this plan if they are fully eligible for, or have already started receiving, Florida Retirement System (FRS) benefits from other covered employment or if they are dually employed in an FRS covered position. Such OPS employees will participate in Medicare only, in accordance with federal law.~~