

Michigan Civil Service Commission

Regulation 5.19

Subject: Correcting Benefit Errors		
SPDOC No.: 16-06	Effective Date: January 1, 2017	Replaces: Reg. 5.20 (SPDOC 07-14, October 7, 2007)

1. Purpose

This regulation establishes standards and procedures for correcting benefit errors in group insurance plans and qualified pretax plans.

2. CSC Rule References

5-11 Group Insurance Plans

5-11.1 Types of Group Insurance Plans

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(e) Administration. The state personnel director is responsible for implementing and administering the group insurance plans approved by the civil service commission.

(1) Complaints. The state personnel director shall provide an expedited administrative review of employee complaints regarding group insurance benefits. The director's administrative review process is the exclusive procedure for reviewing employee complaints regarding group insurance plan benefits. An employee aggrieved by a final administrative decision may appeal the decision to the civil service commission as provided in the civil service rules and regulations.

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3. Definitions

A. CSC Rule Definitions.

- 1. Compensation plan means the civil service rules and regulations (including pay schedules) for administration of pay in the classified service.*
- 2. Group insurance benefits means eligibility, enrollments, premiums, coverages, exclusions, costs, reimbursements, payments, copayments, deductibles, coordination of benefits, or other benefits authorized under the group insurance plans.*

B. Definitions in This Regulation.

- 1. Unpaid benefits** means any of the following:

- a. Unpaid medical, dental, or vision costs that are eligible for payment or reimbursement under a group insurance plan.
 - b. Unpaid long-term disability income or death benefits that are payable under a group insurance plan.
 - c. Unreimbursed medical care or dependent care costs that are eligible for reimbursement under a qualified pretax plan.
2. **Excess benefit costs** means benefit costs incurred by the state on behalf of an employee or dependent that are not authorized under any group insurance plan or qualified pretax plan.
 3. **Benefits** means (1) group insurance benefits and (2) eligibility, enrollments, coverages, exclusions, costs, reimbursements, payments, deductibles, or other benefits authorized under a qualified pretax plan.
 4. **Group insurance plans** means all of the following:
 - a. The group insurance plans authorized in the compensation plan for employee health (medical, dental, vision), disability, life, and accidental death.
 - b. COBRA and other insurance continuation programs authorized by law or the compensation plan.
 5. **Qualified pretax plan** means any of the following:
 - a. Medical care spending account authorized by law.
 - b. Dependent care spending account authorized by law.
 - c. Qualified parking reimbursement plan authorized by law.
 6. **Improper reimbursement** means a reimbursement under a qualified pretax plan that is not authorized under applicable law or properly documented by the employee.

4. Standards

A. Requirements.

1. **Authorized.** All benefits must be authorized by and administered in accordance with (1) the compensation plan, (2) any applicable collective bargaining agreement, (3) any contract between the state and a third-party administrator, and (4) other applicable law.
2. **Review, audit, and correction.** All benefits are subject to review, audit, and correction by Civil Service.
3. **Report errors.** All appointing authorities and employees are required to report benefit errors to Civil Service, Employee Benefits.

4. **Correction required.** Any benefit error shall be corrected as provided in this regulation.
5. **Withholding.** All payments to employees to correct errors are subject to withholding as required by law.
6. **Prospective recovery and repayments.** Except where retroactive recovery or payment is expressly authorized, benefit errors are corrected prospectively only, beginning the pay period in which Civil Service learned of the error.

B. Eligibility for Group Insurance Benefits.

1. **Documentation Required.** An employee may be required to document or verify the eligibility of the employee or a dependent for group insurance benefits before or at any time after enrollment.
2. **Denial or Cancellation of Eligibility.** If an employee cannot document or verify eligibility for a group insurance benefit to the satisfaction of Civil Service, Civil Service shall deny or cancel the group insurance benefit. Civil Service must give the employee at least 14 calendar days advance written notice of the cancellation of any existing group insurance benefit.

C. Excess Benefit Costs for State.

1. **Recovery of Excess Benefits Costs Authorized.**
 - a. **Recovery.** If the state incurs excess benefit costs, Civil Service shall recover the excess benefit costs from the employee as provided in this regulation.
 - b. **No fraud; limit on recovery from employee.** If the state incurs excess benefit costs for reasons other than fraud or misrepresentation by the employee, the employee must repay the amount of the excess benefit costs incurred or paid by the state during the 26 biweekly pay periods before the pay period in which Civil Service learned of the reasons giving rise to the excess benefit cost.
 - c. **Fraud; no limit on recovery from employee.** If the state incurs excess benefit costs as the result of fraud or misrepresentation by the employee, the employee must repay the entire amount of the excess benefit costs, without limit. In addition, (1) the employee may be disciplined, up to and including dismissal and (2) the matter may be referred to the Attorney General, State Police, or local law enforcement authorities for a criminal investigation and to the Attorney General for civil action.
 - d. **Coordination of benefits; no limit on recovery from employee.** Notwithstanding § 4.C.1.b, if the state incurs excess benefit costs as a result of coordination of benefit provisions, the employee must repay the entire amount of the excess benefit costs, without limit.

2. Repayment of Excess Benefit Costs.

- a. **Voluntary repayment agreement.** An employee obligated to repay excess benefit costs may agree in writing to a repayment schedule acceptable to Civil Service. Repayment shall be by voluntary deduction from the employee's biweekly wages. All repayment must be collected within one calendar year after the date of the agreement.
- b. **Involuntary payroll deduction.** If an employee obligated to make repayments does not agree to a repayment schedule acceptable to Civil Service, Civil Service may deduct the amount of the overpayment from the employee's biweekly wages without the employee's consent, subject to the following limitations:
 - (1) Civil Service must give the employee advance written notice of the deductions.
 - (2) The biweekly deduction cannot exceed 15 percent of gross wages earned in the pay period in which the deduction is made.
 - (3) The deduction is made after all deductions expressly permitted or required by law or a collective bargaining agreement and before any net amount of the employee's wages is paid or electronically deposited.
 - (4) The deduction does not reduce the employee's regularly scheduled gross wages otherwise due the employee below the minimum wage requirement established in law.
- c. **Waiver.** Civil Service may waive recovery of excess benefit costs if recovery is not cost effective.
- d. **Employee left state service.** If an employee has left the classified service, Civil Service may take any steps practicable to recover the excess benefit costs.

D. Improper Reimbursements.

1. **Recovery Authorized.** If an employee receives an improper reimbursement from a qualified pretax plan, Civil Service shall recover the amount of the improper reimbursement from the employee.
2. **Repayment of improper reimbursement by employee.**
 - a. **Voluntary Repayment Agreement.** An employee obligated to repay an improper reimbursement may agree in writing to a repayment schedule acceptable to Civil Service. Repayment shall be by voluntary deduction from the employee's biweekly wages or lump sum payment. All repayments must be collected within one calendar year after the date of the agreement.
 - b. **Involuntary Payroll Deduction.** If an employee obligated to make repayments does not agree to a repayment schedule acceptable to Civil Service, Civil Service

may deduct the amount of the improper reimbursement from the employee's biweekly wages without the employee's consent, as provided in § 4.C.2.b.

3. **Adjustments.** Civil Service shall make any necessary adjustments in the employee's tax withholding accounts.
4. **Retroactive recovery.** Civil Service may require repayment of any improper reimbursement if discovered up to 26 pay periods after the end of the tax year or the last date for submitting requests for reimbursements, whichever is later.

E. Unpaid Benefits.

1. **Payment authorized.** Civil Service shall reimburse an employee for any unpaid benefit if all of the following occur:
 - a. The employee or a dependent is denied an eligible group insurance benefit.
 - b. The denial was the direct result of an error regarding a group insurance benefit by an authorized state employee or plan administrator.
 - c. The employee (1) incurred or paid direct medical, dental, or vision care costs that, but for the error, the state would have paid or reimbursed the employee or (2) was not properly reimbursed for eligible expenses under a medical care or dependent care spending account.
2. **Limits on payment.** Payments to an employee for eligible unpaid benefits are limited as follows:
 - a. Payments may not exceed the actual dollar amount of eligible group insurance benefits necessarily paid by the employee or improperly denied to the employee solely as a result of the error by an authorized state employee or plan administrator. No payment is authorized for collateral, consequential, incidental, speculative, prospective, or other costs or damages claimed by the employee that are not covered eligible expenses.

Example: If an employee is denied medical coverage as a result of an error and the employee makes different medical care choices and incurs additional uninsured costs for travel, inconvenience, pain and suffering, lost income, lost leave credits, or additional medical costs, such collateral and consequential costs are not payable. The employee may recover only so much of the actual costs incurred that, but for the error, would have been covered benefits.

- b. No payment is authorized for costs resulting from any error, act, or decision by the eligible employee, the employee's dependent, or any person not an authorized state employee or plan administrator.
- c. An employee is entitled to retroactive payment of any benefit errors authorized in this regulation up to a maximum of 26 biweekly pay periods before the date

Civil Service learned of the benefit error. Retroactive payment beyond 26 biweekly pay periods is not permitted.

- d. Notwithstanding any other provision, in the case of a medical care or dependent care spending account, any reimbursement is limited to the maximum amount available in the spending account and to the appropriate tax year.

F. Employee Complaints.

An employee complaint regarding benefits, excess benefit costs, unpaid claims, or involuntary payroll deductions authorized under this regulation must be filed under the provisions of regulation 5.18.

CONTACT

Questions on this regulation may be directed to the Employee Benefits Division, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone at 517-373-7977 or 1-800-505-5011; or to MCSC-EBDAppeal@mi.gov.