

# REGULATION

**Draft Revision A** (May 3, 2005)

<b>Appointing Authority Letter Reference:</b>	<b>Effective Date:</b>  May 17, 2005	<b>Index Reference:</b>  Errors in Group Insurance Benefits	<b>Regulation Number:</b>  <b>5.20</b>
<b>Issuing Bureau:</b>	<b>Rule References:</b>  Rule 5-11 (Group Insurance Plans)		<b>Replaces:</b>  <a href="#">NEW</a>
<b>Subject:</b>  <b>CORRECTING BENEFIT ERRORS [DRAFT]</b>			

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1   **1.   PURPOSE**

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

## 2. CIVIL SERVICE COMMISSION RULE REFERENCE

### *Rule 5-1 Civil Service Compensation Plan*

#### *5-1.1 Application*

(a) **General application.** *All eligible employees in the classified service receive compensation and fringe benefits in accordance with the compensation plan, except as provided in subsection (b).*

(b) **Collective bargaining agreement.** *All employees in the classified service are covered by these rules, except that employees covered by an approved collective bargaining agreement differing from the compensation plan are governed by the collective bargaining agreement, where different.*

\* \* \*

### *Rule 5-11 Group Insurance Plans*

#### *5-11.1 Types of Group Insurance Plans*

(a) **Types of group insurance plans.** *The department of civil service may provide eligible employees with the following group insurance plans as approved by the civil service commission:*

(1) *A medical benefit plan.*

(2) *A dental benefit plan.*

(3) *A vision benefit plan.*

(4) *A life insurance plan.*

(5) *An accidental death benefit plan.*

(6) *A long-term disability income protection plan.*

\* \* \*

(d) **Publication.** *The department of civil service or plan provider shall make available to employees documentation describing each group insurance plan approved by the civil service commission.*

(e) **Administration.** *The department of civil service 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 plan coverages, exclusions, and costs. The director's administrative review process is the exclusive procedure for reviewing employee*

1 *complaints regarding group insurance plan coverages, exclusions, and*  
2 *costs.*

3 \* \* \*

### 4 **3. DEFINITIONS**

#### 5 **A. Civil Service Commission Rule Definitions**

- 6 **1. Compensation plan** *means the civil service rules and regulations*  
7 *(including pay schedules) for administration of pay in the classified*  
8 *service.*

#### 9 **B. Additional Definitions used in this Regulation**

- 10 **1. Unpaid benefits** means any of the following:
- 11 a. Unpaid medical, dental, or vision costs that are eligible for payment  
12 or reimbursement under a group insurance plan.
- 13 b. Unpaid long-term disability income or death benefits that are  
14 payable under a group insurance plan.
- 15 c. Unreimbursed medical care or dependant care costs that are eligible  
16 for reimbursement under a qualified pretax plan.
- 17 **2. Excess benefit costs** means benefit costs incurred by the state on  
18 behalf of an employee or dependent that are not authorized under any  
19 group insurance plan or qualified pretax plan.
- 20 **3. Benefits** means eligibility, enrollments, premiums, coverages,  
21 exclusions, costs, reimbursements, payments, copayments, deductibles,  
22 coordination of benefits, or other benefits authorized under a group  
23 insurance plan or a qualified pretax plan.
- 24 **4. Group insurance plans** means all of the following:
- 25 a. The group insurance plans authorized in the compensation plan for  
26 medical, dental, vision, disability, life, and accidental death  
27 coverage.
- 28 b. COBRA and other insurance continuation programs authorized by  
29 law or the compensation plan.
- 30 **5. Qualified pretax plans** means all of the following:
- 31 a. Medical care spending accounts authorized by law.
- 32 b. Dependent care spending accounts authorized by law.

1 c. Qualified parking reimbursement plans authorized by law.

2 6. ***Improper reimbursement*** means a reimbursement under a qualified  
3 pretax plan that is not authorized under applicable law or properly  
4 documented by the employee.

## 5 4. **STANDARDS**

### 6 A. **Requirements.**

7 1. **Authorized.** All benefits must be authorized by and administered in  
8 accordance with (1) the compensation plan, (2) any applicable collective  
9 bargaining agreement, (3) any contract between the state and a third-  
10 party administrator, and (4) other applicable law.

11 2. **Review, audit, and correction.** All benefits are subject to review, audit,  
12 and correction by the Department of Civil Service.

13 3. **Report errors.** All appointing authorities and employees are required to  
14 report benefit errors to the Department of Civil Service, Employee  
15 Benefits Division.

16 4. **Correction required.** Any benefit error shall be corrected as provided in  
17 this regulation.

18 5. **Withholding.** All payments to employees to correct errors are subject to  
19 withholding as required by law.

20 6. **Prospective recovery and repayments.** Except where retroactive  
21 recovery or payment is expressly authorized, benefit errors are corrected  
22 prospectively only, beginning the pay period in which the Department of  
23 Civil learned of the error.

### 24 B. **Eligibility for Group Insurance Benefits.**

25 1. **Documentation Required.** An employee may be required to document  
26 or verify the eligibility of the employee or a dependent for group insurance  
27 benefits before or at any time after enrollment.

28 2. **Denial or Cancellation of Eligibility.** If an employee cannot document  
29 or verify eligibility for a group insurance benefit to the reasonable  
30 satisfaction of the Department of Civil Service, the Department of Civil  
31 Service shall deny or cancel the group insurance benefit. The  
32 Department of Civil Service must give the employee at least 14 calendar

1 days advance written notice of the cancellation of any existing group  
2 insurance benefit.

### 3 **C. Excess Benefit Costs for State.**

#### 4 **1. Recovery of Excess Benefits Costs Authorized.**

5 a. **Recovery.** If the state incurs excess benefit costs, the Department  
6 of Civil Service shall recover the excess benefit costs from the  
7 employee as provided in this regulation.

8 b. **No fraud; limit on recovery from employee.** If the state incurs  
9 excess benefit costs for reasons other than fraud or  
10 misrepresentation by the employee, the employee must repay the  
11 amount of the excess benefit costs incurred or paid by the state  
12 during the 26 biweekly pay periods before the pay period in which the  
13 Department of Civil Service learned of the reasons giving rise to the  
14 excess benefit cost.

15 c. **Fraud; no limit on recovery from employee.** If the state incurs  
16 excess benefit costs as the result of fraud or misrepresentation by  
17 the employee, the employee must repay the entire amount of the  
18 excess benefit costs. In addition, (1) the employee may be  
19 disciplined, up to and including dismissal and (2) the matter be  
20 referred to the Attorney General, State Police, or local law  
21 enforcement authorities for a criminal investigation and to the  
22 Attorney General for civil action.

#### 23 **2. Repayment of Excess Benefit Costs.**

24 a. **Voluntary repayment agreement.** An employee obligated to repay  
25 excess benefit costs may agree in writing to a repayment schedule  
26 acceptable to the Department of Civil Service. Repayment shall be  
27 by voluntary deduction from the employee's biweekly wages. All  
28 repayment must be collected within one calendar year after the date  
29 of the agreement.

30 b. **Involuntary payroll deduction.** If an employee obligated to make  
31 repayments does not agree to a repayment schedule acceptable to  
32 the Department of Civil Service, the Department of Civil Service may  
33 deduct the amount of the overpayment from the employee's biweekly  
34 wages without the employee's consent, subject to the following  
35 limitations:

- 1 (1) The Department of Civil Service must give the employee  
2 advance written notice of the deductions.
- 3 (2) The biweekly deduction cannot exceed 15 percent of gross  
4 wages earned in the pay period in which the deduction is made.
- 5 (3) The deduction is made after all deductions expressly permitted  
6 or required by law or a collective bargaining agreement and  
7 before any net amount of the employee's wages is paid or  
8 electronically deposited.
- 9 (4) The deduction does not reduce the employee's regularly  
10 scheduled gross wages otherwise due the employee below the  
11 minimum wage requirement established in law.
- 12 c. **Waiver.** The Department of Civil Service may waive recovery of  
13 excess benefit costs if recovery is not cost effective.
- 14 d. **Employee left state service.** If an employee has left the classified  
15 service, the Department of Civil Service may take any steps  
16 practicable to recover the excess benefit costs.

17 **D. Improper Reimbursements.**

- 18 1. **Recovery Authorized.** If an employee receives an improper  
19 reimbursement from a qualified pretax plan, the Department of Civil  
20 Service shall recover the amount of the improper reimbursement from the  
21 employee.
- 22 2. **Repayment of improper reimbursement by employee.**
- 23 a. **Voluntary Repayment Agreement.** An employee obligated to repay  
24 an improper reimbursement may agree in writing to a repayment  
25 schedule acceptable to the Department of Civil Service. Repayment  
26 shall be by voluntary deduction from the employee's biweekly wages  
27 or lump sum payment. All repayment must be collected within one  
28 calendar year after the date of the agreement.
- 29 b. **Involuntary Payroll Deduction.** If an employee obligated to make  
30 repayments does not agree to a repayment schedule acceptable to  
31 the Department of Civil Service, the Department of Civil Service may  
32 deduct the amount of the improper reimbursement from the  
33 employee's biweekly wages without the employee's consent, as  
34 provided in section C(2)(b) of this regulation.

1           **3. Adjustments.** The Department of Civil Service shall make any  
2           necessary adjustments in the employee's tax withholding accounts.

3           **4. Retroactive recovery.** The Department of Civil Service may require  
4           repayment of any improper reimbursement occurring at any time in a tax  
5           year if discovered up to 26 pay periods after the end of the tax year.

6           **E. Unpaid Benefits.**

7           **1. Payment authorized.** The Department of Civil Service shall reimburse  
8           an employee for any unpaid benefit if all of the following occur:

9           a. The employee or a dependent is denied an eligible group insurance  
10           benefit.

11           b. The denial was the direct result of an error regarding a group  
12           insurance benefit by an authorized state employee or plan  
13           administrator.

14           c. The employee (1) incurred or paid direct medical, dental, or vision  
15           care costs that, but for the error, the state would have paid or  
16           reimbursed the employee or (2) was not properly reimbursed for  
17           eligible expenses under a medical care or dependent care spending  
18           account.

19           **2. Limits on payment.** Payments to an employee for eligible unpaid  
20           benefits are limited as follows:

21           a. Payments may not exceed the actual dollar amount of eligible group  
22           insurance benefits necessarily paid for by the employee or improperly  
23           denied to the employee solely as a result of the error by an  
24           authorized state employee or plan administrator. No payment is  
25           authorized for collateral, consequential, incidental, speculative,  
26           prospective, or other costs or damages claimed by the employee that  
27           are not covered eligible expenses.

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

- 1                   b. No payment is authorized for costs resulting from any error, act, or  
2                   decision by the eligible employee, the employee's dependent, or any  
3                   person not an authorized state employee or plan administrator.
- 4                   c. An employee is entitled to retroactive payment of any benefit errors  
5                   authorized in this regulation up to a maximum of 26 biweekly pay  
6                   periods before the date the Department of Civil Service learned of the  
7                   benefit error. Retroactive payment beyond 26 biweekly pay periods  
8                   is not permitted.
- 9                   d. Notwithstanding any other provision, in the case of a medical care or  
10                  dependent care spending account, any reimbursement is limited to  
11                  the maximum amount available in the spending account and to the  
12                  appropriate tax year.

#### 13                  **F. Employee Group Insurance Benefit Complaints.**

14                  An employee complaint regarding group insurance benefits, excess benefit  
15                  costs, unpaid claims, or involuntary payroll deductions must be filed under the  
16                  provisions of Civil Service Rule 5-11.1(e)(1) [Types of Group Insurance  
17                  Plans:Administration] and Regulation 5.18, Group Insurance Plan Complaints.

#### 18 19 20                  **CONTACT**

21                  Questions regarding this regulation should be directed to the Department of Civil Service,  
22                  P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-  
23                  373-3048 or 1-800-788-1766; or by e-mail to [MDCS-BHRS@michigan.gov](mailto:MDCS-BHRS@michigan.gov).  
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**NOTE:** Regulations are issued by the State Personnel Director, under authority granted in the *State of Michigan Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.