Michigan Civil Service Commission

Regulation 5.16

Subject: Correcting Compensation and Benefit Errors		
SPDOC No.:	**Effective Date:**	**Replaces:**
22-06	July 25, 2022	Reg. 5.16 (SPDOC 19-11, October 1, 2019)

1. Purpose

This regulation establishes standards to correct compensation and benefit errors.

2. CSC Rule References

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.*

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5-3 Compensation Schedules

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5-3.9 Approval and Disapproval of Disbursements for the Classified Payroll

The state personnel director shall certify each payroll for the classified service. Payroll certification is based on computerized payroll system edits of payroll calculations and personnel transactions and the audit of personnel transactions for compliance with civil service rules and regulations. The director shall establish edit requirements and audit procedures. The director may delete from the payroll any item that cannot be certified under this rule and shall give notice of the action, together with the reason for the action, to the appointing authority concerned.

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5-11 Group-Insurance Plans

5-11.1 Plans

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(e) ***Administration.*** *The director shall implement and administer approved group-insurance plans.*

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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, coinsurance, out-of-pocket maximums, coordination of benefits, or other benefits authorized under the group insurance plans.*

B. Definitions in This Regulation.

1. **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.

2. **Group insurance plans** means all the following:

   a. The group insurance plans authorized in the compensation plan for employee health, dental, vision, disability, and life.

   b. COBRA and other insurance continuation programs authorized by law or the compensation plan.

3. **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.

4. **Excess costs** means (a) excess benefit costs or (b) an overpayment.

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

6. **Overpayment** means a payment to an employee that is not authorized by the compensation plan.

7. **Qualified pretax plan** means health-care and dependent-care flexible spending accounts and qualified transportation fringe benefits reimbursement plans authorized by law and the commission.

4. Standards

A. Requirements.

1. **Authorized.** All employee compensation and benefits must be authorized by and administered in accordance with the compensation plan and any applicable collective bargaining agreement, state contract with a third-party administrator, and applicable law.
2. **Eligibility for Insurance Benefits.** An employee may be required to document or verify the eligibility of the employee or a dependent for group insurance benefits before or anytime after enrollment. Civil Service shall deny or cancel a benefit if the employee cannot document and verify eligibility to its satisfaction. Civil Service must give the employee at least 14 days' written notice before cancelling the benefit.
3. **Audit and correction.** All compensation is subject to audit and correction by the appointing authority and Civil Service. All benefits are subject to audit and correction by Civil Service.
4. **Report errors.**
    a. Employees shall report all errors in the administration of the compensation plan to the employee's appointing authority or Civil Service.
    b. Appointing authorities and employees shall report all benefit errors to the Employee Benefits Division.
5. **Correction required.** Any compensation and benefit errors, including overpayment and underpayment, must be corrected as provided in this regulation.
6. **Withholding.** All payments to employees to correct errors are subject to withholding as required by law.
7. **Prospective recovery and repayments.** Except where retroactive recovery or payment is expressly authorized, compensation and benefit errors are only corrected prospectively, beginning the first day of the pay period when the appointing authority or Civil Service learned of the error.
8. **Document retention.** The appointing authority shall retain records of any overpayment, underpayment, and collection efforts for three years.

B. Excess Costs.

1. **Recovery required.**
    a. If an employee is overpaid, the appointing authority or Civil Service shall recover the overpayment from the employee as provided in this regulation.
    b. If the state incurs excess benefit costs, Civil Service shall recover the excess costs from the employee as provided in this regulation.
2. **No fraud.** If the state incurs excess costs for reasons other than fraud or misrepresentation by the employee, the employee must repay the amount of the

excess costs incurred or paid by the state during the 26 biweekly pay periods before the pay period when the appointing authority or Civil Service learned of the excess costs.

3. **Fraud.** If the state incurs excess costs as the result of fraud or misrepresentation by the employee, the employee must repay the entire amount of the excess costs. In addition, the employee may be disciplined and the matter may be referred to the attorney general, state police, or local law enforcement for criminal investigation and civil action.

4. **Repayment.** An employee must repay any excess costs in one of the following ways:

   a. **Voluntary agreement.** An employee obligated to make repayments may agree in writing to a repayment schedule. A voluntary agreement to repay excess benefit costs is only effective if accepted by Civil Service. A voluntary agreement to repay an overpayment is only effective if accepted by the appointing authority. Repayment is by voluntary deduction from the employee's biweekly wages. All repayment must be made within one year after the date of the agreement.

   b. **Involuntary payroll deduction.** If an employee obligated to repay excess costs does not agree to an accepted repayment schedule, the amount is deducted from the employee's biweekly wages without the employee's consent, subject to the following limitations:

      (1) The employee must be given advance written notice of the deductions.

      (2) The biweekly deduction cannot exceed 15% of gross wages earned in the pay period.

      (3) The deduction is made after all deductions expressly permitted or required by law or collective bargaining agreement and before any net amount of the employee's wages is paid or electronically deposited.

      (4) The deduction cannot reduce the regularly scheduled gross wages otherwise due the employee below the minimum wage required by federal law.

   c. **Waiver.** If it is not cost effective to recover, Civil Service may waive recovery of excess benefit costs or authorize an appointing authority to waive recovery of an overpayment.

5. **Separated employee.** If an employee has left the classified service, the appointing authority or Civil Service may take any steps practicable to recover excess costs.

C. Improper Reimbursements.

1. **Recovery.** If an employee receives an improper reimbursement from a qualified pretax plan, Civil Service shall recover the amount of the reimbursement from the employee.

2. **Repayment.**

   a. **Voluntary agreement.** An employee obligated to repay an improper reimbursement may agree in writing to a repayment schedule acceptable to Civil Service. Repayment is by voluntary deduction from the employee's biweekly wages or by lump-sum payment. All repayment must be collected within one year after the date of the agreement.

   b. **Involuntary payroll deduction.** If an employee obligated to repay does not agree to an accepted repayment schedule, Civil Service may deduct the amount of the reimbursement from the employee's biweekly wages without the employee's consent, subject to the limitations in § 4.B.4.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 later of the end of the tax year and the last date to submit requests for reimbursements.

D. Underpayments and Unpaid Benefits.

1. **Underpayments**

   a. If an employee is underpaid under the compensation plan, the appointing authority must pay the employee the amount underpaid as provided in this regulation.

   b. An employee is entitled to retroactive payment of any underpayment for up to 26 biweekly pay periods before the date the appointing authority or Civil Service learned of the underpayment. Retroactive payment beyond 26 biweekly pay periods is not permitted.

   c. An employee is paid the total authorized amount of an underpayment in a single payment within four pay periods after its discovery. The employee and appointing authority may agree in writing to a different payment schedule.

2. **Unpaid Benefits**

   a. Civil Service shall reimburse an employee for any unpaid benefit if all the following occur:

      (1) The employee or a dependent is denied an eligible group insurance benefit.

      (2) The denial was the direct result of an error over a group insurance benefit by an authorized state employee or plan administrator.

      (3) The employee (a) incurred or paid direct health, dental, or vision care costs that, but for the error, the state would have paid or reimbursed or (b) was not

properly reimbursed for eligible expenses under a health- or dependent-care spending account.

b. Payments to an employee for eligible unpaid benefits are limited as follows:

(1) Payments cannot exceed the actual dollar amount necessarily paid by the employee or the amount of eligible group insurance benefits improperly denied 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. For example, if an employee is denied health coverage as a result of an error, makes different healthcare choices, and incurs additional uninsured costs for travel, inconvenience, pain and suffering, lost income, leave credits, or additional healthcare costs, such collateral or consequential costs are not payable. The employee may recover only actual costs incurred that, but for the error, would have been covered benefits.

(2) No payment is authorized for costs resulting from any error, act, or decision by the eligible employee, the employee's dependent, or any person who is not an authorized state employee or plan administrator.

(3) An employee is entitled to retroactive payment of any benefit errors for up to 26 biweekly pay periods before the date Civil Service learned of the error. Retroactive payment beyond 26 biweekly pay periods is not permitted.

(4) Notwithstanding any other provision, for a health- or dependent-care spending account, any reimbursement is limited to the maximum amount available in the employee's spending account and for the appropriate tax year.

E. Employee Complaints.

1. Employee complaints over compensation or involuntary deductions ordered by an appointing authority must be filed as authorized in rule 8-1 and regulation 8.01, unless the dispute involves a classification or working-out-of-class issue that must be filed in a technical complaint process under rules 4-5 or 8-3 and regulation 8.02.

2. An employee complaint over corrections ordered by Civil Service under this regulation must be filed using the process in regulation 5.18, § 4.B.

CONTACT

Questions on this regulation over compensation may be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; 517-241-0837 or 517-284-0102; or MCSC-Compensation@mi.gov. Questions on this regulation over benefits may be directed to Employee Benefits Division, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; 1-800-505-5011; or MCSC-EBD@mi.gov.