



STATE OF ALASKA _____

TRS Regulations

_____ JANUARY 2020

Including the:

- Teachers' Retirement System
- Group Health and Life Insurance Plan



This edition of the regulations contains items that were repealed, repealed and readopted, and some that were deleted. These regulations may not appear under the same citation as previously, as they have been renumbered.

*The regulations in this handbook are current as of January 2020.
Amendments occurring after that date may be found in the
Alaska Statutes and Alaska Administrative Code.*

Legal copy of the printed version from the LexisNexis.

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CHAPTER 36

Teachers' Retirement System

Chapter 36

Teachers' Retirement System

Article

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EDITOR'S NOTE: This table shows the source of provisions in 2 AAC 36 for the Alaska Teachers' Retirement Board's reorganization, recodification and amendment of the Teachers' Retirement System regulations.

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2 AAC 36.160	80-14	7-1-80
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Administration of the Defined Benefit Plan
(AS 14.25.009 - 14.25.220)
and the Defined Contribution Plan
(AS 14.25.310 - 14.25.590)

Section

21. Employers to supply employment records.
22. Application for retirement or account distribution.
23. Application for disability benefits.
25. Compliance with the Internal Revenue Code.
30. Regulations. [**Partially repealed 7/20/06**]
35. Hearing on request for waiver under AS 14.25.175.
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110. Presentation of evidence. [**Repealed 7/20/06**]

115. Physician board members in appeals to determine medical eligibility for disability benefits. **[Repealed 7/20/06]**
117. Subpoenas and preservation of testimony. **[Repealed 7/20/06]**
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2 AAC 36.021. Employers to Supply Employment Records.

- (a) The employer shall transmit to the administrator records concerning an employee's period of service, date of birth, compensation, entrance into service, death, withdrawal and other data necessary for the proper and effective operation of the system not later than 10 days of the date of occurrence or the first day of the payroll period occurring closest to the event, whichever is earlier.
- (b) The administrator may perform an audit, review or assessment of the records of the employer to ensure compliance with the statutes and regulations of the public employees' retirement system and to confirm the accuracy of the information reported by the employer to the plan.
- (c) An audit, review or assessment of the employer records to determine an employer's compliance with the plan provisions shall include a desk audit, a field audit or both.
- (d) In conducting an audit, review or assessment of the employer records, the employer shall allow the administrator or administrator's designee access to original records documenting personnel hiring and employment practices.
- (e) Following the audit, review or assessment of the employer records, the employer will be provided with written preliminary findings. The preliminary findings will identify inaccuracies and issues to be resolved to maintain compliance with plan provisions. Not later than 30 days of the date of the receipt of the preliminary findings the employer shall submit additional documentation for consideration or to respond to the preliminary findings.
- (f) The final audit will include audit or review findings and will be provided to the employer not later than 60 days after consideration of any documentation or response submitted under (e) of this section.

- (g) In this section, unless the context otherwise requires,
- (1) “audit” means the process of obtaining competent evidentiary material about employer records through inspection, observation, inquiry, and confirmation sufficient to support a reasonable basis for determining the employer’s compliance with the legal requirements of the teachers’ retirement system.
 - (2) “desk audit” means an audit of an employer’s records conducted by the administrator or designee based upon an examination of an employer’s records without an on-site visit to the location of the employer’s business records;
 - (3) “field audit” means an audit of an employer conducted by the administrator or designee based upon an examination of an employer’s records with an on-site visit to the location of the employer’s business records.

HISTORY: Eff. 7/20/2006, Register 179; am 1/13/2010, Register 193; am 1/31/2017, Register 221

AUTHORITY: AS 14.25.003, AS 14.25.004, AS 14.25.005

2 AAC 36.022. Application for Retirement or Account Distribution.

It is the responsibility of a member of the Teachers’ Retirement System to make application for retirement under the defined benefits plan or for account distribution under the defined contribution plan in writing on a form prescribed by the administrator. The effective date of application is the day the application is received by the division, or, if mailed, the day the application is postmarked. A member requesting appointment to retirement should apply 30 days before the requested retirement date.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.110, AS 14.25.430

2 AAC 36.023. Application for Disability Benefits.

- (a) The administrator shall determine eligibility for disability benefits under AS 14.25.130 or AS 14.25.485. The administrator may require the member to provide additional information and to submit to an examination by one or more physicians of the administrator's choosing at the division's expense.
- (b) A member may apply to the administrator for a determination of eligibility for disability benefits before employment is terminated. A determination by the administrator finding disability is void if the member fails to terminate employment within 30 days of the date of the determination.
- (c) When a determination is made under this section before termination, notice of the determination will be mailed to the member's employer.
- (d) A member who fails to file an application for disability benefits within the time established by AS 14.25.130 or AS 14.25.485 forfeits the right to apply, unless the member demonstrates to the administrator that there are extraordinary circumstances that prevented the person from meeting the deadline. Extraordinary circumstances may include being adjudged as incompetent or confined to a hospital, but do not include lack of information or mere neglect.

HISTORY: Eff. 7/20/2006, Register 179; am 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.130, AS 14.25.485

2 AAC 36.025. Compliance With the Internal Revenue Code.

- (a) Pursuant to AS 14.25.110 and for purposes of compliance with the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations, the Teachers' Retirement System Tiers 1 and 2 Defined Benefit Plan under AS 14.25.009 - 14.25.220 adopts by reference, as part of the governing Plan document, the Retirement System IRS Compliance Policy dated August 2015 as amended from time to time.
- (b) When an amended version of the Retirement System IRS Compliance Policy is made available, the Division will, not later than 30 days after the effective date of the amended version, post on the Alaska Online Public Notice System and publish in a newspaper of general circulation or trade or industry publication a notice that describes the amended

material and how a copy of the amended version may be obtained or reviewed. The division will also furnish the notice described in this subsection to each person or group that has filed a request for notice of proposed action with the commissioner and furnish a copy to each incumbent Alaska state legislator, the Legislative Affairs Agency, and to the regulations attorney in the Department of Law.

HISTORY: Eff. 9/24/2015, Register 216

AUTHORITY: AS 14.25.003, AS 14.25.004, AS 14.25.005, AS 14.25.110

EDITOR'S NOTE: The Retirement System IRS Compliance Policy is posted on the Division of Retirement and Benefits website at <http://doa.alaska.gov/drb>.

2 AAC 36.030. Regulations.

- (a) **[Repealed 7/20/2006]**
- (b) Except as provided in (c) of this section, the commissioner will give public notice, in accordance with AS 14.25.005, of the proposed adoption, amendment, or repeal of a regulation at least 30 days prior to taking action on the proposal. This 30-day requirement does not apply if the commissioner decides not to adopt, amend, or repeal the regulation. Public notice will include an informative summary of the action proposed to be taken; a date through which written comments on the proposed action will be accepted from the public; and the time and place of any hearings at which oral comments from the public will be accepted, if the commissioner decides to schedule such hearings. Upon request from any person, the commissioner will provide that person with the text of any regulation or proposed regulation whose adoption, amendment, or repeal is being considered. The commissioner will consider all comments presented under this subsection before adopting, amending, or repealing a regulation. If a hearing is held under this subsection, the commissioner may continue or postpone the hearing to a time and place that the commissioner determines to be suitable. The commissioner may take an action that varies from the proposed action set out in the notice required by this subsection if the subject matter of a regulation adopted, amended, or repealed remains the same as that included in the public notice.
- (c) If the commissioner adopts, amends, or repeals a regulation as an emergency regulation under AS 14.25.005(h), the commissioner's action will be accompanied by a written finding that the action meets

the standards set out in AS 14.25.005(h) for an emergency action to be valid. This written finding will include a summary of the facts constituting the emergency. The public notice that is required by AS 14.25.005(h) after the emergency action will comply with (b) of this section. An emergency regulation adopted, amended, or repealed under AS 14.25.005(h) and this subsection remains in effect only 30 days after its effective date, unless the emergency regulation is proposed for adoption, amendment, or repeal on a permanent basis under AS 14.25.005 and this section.

(d) **[Repealed 7/20/2006]**

(e) **[Repealed 7/20/2006]**

(f) The commissioner will make copies of adopted regulations available to the public upon request.

HISTORY: In effect before 10/21/83; am 11/30/84, Register 93; am 5/13/85, Register 99; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

EDITOR'S NOTE: This regulation was adopted by the Alaska Teachers' Retirement Board before AS 14.25.022 was amended by Ch. 35, SLA 1984. AS 14.25.022(f), which supersedes (d) of this section, provides that regulations adopted by the board take effect 30 days after adoption. Additional requirements for publication of notice of adoption, amendment or repeal of regulations by the board are provided by AS 14.25.022(c).

2 AAC 36.035. Hearing on Request for Waiver Under AS 14.25.175.

The commissioner of administration may hold a hearing on a request for a waiver under AS 14.25.175. The commissioner may appoint a person to hear the evidence on such a request and make a recommendation to the commissioner.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

2 AAC 36.040. Notice of Appeal Rights.

The division shall include with any final decision by the administrator, and the commissioner of administration shall include with any decision regarding a request for a waiver of an adjustment under AS 14.25.175, an outline of the procedures for filing an appeal of the decision and the notice of appeal form necessary to initiate the appeal. The outline or notice shall include a statement that the appellant has a right to counsel at appellant's cost in the appeal. A final decision of the administrator includes, a final determination of eligibility for benefits, a reduction in benefits, or the denial of a review of a decision by a division supervisor.

HISTORY: In effect before 10/21/83, Register 93; am 11/18/90, Register 122; am 4/25/97, Register 150; am 11/29/98, Register 151; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

EDITOR'S NOTE: Even though 2 AAC 36.040 was repealed and readopted effective 4/25/97, it was not published until Register 150, July 1999.

Even though the 1998 amendment to 2 AAC 36.040 was effective 11/29/98, it was not published until Register 151, October 1999.

2 AAC 36.060. Filing of Notice of Appeal.

- (a) A person who wishes to appeal a decision of the division under AS 14.25 shall file a notice of appeal with the division within 30 days of the date that the person receives notice of the decision. If the person wishes to appeal a decision of the commissioner of administration under AS 14.25.175, the person must file a notice of appeal with the commissioner within 30 days of the date that the person receives notice of the decision. The commissioner of administration will send to the division a copy of any notice of appeal that the commissioner receives under this subsection, and the division will notify the person wishing to appeal if the notice of appeal is untimely.
- (b) **[Repealed 7/20/2006]**
- (c) **[Repealed 7/20/2006]**
- (d) A person who fails to file the notice of appeal within the time established by this section forfeits the right to appeal, unless the person demonstrates to the satisfaction of the administrator that there are extraordinary circumstances that prevented the person from meeting

the deadline. Extraordinary circumstances may include being adjudged as incompetent or confined to a hospital, but do not include lack of information or mere neglect. This subsection applies to untimely notices of appeals filed with the commissioner of administration under (a) of this section as well as to notices of appeal filed with the division.

- (e) If a person files an untimely notice of appeal, including a notice of appeal to the commissioner of administration under AS 14.25.175, without explanation of why the filing is untimely, the division shall return the notice of appeal to the person, and inform the person that the person may resubmit the notice with an explanation of why it was not timely filed. If the person resubmits the notice of appeal with an explanation or if the original untimely notice of appeal contained an explanation of untimeliness, and the administrator in either situation found that the explanation did not establish extraordinary circumstances excusing the untimeliness under (d) of this section, the person may file a new notice of appeal within 30 days of the date that the person receives notice of the decision refusing to accept the untimely first appeal.

HISTORY: In effect before 10/21/83, Register 93; am 5/3/89, Register 111; am 1/7/2001, Register 159; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

2 AAC 36.070. Division to Notify Office of Administrative Hearings.

Upon receipt of a timely notice of appeal, including a timely notice of appeal received from the commissioner of administration under 2 AAC 36.060(a), the division shall date-stamp the receipt and promptly send a copy of that notice to the office of administrative hearings. If the only timely notice of appeal relates to the decision of the administrator not to accept an untimely notice of appeal under 2 AAC 36.060(d), the administrator shall send to the office of administrative hearings only the notice of appeal relating to the decision not to accept the untimely notice of appeal.

HISTORY: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

2 AAC 36.080. Form of Notice.

A notice of appeal must include the following information:

- (1) the action by the division that the appellant is appealing and the relief the appellant seeks;
- (2) the grounds for the appeal;
- (3) whether the appellant requests an informal conference with the division during the pendency of the appeal before the office of administrative hearings, if an informal conference is authorized by 2 AAC 36.090.

HISTORY: In effect before 10/21/83, Register 93; am 12/6/85, Register 99; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

2 AAC 36.090. Informal Conference.

If an appellant requests an informal conference with the division under 2 AAC 36.080(3), the division will convene an informal conference in the office of the division, or at another location or by another means, such as by telephone, that is convenient for the appellant and the division, and at a time that does not delay the appellant's hearing before the office of administrative hearings. If the informal conference resolves the issues being appealed, in whole or in part, the division will notify the office of administrative hearings, and the appellant may withdraw or modify the appeal. Informal conferences are not authorized when the decision being appealed is a decision of the commissioner of administration under AS 14.25.175.

HISTORY: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

2 AAC 36.092. Place for Filing with the Division.

- (a) When a person is required to make a filing with the division under AS 14.25 or this chapter, including a notice of appeal, the person may make that filing by hand-delivering or mailing the filing to any office

of the division. When a person is required to make a filing with the commissioner of administration under AS 14.25.175, the person may make that filing by hand-delivering or mailing the filing to office of the commissioner in Juneau.

- (b) A filing made by a person to the person's employer does not constitute a valid filing with the division or with the commissioner of administration. If the employer forwards the filing to the division, if that is the appropriate place of filing, or to the commissioner of administration, if the commissioner's office is the appropriate place of filing, a valid filing is then effected.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

2 AAC 36.094. Time of Action.

- (a) When a person is required to make a filing with the division, including a notice of appeal, or with the commissioner of administration within a certain time period under AS 14.25 or this chapter, the effective date of that filing is the day it is received by the division or the commissioner, as appropriate, or, if mailed to the appropriate entity, the day it is postmarked.
- (b) If a mailed filing has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day that the filing is received by the division or the commissioner of administration.
- (c) If a person makes a filing required to be made to the division or to the commissioner of administration to the person's employer instead, and the employer forwards the filing to the division or to the commissioner, the effective date of the filing is the date that it is received by the division or the commissioner, or the date of the postmark or other proof of sending by the employer.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY : AS 14.25.003, AS 14.25.175

2 AAC 36.095. Normal Retirement Benefit Nonforfeitable.

- (a) For purposes of compliance with the Internal Revenue Code § 401(a) (7), the normal retirement benefit calculated under AS 14.25.470 is nonforfeitable upon attainment of normal retirement age.
- (b) Notwithstanding (a) of this section, a normal retirement benefit is subject to the provisions of AS 14.25, including AS 14.25.532.
- (c) In the event of a full or partial termination of, or a complete discontinuance of employer contributions to the plan, the accrued benefits of the affected members under the plan shall be 100 percent vested and nonforfeitable to the extent funded and required by federal law.
- (d) This section may not be construed as a reduction or limitation of rights previously existing, or as an indication that vested benefits would be forfeitable before the stated age is attained.
- (e) In this section, “normal retirement age” means the age set for Medicare eligibility at the time the member retires, with the completion of at least 10 years of service, whichever is later.

HISTORY: Eff. 1/12/2013, Register 205

AUTHORITY: AS 14.25.003, AS 14.25.004, AS 14.25.005, AS 14.25.320, AS 14.25.440, AS 14.25.532

2 AAC 36.096. Defined Contribution Plan Compliance with the Internal Revenue Code.

For purposes of compliance with the Internal Revenue Code, the defined contribution plan (AS 14.25.310 - 14.25.590) will be treated as an Internal Revenue Code sec. 414(k) (26 U.S.C. 414(k)) plan in which savings are accumulated in an individual retirement account for the exclusive benefit of the member or beneficiaries and certain fixed occupational death and disability benefits are paid.

HISTORY: Eff. 6/22/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.320, AS 14.25.485, AS 14.25.487

2 AAC 36.097. Normal Retirement Benefit Nonforfeitable.

- (a) For purposes of compliance with the Internal Revenue Code § 401(a) (7), the normal retirement benefit calculated under AS 14.25.110 is nonforfeitable upon attainment of normal retirement age.
- (b) Notwithstanding (a) of this section, a normal retirement benefit is subject to the provisions of AS 14.25, including AS 14.25.205 and 14.25.212.
- (c) In the event of a full or partial termination of, or a complete discontinuance of employer contributions to the plan, the accrued benefits of the affected members under the plan are 100 percent vested and nonforfeitable to the extent funded and required by federal law.
- (d) This section may not be construed as a reduction or limitation of rights previously existing, or as an indication that vested benefits would be forfeitable before the stated age is attained.
- (e) In this section, “normal retirement age” means
 - (1) for a person hired on or after July 1, 1990, age 60 with the completion of at least eight years of service, whichever is later;
 - (2) for a person hired before July 1, 1990, age 55 with the completion of at least eight years of service, whichever is later.

HISTORY: Eff. 1/12/2013, Register 205

AUTHORITY: AS 14.25.003, AS 14.25.004, AS 14.25.005, AS 14.25.010, AS 14.25.110, AS 14.25.205, AS 14.25.212

2 AAC 36.098. Transfer into Defined Contribution Plan by Nonvested Members of Defined Benefit Plan.

- (a) A nonvested member of the defined benefit plan (AS 14.25.009 - 14.25.220) who wishes to participate in the defined contribution plan (AS 14.25.310 - 14.25.590) under AS 14.25.540 must make that election within 12 months of the effective date of the member’s employer’s election to participate in the defined contribution plan. The member must also certify in writing to the administrator that the member has carefully reviewed the information sent to the member under AS 14.25.540(h) and that the member understands that the

member had the right to review the decision to transfer with a qualified employee of the division before the member made the decision.

- (b) A matching employer contribution made on behalf of a member of the defined contribution plan under AS 14.25.540(c) may not exceed the limits set out in sec. 415(c) of the Internal Revenue Code (26 U.S.C. 415(c)) during the applicable limitation year, as defined in AS 14.25.590. If the matching employer contribution would exceed the limits during the limitation year in which the transfer occurs, the remaining amount of the matching employer contribution shall be made in the next limitation year, if the limits would not be exceeded.
- (c) Membership service previously earned in the defined benefit plan by a former member of that plan who has elected to become a member of the defined contribution plan shall be credited for purposes of determining vesting in the matching employer contribution under AS 14.25.540(c) and in subsequent employer contributions under AS 14.25.390(b).
- (d) An employer participating in the defined benefit plan that elects to consent to transfers of its nonvested employees in that plan to the defined contribution plan must make that election through a resolution of the employer's governing body.
- (e) For purposes of this section and AS 14.25.540, "membership service" means service with a participating employer under AS 14.25.009 - 14.25.220 for which contributions have been paid and does not include any service for which reinstatement indebtedness has not been fully paid.

HISTORY: Eff. 6/22/2006, Register 179; am 9/16/2006, Register 180

AUTHORITY: AS 14.25.003, AS 14.25.350, AS 14.25.380, AS 14.25.390, AS 14.25.540

2 AAC 36.099. Compliance With the Internal Revenue Code.

- (a) Pursuant to AS 14.25.320 and for purposes of compliance with the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations, the Teachers' Retirement System Tier 3 Defined Contribution Plan under AS 14.25.310 - AS 14.25.590 hereby adopts by reference, as part of the governing Plan document, the provisions of the Retirement System IRS Compliance Policy dated August 2015 as amended from time to time.

- (b) When an amended version of the Retirement System IRS Compliance Policy is made available, the Division will, not later than 30 days after the effective date of the amended version, post on the Alaska Online Public Notice System and publish in a newspaper of general circulation or trade or industry publication a notice that describes the amended material and how a copy of the amended version may be obtained or reviewed. The division will also furnish the notice described in this subsection to each person or group that has filed a request for notice of proposed action with the commissioner and furnish a copy to each incumbent Alaska state legislator, the Legislative Affairs Agency, and to the regulations attorney in the Department of Law.

HISTORY: Eff. 9/24/2015, Register 216

AUTHORITY: AS 14.25.003, AS 14.25.004, AS 14.25.005, AS 14.25.320

EDITOR'S NOTE: The Retirement System IRS Compliance Policy is posted on the Division of Retirement and Benefits website at <http://doa.alaska.gov/drb>.

2 AAC 36.181. Limitation on Fixed Benefits in Defined Contribution Plan.

All of the fixed benefits in the defined contribution plan (AS 14.25.310 - 14.25.590) are subject to the limitation on benefits in sec. 415(b) of the Internal Revenue Code (26 U.S.C. sec. 415(b)), including monthly disability payments under AS 14.25.485 and monthly survivor pension payments under AS 14.25.485(i) and 14.25.487.

HISTORY: Eff. 6/22/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.320, AS14.25.380, AS 14.25.485, AS 14.25.487

2 AAC 36.183. Certain Periods to Count Toward Vesting in the Defined Contribution Plan and the Health Reimbursement Arrangement Plan.

- (a) A period during which a member of the defined contribution plan (AS 14.25.310 - 14.25.590) is receiving an occupational disability benefit under AS 14.25.485 constitutes membership service for the purposes of determining vesting in employer contributions under AS 14.25.390(b) and eligibility for retirement and medical benefits under

AS 14.25.310 - 14.25.590 and under the health reimbursement arrangement plan (AS 39.30.300 - 39.30.495).

- (b) If a member of the defined contribution plan receiving or entitled to receive an occupational disability benefit under AS 14.25.485 dies while receiving that benefit or before the commencement of the benefit, the period during which the member was eligible for the benefit and the period during which a survivor's benefit was paid to a survivor of the member constitute membership service for the purposes of determining vesting in employer contributions under AS 14.25.390(b) and eligibility for retirement and medical benefits under AS 14.25.310 - 14.25.590 and AS 39.30.300 - 39.30.495.
- (c) If a member of the defined contribution plan suffers an occupational death under AS 14.25.487, the period during which a survivor's benefit is paid to a survivor of the member constitutes membership service for the purposes of determining vesting in employer contributions under AS 14.25.390(b) and eligibility for retirement and medical benefits under AS 14.25.310 - 14.25.590 and AS 39.30.300 - 39.30.495.

HISTORY: Eff. 6/22/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.485, AS 14.25.487

2 AAC 36.184. Prohibitions on Elections of Distributions From Individual Accounts of Members of the Defined Contribution Plan.

- (a) A member of the defined contribution plan (AS 14.25.310 - 14.25.590) may not elect distributions from the member's individual account under AS 14.25.410 while the member is receiving or entitled to receive occupational disability benefits under AS 14.25.485. A beneficiary of a deceased member of the plan may not elect distributions from the deceased member's individual account under AS 14.25.410 while the beneficiary is receiving survivor benefits under AS 14.25.485(i) or AS 14.25.487.

HISTORY: Eff. 6/22/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.410, AS 14.25.485, AS 14.25.487

2 AAC 36.185. Vesting in Employer Contributions for Members of the Defined Contribution Plan Receiving Disability Benefits.

Notwithstanding AS 14.25.390(b), a member of the defined contribution plan (AS 14.25.310 - 14.25.590) who is appointed to occupational disability under AS 14.25.485 becomes fully vested in the employer contributions made under AS 14.25.485(d)(2) as those contributions are made.

HISTORY: Eff. 6/22/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.380, AS 14.25.390, AS 14.25.485

2 AAC 36.186. Date of End of Payment of Survivor Benefits Under the Defined Contribution Plan to Dependent Children.

Survivor benefits under AS 14.25.485(i) and AS 14.25.487 that are being paid to a dependent child of a member of the defined contribution plan (AS 14.25.310 - 14.25.590) shall terminate on the last day of the month in which the dependent child ceases to be a dependent child as defined in AS 14.25.590. If a survivor who has ceased to be a dependent child subsequently becomes a dependent child again as defined in AS 14.25.590, survivor benefits to that person shall resume.

HISTORY: Eff. 6/22/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.485, AS 14.25.487

2 AAC 36.188. Bona Fide Termination of Employment.

- (a) For purposes of this chapter, at retirement, a member's termination from employment is considered valid only if there is no prearrangement between the member and the employer for continued employment in any capacity after the retirement effective date. If any prearrangement to return to work with the same employer exists before retirement, the member will be deemed to not have a bona fide termination of employment and the member's retirement shall be void.
- (b) Unless (f) of this section applies, for purposes of a bona fide termination of employment, the following breaks-in-service requirements shall apply:

- (1) a member under age 62 at the time of retirement cannot return to employment in any capacity with the same employer until six months have elapsed from the date of retirement;
 - (2) a member age 62 or older cannot return to employment with the same employer until 60 days have elapsed from the date of retirement.
- (c) If a retired member under age 59-1/2 returns to employment with the same employer with less than a six-month break in service, benefit payments shall not be made during the period of reemployment. All benefit payments received before the date of cessation of payments and occurring while the member was under age 59-1/2 will be coded, under Internal Revenue Service requirements, as an early distribution (no known exception) for tax purposes unless another known exception exists. Upon the member's subsequent termination from employment, a member's entitlement to benefit payments will commence the day after the date of the termination. The member will again be required to establish a bona fide termination in accordance with (b) of this section before reemploying again with the same employer.
- (d) If a retired member over age 59-1/2, but less than age 62, returns to employment with the same employer with less than a six-month break in service, benefit payments shall not be made during the period of reemployment. Upon the member's subsequent termination from employment a member's entitlement to benefit payments will commence the day after the date of the termination. The member will again be required to establish a bona fide termination in accordance with (b) of this section before reemploying again with the same employer.
- (e) If a retired member age 62 or older returns to employment with the same employer with less than a 60-day break in service, benefit payments shall not be made during the period of reemployment. Upon the member's subsequent termination from employment, a member's entitlement to benefit payments will commence the day after the date of the termination. The member will again be required to establish a bona fide termination in accordance with (b) of this section before reemploying again with the same employer.
- (f) Regardless of age, retired members who have a prearrangement for reemployment in existence with the same employer before the member's retirement will be deemed to not have a valid termination

from employment and shall be ineligible for retirement benefits during the period of reemployment. The member will be required to repay to the plan all retirement and health benefits received from the plan plus applicable interest. Interest will be at the plan rate and is effective as of the date of the member's appointment to retirement. Any amounts not repaid to the plan shall continue to accrue interest and shall be subject to collection from the member's retirement benefit. Based upon the voided retirement, during the continued employment, the member will be treated as having not retired for purposes of benefit accrual and shall be subject to all plan provisions for active members.

- (g) For purposes of this section, "bona fide termination of employment" shall have the same meaning as "severance of service date" under 26 C.F.R. 1.410(a)-7(b)(2) or as amended.

HISTORY: Eff. 12/22/2017, Register 225

AUTHORITY: AS 14.25.005, AS 14.25.010, AS 14.25.110, AS 14.25.320, AS 14.25.410

2 AAC 36.189. Compensation.

Except as may be expressly authorized by AS 14.25.220 (6), "remuneration"

- (1) means only the salary paid under contract to an employee for standard services rendered;
- (2) does not include bonuses paid for retirement incentives, or additional pay outside the standard salary contract for an employee who agrees to retire if the additional pay is granted within 18 months before the employee's appointment to retirement.

HISTORY: Eff. 1/13/2010, Register 193

AUTHORITY: AS 14.25.003 AS 14.25.220 AS 14.25.590

2 AAC 36.192. Defined Contribution Plan Qualified Domestic Relations Orders (QDROs).

- (a) After a member covered under AS 14.25.310 - 14.25.590 is divorced or the member's marriage is dissolved, the member's former spouse has no individual rights or entitlements to benefits from the system, but

may, under a qualified domestic relations order, establish a separate interest in the vested contributions attributed to the member. To be valid and enforced by the administrator, a qualified domestic relations order must conform to both the requirements of AS 14.25 and the requirements of the United States Internal Revenue Code that the system must comply with in order to maintain its federal tax-qualified status.

(b) An alternate payee

- (1) may only be the former spouse of a member who has been named by an order of a court of competent jurisdiction to receive all or a portion of the member's vested contribution account;
- (2) will have a separate account established wherein the vested contributions of the member plus or minus the earnings on those contributions will be deposited according to the court's directive in a qualified domestic relations order (QDRO); and
- (3) may elect to receive funds from the newly established account; leave the money in the account and manage it in the same manner as active or deferred participants or elect to receive the funds under one of several disbursement options under AS 14.25.420.

(c) The administrator shall review all domestic relations orders that the administrator receives, and shall reject a domestic relations order that does not meet the requirements of AS 14.25 or this chapter. A qualified domestic relations order is effective upon acceptance by the administrator. The administrator will accept only a domestic relations order that is prospective. The administrator requires a domestic relations order to, at the minimum, contain the following:

- (1) the federal regulatory reference authorizing the QDRO;
- (2) the name and address of the plan being attached;
- (3) the participant's name, address, social security number, and date of birth;
- (4) the alternate payee's name, address, social security number, and date of birth;
- (5) the date of the marriage, the date of separation if applicable, and the date of the divorce or dissolution;
- (6) the amount, formula, or percentage the alternate payee is to receive;

- (7) a statement to the effect the alternate payee has the independent right to name beneficiaries to the alternative payee's portion of the account;
 - (8) a statement acknowledging additional contributions cannot be made by the alternate payee;
 - (9) a provision assigning the taxability of benefits to the person receiving funds;
 - (10) a declaration the QDRO does not require the plan to pay benefits not authorized by statute or plan document;
 - (11) an assurance that both parties will keep a current address on file with the administrator;
 - (12) a recognition the court has the authority to amend the order at a later date.
- (d) Remarriage of the alternate payee does not in any way reduce or eliminate the alternate payee's entitlement to benefits under AS 14.25 or this chapter.
- (e) Unless stated otherwise in the qualified domestic relations order, the administrator will transfer to the alternate payee account the amount representing the portion of the vested contributions attributable to the alternate payee on the date of divorce or dissolution, including any change in value that may have occurred between that date and the date of fund transfer.
- (f) A qualified domestic relations order affecting disability benefits under AS 14.25.485 shall be accepted by the administrator only after the member has been appointed to disability.

HISTORY: Eff. 1/13/2010, Register 193

AUTHORITY: AS 14.25.005 AS 14.25.460 AS 14.25.590 (22)

2 AAC 36.193. Certification of Teachers.

- (a) For purposes of the definition of "teacher" and "member" in AS 14.25.220 and 14.25.590, a person is considered certificated and may remain in the teachers' retirement system if the person provides the administrator with evidence acceptable to the administrator that the

person holds a valid teaching certificate issued to the person by the Department of Education and Early Development. Membership in the system is effective the date a valid teaching certificate is in effect. Employers may make contributions to the teachers' retirement system for the first 120 days of the person's employment pending issuance of the certificate. If 120 days have elapsed following the date of the person's employment and the person has not provided the administrator with evidence that the person holds a valid teaching certificate issued by the Department of Education and Early Development, the person's membership in the system will be terminated immediately, contributions will be refunded for that period of ineligible employment after the date of employment, and the corresponding period of ineligible service will be removed from the person's employment history. If the effective date of the certificate is later than the date of hire, contributions will be refunded and the corresponding period of ineligible service will be removed from the person's employment history for the period of ineligible employment from the date of hire to the effective date of certification.

- (b) A teacher whose certificate has expired may remain in the teachers' retirement system if the person provides the administrator with evidence acceptable to the administrator that the person holds a valid teaching certificate issued to the person by the Department of Education and Early Development within 120 days of the date of the certificate expiration. If the effective date of renewal is later than the expiration date of the prior certificate, contributions will be refunded and the corresponding period of ineligible service will be removed from the person's employment history for the period of ineligible employment from the expiration date of the prior certificate to the effective date of certificate renewal.
- (c) A school district will provide a copy of this regulation to a person hired for a teaching position who does not possess a valid teaching certificate at the time the person is hired and to a person hired for a teaching position whose teaching certificate is expiring within 30 days.

HISTORY: In effect before 10/21/83, Register 93; am 3/18/2004, Register 172; am/readopt 7/20/2006, Register 179; am 1/13/2010, Register 193

AUTHORITY: AS 14.25.003 AS 14.25.220 AS 14.25.590

EDITOR'S NOTE: Before Register 193, the content of 2 AAC 36.193 appeared at 2 AAC 36.890 for the defined benefit plan of the teachers' retirement system.

2 AAC 36.194. Forms of Distribution Under the Defined Contribution Plan.

In addition to distribution options under AS 14.25.420(a), a participant may elect to receive the participant's share of the individual account in a periodic payment paid monthly, quarterly, semi-annually, or annually which allows the participant to receive benefit payments out of their accounts while staying invested in the current fund offerings provided by the plan. A participant may select from the following payment schedules:

- (1) a period certain, where the participant selects length of time to receive funds;
- (2) a minimum distribution option, where the amounts paid will be recalculated annually and paid at the minimum distribution level; or
- (3) a payment certain where the participant selects amount to be paid out and continue until funds are depleted.

All distributions of benefits must be made in accordance with Internal Revenue Code provisions, which shall override any distribution options inconsistent with such provisions. Any distribution, if applicable, will be subject to the withholding of taxes which will be remitted to the Internal Revenue Service.

HISTORY: Eff. 4/28/2019, Register 230

AUTHORITY: AS 14.25.004, AS 14.25.005, AS 14.25.420

ARTICLE 3.
Benefits Under the Defined Benefit Plan
of the Teachers' Retirement System
(AS 14.25.009 - 14.25.220)

Section

- 200. Verification of benefits for BIA service.
- 210. Alaska cost-of-living allowance.
- 220. Calculation of post-retirement pension adjustments.
- 225. Benefit adjustments.
- 230. Eligibility for benefits.
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- 235. Determination of retirement service eligibility for members with combined part-time and full-time service.
- 236. Declaration of teacher shortage. **[Repealed 1/13/10]**
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- 253. Waiver of survivor benefit by a spouse in favor of another dependent.
- 255. Revokes a revocable disposition.
- 257. Defined benefit plan qualified domestic relations orders (QDROs).
- 260. Public service benefit.
- 269. Actuarial adjustment factor basis.

2 AAC 36.200. Verification of Benefits for BIA Service.

A member who has been credited with service under AS 14.25.107 may, at the administrator's discretion, be required to provide the administrator with proof of the benefit amount the member is receiving from the United States government for that same period of service, or proof that the member is not entitled to receive a benefit from the United States government for that same period of service. The administrator may require a member credited with BIA service under AS 14.25.107 to submit proof under this section before appointment to retirement and once a year after appointment to retirement.

HISTORY: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.107

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.200, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.210. Alaska Cost-of-Living Allowance.

- (a) The Alaska cost-of-living allowance established under AS 14.25.142 accrues from the first day of the month after written application from the member, in a form prescribed by the administrator, is either hand-delivered to the division of retirement and benefits, or is mailed to the division of retirement and benefits and postmarked from within Alaska. If a mailed application has an illegible postmark or an undated postmark, the postmark day is rebuttably presumed to be five working days before the day the application was received by the division.
- (b) Except as otherwise provided by AS 14.25.142, a member must be domiciled and physically present in Alaska to receive a cost-of-living allowance under AS 14.25.142.
- (c) For the purposes of this chapter, a person domiciled in the state is a person who
 - (1) maintains his or her principal residence in the state of Alaska;
 - (2) demonstrates at all times during an absence an intent to return to Alaska and a resident of Alaska; and

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- (3) does not claim residency outside the state or obtain benefits of residency in another state or nation.
- (d) The administrator’s determination of an applicant’s residency will be based on the totality of relevant circumstances. Intent is demonstrated by establishing and maintaining customary ties indicative of Alaska residency. Acts that are required by law or contract or that are routinely performed by temporary residents of the state are not sufficient to demonstrate residency. The burden is on the applicant or recipient to provide the administrator with documentation or other information necessary to support eligibility for the Alaska cost-of-living allowance. The following may be used as evidence of domicile:
- (1) the applicant’s written or oral statements at the time in question, including statements made to obtain a license to drive, fish, hunt, or engage in another activity regulated by a governmental entity;
 - (2) the affidavits of other persons who had reason to know of the applicant’s intent;
 - (3) voter registration and voting records;
 - (4) proof of a substantial ownership or leasehold interest in applicant’s residence in Alaska;
 - (5) proof, such as the presence of household goods owned by the applicant, that the residence referred to in (4) of this subsection is inhabited by and used as a primary residence by applicant;
 - (6) an Alaskan telephone listing in the applicant’s or the applicant’s spouse’s name;
 - (7) the duration of continuous residence in the state;
 - (8) employment and unemployment records;
 - (9) permanent fund dividend or longevity bonus records;
 - (10) travel records;
 - (11) other information the applicant deems relevant.
- (e) In the event a recipient’s eligibility for the Alaska cost-of-living allowance is in question, the division will notify the recipient by certified mail that evidence of domicile is required. The recipient must provide evidence as outlined in (d) of this section within 30 days of

receipt of the division's notice. Failure of the recipient to provide evidence of domicile by either hand delivering or mailing evidence, which must be received or postmarked within 30 days after the recipient's receipt of the division's notice, will result in the removal of the Alaska cost-of-living allowance.

- (f) Upon receipt of evidence confirming that the recipient satisfies the requirements under (a) - (d) of this section, the Alaska cost-of-living allowance will be reinstated retroactively to the date it was removed, if the recipient has not been out of state for a continuous period that exceeds 90 days from the date of the recipient's departure.

HISTORY: In effect before 10/21/83, Register 93; am 5/3/89, Register 111; am 5/27/99, Register 152; am 1/7/2001, Register 159

AUTHORITY: AS 14.25.022, AS 14.25.035, AS 14.25.142

2 AAC 36.220. Calculation of Post-Retirement Pension Adjustments.

- (a) For the purposes of the version of AS 14.25.143 in effect before July 1, 1990, the change in the cost of living shall be determined by using the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers issued for Anchorage, Alaska. The most recent available CPI issued after the effective date of the member's appointment to receive benefits shall be used as the basis for determining the increase in the cost of living for that member.
- (b) For the purposes of the version of AS 14.25.143(b)(2) in effect before July 1, 1990, the amount of the PRPA will not exceed four percent compounded for each full year in which benefits have been received, and a proportionately reduced percentage for each partial year, depending on the number of months in which benefits have been received.
- (c) A retired employee who first joined the system prior to July 1, 1990 and who is eligible for a PRPA under AS 14.25.143 will receive either the PRPA calculated under the current version of AS 14.25.143 or the adjustment calculated under the version of AS 14.25.143 in effect before July 1, 1990, whichever is greater.

HISTORY: In effect before 10/21/83, Register 93; am 1/7/2001, Register 159; am 3/18/2004, Register 172; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.143

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.220, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

Even though the adoption of 2 AAC 36.220(c) was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.225. Benefit Adjustments.

- (a) A benefit overpayment by the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220), other than one described in AS 14.25.173(b) or waived under AS 14.25.175, must be recovered by applying a lifetime actuarial reduction to the benefit recipient's future monthly benefits, unless the benefit recipient elects to pay the overpayment in a lump sum.
- (b) A benefit underpayment by the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) must be paid to the recipient
 - (1) by applying a lifetime actuarial increase to the recipient's future monthly benefits if the underpayment exceeds \$3,500, unless the recipient elects to receive a lump sum payment; or
 - (2) by lump sum if the underpayment is \$3,500 or less.
- (c) The division will notify the recipient by certified mail of the overpayment or underpayment amount. The recipient must irrevocably elect a payment option under (a) or (b)(1) of this section within 60 days after receipt of the division's notice. Failure of the recipient to notify the division of a payment option election and to pay the lump sum overpayment, if applicable, by either hand delivering or mailing written notification and payment, which must be received or postmarked within 60 days after the recipient's receipt of the division's notice, will result in a lifetime actuarial reduction or increase to the recipient's monthly benefit.
- (d) The lifetime actuarial monthly benefit reduction or increase is calculated by multiplying the amount of the overpayment or underpayment, including interest if applicable, by the appropriate actuarial factor for the recipient's age at the time of the adjustment.

The most advantageous table of factors adopted during the member's TRS employment will be used to calculate the actuarial reduction or increase to the recipient's future monthly benefits.

- (e) The administrator will require a member or beneficiary to submit evidence to support the claim of hardship, including a copy of the member's or beneficiary's most recent federal tax return in addition to the spouse's most recent federal tax return if filed separately, if the member or beneficiary requests a waiver of overpayment under AS 14.25.175(a)(1) because of undue hardship.
- (f) An actuarial adjustment to benefits that have been corrected due to an error or change in the record ceases on the first of the month following the date the member dies. If the member dies on the first of a month, the actuarial adjustment ceases on the date of the member's death. Survivor benefits calculated under AS 14.25.162, 14.25.164 or 14.25.167 do not include the actuarial adjustment.

HISTORY: Eff. 12/6/85, Register 99; am 5/6/88, Register 108; am 3/18/2004, Register 172; am/readopt 7/20/2006, Register 179; am 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.173, AS 14.25.175

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.225, except for 2 AAC 36.225(a) and (b), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also amended 2 AAC 36.225(a) and (b). Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

Even though the adoption of 2 AAC 36.225(e) was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.230. Eligibility for Benefits.

- (a) For the purposes of eligibility for retirement benefits under AS 14.25.110(a) and (b), "membership service" and "credited service" mean membership and credited service, respectively, for which no indebtedness is owed at the time of retirement.
- (b) For the purposes of eligibility for disability benefits under AS 14.25.130, "membership service" means membership service for which no indebtedness is owed at the time of disability.

- (c) If an indebtedness is owing, the indebtedness must be paid in full in order to establish eligibility for retirement benefits under AS 14.25.110(a) and (b) or disability benefits under AS 14.25.130.

HISTORY: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.110, AS 14.25.130, AS 14.25.220

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.230, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.234. Eligible for Normal Retirement.

For purposes of AS 14.25.130(e), eligible for normal retirement means:

- (1) for a member first joining the system before July 1, 1990, reaches age 55 with at least 8 years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the disability, to entitle the member to retire under AS 14.25.110(a)(1), (4), (5), (6), or (7), whichever comes first;
- (2) for a member first joining the system on or after July 1, 1990, reaches age 60 with at least 8 years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the disability, to entitle the member to retire under AS 14.25.110(a)(1), (4), (5), (6), or (7), whichever occurs earlier.

HISTORY: Eff. 4/20/2001, Register 179

AUTHORITY: AS 14.25.022, AS 14.25.130

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.234 was effective 4/20/2001, it was not published until Register 179, October 2006.

2 AAC 36.235. Determination of Retirement Service Eligibility for Members with Combined Part-Time and Full-Time Service.

A member of the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) with combined part-time and full-time membership service may retire at any age only if the member worked a full school year for each of 20 school years in a qualifying part-time or full-time position. Partial school years are credited according to the definition of "year of service" in AS 14.25.220 and the partial year credit earned as determined under 2 AAC 36.275 will count toward the 20-year service requirement of AS 14.25.110(a)(7).

HISTORY: Eff. 3/18/2004, Register 172; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.110, AS 14.25.220

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.235 was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.250. Supplemental Option.

- (a) This section applies to a member's obligations under AS 14.25.055 (supplemental contributions) and entitlements under AS 14.25.162 (survivor's allowance) and AS 14.25.164 (spouse's pension).
- (b) A member who elects to make a supplemental contribution under AS 14.25.055 shall continue that contribution until the member executes a waiver in the form prescribed by the administrator, the member is appointed to retirement, or the member terminates employment with an employer. Execution of a waiver of supplemental contribution forfeits all previously accrued entitlements under AS 14.25.162 and AS 14.25.164.
- (c) While a member is appointed to disability under AS 14.25.130, supplemental contributions under AS 14.25.055 are suspended, but coverage under AS 14.25.162 and AS 14.25.164 continues.
- (d) If a retired member who elected to make supplemental contributions under AS 14.25.055 returns to employment with an employer, supplemental contributions are required if the member wishes additional coverage under AS 14.25.162 and AS 14.25.164 for the

period of reemployment. If the member does not desire to make supplemental contributions, then the member shall execute a waiver and file it with the administrator. Execution of a waiver does not forfeit the member's entitlements earned during the period of prior employment once the member is reappointed to retirement. If a member, before retirement, did not qualify for a supplemental benefit, and does not execute a waiver during a period of reemployment, and then accrues enough service during reemployment, such that, when added to all previous service coverage by supplemental contributions, the member has enough time to qualify for supplemental benefits, then the supplemental benefit is payable and covers all periods of employment.

- (e) As used in AS 14.25.055 “entry into participation in the system” means initial membership under the teachers’ retirement system or reemployment with an employer. There must be a 12-month break in membership coverage under the teachers’ retirement system before a member is eligible to participate on the basis of reemployment.

HISTORY: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.055, AS 14.25.130, AS 14.25.162, AS 14.25.164

EDITOR’S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.250, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers’ Retirement Board, and largely transferred the board’s authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.253. Waiver of Survivor Benefit by a Spouse in Favor of Another Dependent.

The only dependent other than a spouse whom the administrator will approve as a contingent beneficiary for a joint and survivor benefit under AS 14.25.167 is a disabled child of the employee who is principally dependent upon the employee for support and who is totally and presumably permanently disabled. An employee who wishes to name a disabled child as the employee’s beneficiary under AS 14.25.167 must file an application on a form provided by the administrator requesting the administrator’s approval of the appointment of beneficiary.

HISTORY: Eff. 3/18/2004, Register 172; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.167

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.253, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

Even though the adoption of 2 AAC 36.253 was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.255. Revokes a Revocable Disposition.

For purposes of AS 14.25.166(a) and in accordance with AS 13.12.804(a) (1)(A), a divorce, a dissolution of marriage, or an annulment of a marriage revokes a revocable disposition or appointment of property. If a member designates a spouse as a beneficiary and is subsequently divorced or a dissolution or annulment of the marriage is granted, the beneficiary designation is void unless the member, in writing after the divorce, dissolution, or annulment specifically affirms the former spouse as a beneficiary.

HISTORY: Eff. 1/7/2001, Register 159; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.166

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.255, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.257. Defined Benefit Plan Qualified Domestic Relations Orders (QDROs).

- (a) After a member covered under AS 14.25.009 - 14.25.220 is divorced or the member's marriage is dissolved, the member's former spouse has no individual rights or entitlements to benefits from the system, but may, under a qualified domestic relations order, share in the stream of benefit payments paid to the member. To be valid and enforced by the administrator, a qualified domestic relations order must conform to both the requirements of AS 14.25 and the requirements of the United States Internal Revenue Code that the system must comply with in order to maintain its federal tax-qualified status.

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- (b) An alternate payee
- (1) may only be the former spouse of a member who has been named by an order of a court of competent jurisdiction to receive all or a portion of the member's retirement benefit;
 - (2) may not elect benefit options, but may only share in benefit options elected by the member;
 - (3) may not name survivors or beneficiaries to the alternate payee's portion of the member's benefit; and
 - (4) will not be provided medical or insurance benefits at the system's expense but may purchase coverage from the system at the full calculated cost to the system; the alternate payee must elect to purchase the coverage within 60 days after appointment to benefits.
- (c) The administrator will review all domestic relations orders that the administrator receives, and will reject a domestic relations order that does not meet the requirements of AS 14.25 or this chapter. A qualified domestic relations order that is accepted by the administrator is effective on the first day of the month following the month in which the order is accepted, or on the date of retirement, whichever is later. The administrator will accept only a domestic relations order that is prospective. The administrator will reject an order that
- (1) purports to have a retroactive effective date;
 - (2) orders payment of the alternate payee's benefits to someone other than the member upon the death of the alternate payee; or
 - (3) orders payment of benefits to an alternate payee, other than survivor benefits, after the death of the member.
- (d) The administrator will approve a domestic relations order that orders payment of a monthly benefit to an alternate payee only if the alternate payee's portion of the member's monthly stream of benefit payments is expressed as a set monthly dollar amount, as a percentage of the monthly benefit payment, or as a monthly formula based on a defined period of time divided by the member's total years of credited service.
- (e) Unless a qualified domestic relations order specifically states otherwise, the administrator will follow the following rules in implementing qualified domestic relations orders:

- (1) no death or survivor benefits shall be paid to the alternate payee if the member dies before retirement;
- (2) a member may not elect a survivor option at the time of retirement naming an alternate payee as a beneficiary;
- (3) if a survivor option must be elected by the member at the time of retirement, and the member does not, and is not required to, elect a specific option, the member shall be deemed to have elected the 50 percent joint and survivor option under AS 14.25.167(a) (2);
- (4) any Alaska cost-of-living allowance that is payable under AS 14.25.142 and all post-retirement pension adjustments under the current or any former versions of AS 14.25.143 shall be divided between the member and the alternate payee in the same proportion as the base benefit is divided;
- (5) the cost of providing a joint and survivor benefit for the alternate payee will be equally shared by the member and the alternate payee, regardless of the split of the benefit entitlement; in this paragraph, “the cost of providing a joint and survivor benefit” means the monthly difference between what the member’s regular retirement benefit would be, without the actuarial reduction for a joint and survivor benefit and the member’s actual benefit, after the actuarial reduction necessitated by the joint and survivor option;
- (6) the average monthly compensation determined using a member’s entire career will be used to calculate the alternate payee’s entitlement, whether or not the member and the alternate payee were married during the entire time;
- (7) remarriage of the alternate payee does not in any way reduce or eliminate the alternate payee’s entitlement to benefits;
- (8) for a member who elected the one percent supplemental option while teaching, under AS 14.25.055,
 - (A) if the member’s divorce or dissolution becomes final before the member’s retirement, survivor benefits, if any, are payable only to the member’s current spouse, unless the qualified domestic relations order splits the benefit based on service accrued during the marriage; and

- (B) if the member's divorce or dissolution becomes final on or after the date of the member's retirement, the member's spouse at the time of retirement is treated as the sole surviving spouse.
- (f) If a member divorces after the member has retired or if a member's marriage is dissolved after the member has retired,
 - (1) the benefit selections made by the member at the time of retirement remain in force;
 - (2) the member's spouse at the time of retirement will retain sole rights to survivor benefits after the member's death if a survivor option was elected at retirement, except to the extent that a qualified domestic relations order approved before the member's retirement requires payment of survivor benefits to an alternate payee; and
 - (3) the administrator will not accept a domestic relations order that purports to alter the benefit selections made by the member at the time of retirement.
- (g) A lump sum payment to an alternate payee under a qualified domestic relations order may be made only if the member elects a full withdrawal from membership in the teachers' retirement system. Lump sum entitlements in a qualified domestic relations order must be stated either as a specific dollar amount or as a specific percentage of the member's contribution account.
- (h) A qualified domestic relations order affecting disability benefits under AS 14.25.130 shall be accepted by the administrator only after the member has been appointed to disability.

HISTORY: Eff. 3/18/2004, Register 172; am 1/13/2010, Register 193

AUTHORITY: AS 14.25.022, AS 14.25.035, AS 14.25.200, AS 14.25.220

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.257 was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.260. Public Service Benefit.

For the purpose of calculating the actuarial cost of a public service benefit under AS 39.35.375, interest earned on contributions and indebtedness payments means the total investment returns on those contributions and payments.

HISTORY: Eff. 1/7/2001, Register 159; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.260, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.269. Actuarial Adjustment Factor Basis.

- (a) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1973 through June 30, 1975 are
 - (1) for an indebtedness amount owed, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with an annual interest rate of 7.0 percent;
 - (2) for an early retirement benefit,
 - (A) a factor set for male members using the 1971 Group Annuity Mortality Table, table GA71M, with an annual interest rate for a whole age of 50 through 54 at 4.17 percent;
 - (B) a factor set for female members using the 1971 Group Annuity Mortality Table, table GA71F, with an annual interest rate for a whole age of 50 through 54 that varies from 4.47 percent to 4.49 percent, respectively, with varying rates in between for other ages.
- (b) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1975 through August 31, 1978 are
 - (1) for an indebtedness amount owed, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females with an annual interest rate of 7.0 percent;

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- (2) for an early retirement benefit, a factor that reduces the normal retirement amount by 0.5 percent per month for each month that the retirement precedes the normal retirement age.
- (c) The basis of the assumptions for the reduced benefit actuarial adjustment factors from September 1, 1978 through December 31, 1980 are
 - (1) for an indebtedness amount owed, a factor set using sex distinct male and female rates from the 1971 Group Annuity Mortality Table, table GA71, with an annual interest rate of 6.0 percent;
 - (2) for an early retirement benefit, a factor that reduces the normal retirement amount by 0.5 percent per month for each month that the retirement precedes the normal retirement age.
 - (d) The basis of the assumptions for the reduced benefit actuarial adjustment factors from January 1, 1981 through June 30, 1983 are
 - (1) for an indebtedness amount owed, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate of 6.0 percent;
 - (2) for an early retirement benefit, a unisex factor set using a 50 percent to 50 percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U, with an annual interest rate for a member with a whole age of 50 through 54 that varies from 8.25 percent to 8.53 percent, respectively, with varying rates in between for other ages.
 - (e) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1983 through June 30, 1986 are
 - (1) for the 50 percent or 75 percent joint and survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 8.98 percent through 9.78 percent, respectively, with varying rates in between for other ages;
 - (2) for the 66 2/3 last survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 9.10 percent through 10.58 percent, respectively, with varying rates in between for other ages;

- (3) for an indebtedness amount owed, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate of 8.0 percent;
 - (4) for an early retirement benefit, a unisex factor set using a fifty percent to fifty percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U, with an annual interest rate for the whole age of 50 through 54 varying from 9.98 percent to 10.24 percent, respectively, with varying rates in between for other ages.
- (f) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1986 are
- (1) for the 50 percent or 75 percent joint and survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 8.98 percent through 9.78 percent, respectively, with varying rates in between for other ages;
 - (2) for the 66 ²/₃ last survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 9.10 percent through 10.58 percent, respectively, with varying rates in between for other ages;
 - (3) for an indebtedness amount owed, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate of 8.0 percent;
 - (4) for an early retirement benefit from July 1, 1986 a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate for the whole age of 55 through 59 varying from 7.67 percent to 7.62 percent, respectively, with varying rates in between for other ages.

HISTORY: Eff. 12/19/2003, Register 172

AUTHORITY: AS 14.25.022, AS 14.25.035

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.269 was effective 12/19/2003, it was not published until Register 172, January 2005.

ARTICLE 4.
Service Under the Defined Benefit Plan
(AS 14.25.009 - 14.25.220)

Section

- 270. Crediting territorial service claimed under AS 14.25.105 and military service claimed under AS 14.25.100.
- 275. Calculation of proportionate part-time service credit.
- 278. Credited service claims filed after retirement.
- 280. Leave of absence without pay.
- 290. Service credit for unused sick leave.

2 AAC 36.270. Crediting Territorial Service Claimed Under AS 14.25.105 and Military Service Claimed Under AS 14.25.100.

- (a) Credited service under AS 14.25.105 or AS 14.25.100 is granted on the basis of one calendar day of service credit for each day of permanent employment rendered to the Territory of Alaska or each day of active membership in the armed forces of the United States. For the purposes of this subsection, “permanent employment” means the employee was actively working and receiving compensation for personal services rendered or was on approved paid leave. Regularly scheduled days off and holidays are considered days of permanent employment.
- (b) To calculate the correct amount of credited service under AS 14.25.105, the beginning employment date is subtracted from the ending employment date by utilizing the PERS “decimal fractions of a year chart.” Any resulting decimal fraction is rounded down to the nearest tenth of a year. For example, 0.984 equals nine-tenths of a year, not 1.0 year.
- (c) To calculate the correct amount of credited service under AS 14.25.100, the beginning date of active service is subtracted from the ending date of active service by utilizing the PERS “decimal fractions of a year chart.” Any resulting decimal fraction is rounded down to the nearest

tenth as indicated above. Dates must be obtained from a DD Form 214 or discharge certificate. There must be a separate verification document for each period of service.

HISTORY: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.100, AS 14.25.105, AS 14.25.220

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.270, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.275. Calculation of Proportionate Part-Time Service Credit.

Part-time service credit is calculated by multiplying the number of contract days worked in the school year, not to exceed 172 days, by the percent representing the ratio of part-time service to full-time service. The result is the proportionate number of days worked for the school year that are credited according to the formula contained in AS 14.25.220(45) for "years of service".

HISTORY: Eff. 3/18/2004, Register 172

AUTHORITY: AS 14.25.022, AS 14.25.035, AS 14.25.220

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.275 was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.278. Credited Service Claims Filed After Retirement.

A claim for credited service served before retirement but which is not filed until after appointment to retirement benefits is effective as of the first of the month following the date the claim is received. The system is not liable for any benefits based upon the newly claimed service before that date.

HISTORY: Eff. 3/18/2004, Register 172

AUTHORITY: AS 14.25.022, AS 14.25.035, AS 14.25.143

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.278 was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.280. Leave of Absence Without Pay.

A member may accrue service credit for periods of leave without pay (LWOP), provided an indebtedness has been established for this service. Periods of LWOP may not be used to satisfy the credited service requirements for normal or early retirement. Periods of LWOP may not be used to satisfy vesting requirements.

HISTORY: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.20.345, AS 14.25.003

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.280, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.290. Service Credit for Unused Sick Leave.

- (a) A member may apply to the administrator to have unused sick leave credited toward the member's retirement. The application must be in a form approved by the administrator. The application must present the member's full and entire claim for accrued unused sick leave credit as reflected by the records of the member's last employer preceding appointment to retirement, unless the member submits an additional claim for unused sick leave for TRS service with the University of Alaska under (b) of this section.
- (b) A member who has unused sick leave for TRS service with the University of Alaska may submit an application for that unused sick leave and an application for unused sick leave for employment with other TRS employers.
- (c) An application to credit unused sick leave toward appointment to retirement must contain, or be accompanied by, a certified statement by the employer that confirms the amount of the member's unused sick leave.
- (d) Unused sick leave approved for credit by the administrator under this section is credited toward retirement under this subsection. Only full days of unused sick leave are credited for appointment to retirement. Unused sick leave of 172 days is credited as one full year of service credit. Unused sick leave in excess of 172 days is counted on a day-

for-day basis for additional service credit. All service credit is granted in accordance with the table for partial year credit referred to in AS 14.25.220(40).

HISTORY: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.115, AS 14.25.220

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.290, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

ARTICLE 6.
Miscellaneous Provisions Relating to the
Defined Benefit Plan

Section

- 800. Interest.
- 802. Payment of remaining indebtedness at retirement.
- 804. Calculation of average base salary for teachers with sabbatical leave.
- 806. Calculation of average base salary and TRS contribution amounts.
- 808. Calculation of indebtedness for territorial service claimed under AS 14.25.105.
- 810. Writing off small indebtedness balances and refunds.
- 820. Release of information. **[Repealed 1/7/01]**
- 830. Adoption of unisex tables.
- 835. Assignment of a portion of an employee contribution account to an alternate payee. **[Repealed 1/13/10]**
- 840. Employers to supply employment records. **[Repealed 7/20/06]**
- 850. Membership criteria for University of Alaska personnel.
- 860. Sabbatical leave for University of Alaska employees.
- 870. Supervisors within the Department of Education and Early Development. **[Repealed 1/7/01]**
- 880. Surviving spouse or member's spouse. **[Repealed 7/20/06]**
- 890. Certification of teachers. **[Repealed 1/13/10]**

2 AAC 36.800. Interest.

- (a) Effective July 1, 1974, the interest rate on arrearage, retroactive and reinstatement contributions to the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) is seven percent compounded annually on June 30.

- (b) Effective June 30, 1974, the interest rate on member contribution accounts in the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) is four and one-half percent compounded annually on June 30.
- (c) Interest on member contribution accounts in the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) will be credited on contributions which are due for the preceding school year and are transmitted by July 15 of the succeeding school year. The date of postmark is the transmittal date. The system is not liable for interest on contributions that cannot be posted to the member contribution account.
- (d) Compound interest as prescribed for arrearage indebtedness, retroactive indebtedness and reinstatement indebtedness to the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) commences on the date specified by law. If a law permits the establishment of an indebtedness not previously authorized, then the interest commences the date of the enactment of the law or the date the member joins the system, whichever is later.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

2 AAC 36.802. Payment of Remaining Indebtedness at Retirement.

A member with an indebtedness to the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) who wishes to pay off the balance of that indebtedness, including accrued interest, must pay off the balance before the member's retirement benefit begins. Once the member is appointed to retirement, the application of a lifetime actuarial reduction to the member's benefits based upon any indebtedness balance may not be changed. Any indebtedness payments received after the member has been appointed to a retirement benefit will be refunded to the member.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003 AS 14.25.063

2 AAC 36.804. Calculation of Average Base Salary for Teachers with Sabbatical Leave.

The salary actually paid to a teacher during the time the teacher was on sabbatical leave may be used in calculating the average base salary for retirement purposes under the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220). The salary that the teacher would have earned had the teacher continued in full-time teaching may not be used in calculating average base salary for retirement purposes.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.20.310, AS 14.25.003, AS 14.25.220

2 AAC 36.806. Calculation of Average Base Salary and TRS Contribution Amounts.

The reduction of wages authorized under AS 14.25.150(c) does not affect the determination of “base salary” (AS 14.25.220) or the determination of “average base salary” (AS 14.25.220) under the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220). The amounts of plan contributions and benefits are based on the full wages prior to the reduction made under AS 39.30.150(c).

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.220

2 AAC 36.808. Calculation of Indebtedness for Territorial Service Claimed Under AS 14.25.105.

- (a) The amount of the retroactive contributions for territorial service claimed under AS 14.25.105 equals the amount of the contributions that the member would have made to the system had the service been creditable at the time it was rendered.
- (b) Compound interest at the prescribed rate shall be added to the retroactive indebtedness for the territorial service credit beginning July 1, 1980, or the date on which the member first attains 15 years of membership service, whichever is later.

HISTORY: Eff. 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.105

2 AAC 36.810. Writing off Small Indebtedness Balances and Refunds.

- (a) Indebtedness balances of \$50 or less under the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) are written off.
- (b) Refunds of \$50 or less under the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) are written off.

HISTORY: In effect before 10/21/83, Register 93; am 1/7/2001, Register 159; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

2 AAC 36.830. Adoption of Unisex Tables.

The defined benefit plan of the teachers' retirement system (AS 14.25.009 - 14.25.220) shall use unisex tables containing unisex early retirement factors, unisex indebtedness factors, and unisex joint and survivor option factors in all appropriate computations.

HISTORY: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

2 AAC 36.850. Membership Criteria for University of Alaska Personnel.

- (a) AS 14.25.220(38) and this section govern the membership in the TRS of all University of Alaska personnel.
- (b) The University of Alaska shall designate all current University of Alaska positions as PERS, TRS or nonapplicable. Any new position must be designated in the same manner. TRS members are those employees in positions not subject to formal job evaluations or classifications but which are required to be filled by persons having

academic standing and accorded the rank of professor, assistant professor, associate professor or instructor, and whose salaries are dependent on their academic rank.

- (c) Final approval of the designation of positions and the membership of employees shall be made by the administrator of the teachers' retirement system.
- (d) An employee or former employee who, on November 30, 1984, occupies a position or occupied a position designated under (b) of this section for a retirement system different from the one currently assigned to the position, shall either: (1) irrevocably elect to remain under that system; or (2) elect to be placed retroactively in the retirement system designated for that position. The employee must make this election before January 1, 1986. Failure to make an election by that date results in the employee remaining in the retirement system that he or she is in on November 30, 1984, and he or she must continue to participate in that system until termination or transfer to another position.
- (e) An employee electing retroactive PERS service must be refunded the difference in mandatory contributions between what was contributed plus interest and what should have been contributed in the PERS including interest at the rate prescribed in that system. An employee electing retroactive TRS coverage is indebted to the system for any additional contributions represented by the difference in what the member contributed and what should have been contributed. The University shall make all necessary employer contribution adjustments.
- (f) An employee hired or rehired into a TRS-designated position must become a member of the TRS. A TRS-designated position may not be retroactively changed to PERS after January 1, 1986.
- (g) A vacant position which is classified as a TRS-covered position may not be transferred to PERS coverage without prior written approval of the administrator.

HISTORY: In effect before 10/21/83; am 11/30/84, Register 93; am 5/13/85, Register 99; readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.220

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.850, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

2 AAC 36.860. Sabbatical Leave for University of Alaska Employees.

A teacher who is a member of the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220) and who is on sabbatical leave approved by the University of Alaska is entitled to receive membership service credit under the plan for that period of time the member is on approved sabbatical leave. Contributions must be made to the system based upon the salary that the member would have earned during the school year the member was on sabbatical leave had the member continued in full-time teaching for that same school year for the same employer.

HISTORY: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.20.330, AS 14.25.003, AS 14.25.220

ARTICLES 7-9. Reserved

ARTICLE 10. General Provisions

Section

990. Definitions.

2 AAC 36.990. Definitions.

- (a) In this chapter, unless the context otherwise requires “division” means the division of retirement and benefits in the Department of Administration.
- (b) In AS 14.25.006, “decision made by the administrator” means a decision in a matter over which the administrator has control, and does not include a decision made by an employer.
- (c) In AS 14.25.173(a), “change or error... in the records maintained by the system” means a correction or mistake made in the records as a result of the entry of incorrect information about a member into the records.
- (d) In AS 14.25.040, “membership” is further defined as the point when a member meets the definition in AS 14.25.220(1).
- (e) [Repealed 7/20/2006]
- (f) In AS 14.25.470, “service” means membership service as defined in AS 14.25.590.
- (g) For purposes of AS 14.25.130(e) and AS 14.25.485(b), “recovers from the disability” means that the member becomes capable of performing the duties required of a teacher.
- (h) For purposes of AS 14.25.155, AS 14.25.157, AS 14.25.160, AS 14.25.162, and AS 14.25.164, the phrase “surviving spouse” or “member’s spouse” means the legal spouse of the member at the time of the member’s death.

- (i) For purposes of AS 14.25.130(3), “eligible for normal retirement” means
- (1) for a member first joining the system before July 1, 1990, reaches age 55 with at least eight years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the disability, to entitle the member to retire under AS 14.25.110(a)(1), (4), (5), (6), or (7), whichever occurs earliest;
 - (2) for a member first joining the system on or after July 1, 1990, reaches age 60 with at least eight years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the disability, to entitle the member to retire under AS 14.25.110(a)(1), (4), (5), (6), or (7), whichever occurs earliest.

HISTORY: Eff. 4/25/97, Register 150; am 4/20/2001, Register 179; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.006, AS 14.25.030, AS 14.25.040, AS 14.25.050, AS 14.25.120, AS 14.25.130, AS 14.25.155, AS 14.25.157, AS 14.25.160, AS 14.25.162, AS 14.25.164, AS 14.25.167, AS 14.25.175, AS 14.25.220

EDITOR’S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.990, except for the heading to 2 AAC 36.990 and 2 AAC 36.990(b), (e), (f), (g), (h), and (i) without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also changed the heading to 2 AAC 36.990, amended 2 AAC 36.990(b), repealed 2 AAC 36.990(e), and adopted four new subsections, 2 AAC 36.990(f), (g), (h), and (i). Chapter 9, FSSLA 2005 eliminated the Teachers’ Retirement Board, and largely transferred the board’s authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

The revisor of regulations relocated the division name from 2 AAC 36.040 to a new definition section, 2 AAC 36.990. Although this division name was listed in 2 AAC 36.040 effective 4/25/97, this relocation was not published until Register 150, July 1999.

Even though the adoption of 2 AAC 36.990 was effective 4/20/2001, it was not published until Register 179, October 2006.

CHAPTER 38

*Employment-Related
Benefits for
Same-Sex Partners of
State Employees and
Retirees Under the State's
Retirement Systems*

Chapter 38

Employment-Related Benefits for Same-Sex Partners of State Employees and Retirees Under the State's Retirement Systems

Section

10. Same-sex partner insurance coverage. **[Repealed 1/1/16]**
30. Enrollment of same-sex partner and same-sex partner's eligible child. **[Repealed 1/1/16]**
50. Imputation of income and effect on pre-tax premiums. **[Partially repealed 1/1/16]**
70. Same-sex partner survivor benefits for a member of a state retirement system who retired before January 1, 2016.
100. Responsibilities and rights of a state employee or member of a state retirement system and same-sex partner.

2 AAC 38.050. Imputation of Income and Effect on Pre-Tax Premiums.

- (a) Income will be imputed for federal tax purposes to
 - (1) a member of a state retirement system who enrolled a same-sex partner or child of a same-sex partner before January 1, 2016 who is not an eligible dependent under 26 U.S.C. 152, without regard to 26 U.S.C. 152(b)(1) and (2) and (d)(1)(B), in group insurance coverage under 2 AAC 38.010, as that section read on December 31, 2015;
 - (2) a same-sex partner of a member of a state retirement system enrolled before January 1, 2016 if the same-sex partner was not an eligible dependent of the member under 26 U.S.C. 152, without regard to 26 U.S.C. 152(b)(1) and (2), and (d)(1)(B), at the time of the member's death and if the same-sex partner was enrolled in group insurance coverage as a survivor of the member under 2 AAC 38.010, as that section read on December 31, 2015.

- (b) The amount of income imputed to a retirement system member or survivor under this section will be based on the fair market value of the coverage provided to the non-dependent same-sex partner as established by the administrator of the state's retiree health plans.
- (c) **[Repealed 1/1/16]**
- (d) **[Repealed 1/1/16]**

HISTORY: Eff. date for medical benefit provisions: 11/12/2006, Register 181; effective date for retirement system benefits provisions: 11/16/2006, Register 181, am 1/1/2016, Register 217.

AUTHORITY: AS 14.25.005, AS 22.25.027, AS 39.30.090, AS 39.35.005, Former AS 39.37.090

EDITOR'S NOTE: The two November 2006 effective dates for the provisions of 2 AAC 38.050 were established by the Alaska Supreme Court in its order of December 19, 2006 in *State of Alaska v. Alaska Civil Liberties Union, et al* (Supreme Court No. S-12480) 159 P.3d 513. 2 AAC 38.050 first appeared in print in the Alaska Administrative Code in Register 181, April 2007.

2 AAC 38.070. Same-Sex Partner Survivor Benefits.

- (a) Survivor benefits for a member of a state retirement system who retired before January 1, 2016 and made an irrevocable designation of a same-sex partner to receive survivor benefits are payable to a same-sex partner designated to the extent the benefits are not payable to a former spouse under the terms of a qualified domestic relations order. A designation by the member of a state retirement system of a same-sex partner to receive survivor benefits must meet the requirements of this section.
- (b) A designation made before January 1, 2016 of a same-sex partner to receive survivor benefits that may be paid to a person other than a spouse under applicable statute is valid to the same extent the designation of any other non-spouse beneficiary is valid under the statute.
- (c) A designation made before January 1, 2016 by a member of a state retirement system of a same-sex partner as beneficiary to receive survivor benefits that are available to a surviving spouse under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, 14.25.167, 14.25.420, 14.25.485, 14.25.487; AS 22.25.030; AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, 39.35.890, 39.35.892; or former AS 39.37.060 is not valid unless the member files with the administrator

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- (1) with the designation of beneficiary an affidavit executed by the member and the same-sex partner declaring under penalty of perjury that they
 - (A) are at least 18 years of age and are each competent to enter into a contract;
 - (B) have been in an exclusive, committed, and intimate relationship with each other for 12 consecutive months before the member's retirement effective date and intend to continue that relationship indefinitely;
 - (C) have resided together at a common primary residence for 12 consecutive months before the member's retirement effective date and intend to reside together indefinitely;
 - (D) consider themselves to be members of each other's immediate family;
 - (E) are not related to each other to a degree of closeness that would preclude them from marrying each other in this state if they were of the opposite sex from each other;
 - (F) are neither one of them legally married to anyone else;
 - (G) have not executed an affidavit affirming same-sex partner status with anyone else within 12 months before the member's retirement effective date;
 - (H) are each other's sole domestic partner and are each responsible for the common welfare of the other;
 - (I) share financial obligations, including joint responsibility for basic living expenses and health care costs;
 - (J) understand that, under applicable federal income tax law, payments for medical coverage of a same-sex partner or child of a same-sex partner may not be eligible for pre-tax treatment, and coverage of a same-sex partner may result in additional imputed taxable income to the covered retirement system member, or survivor and related withholding for pension and annuity taxes; and
 - (K) understand that, in addition to requirements of this section, there are terms and conditions of coverage set out in the state plan of self-insurance for retirees; and

- (2) documentation establishing that the retirement system member and same-sex partner meet at least five of the following criteria:
 - (A) joint interest in real property, as evidenced by title or mortgage, lease, or rental agreement, by the retirement system member and the same-sex partner;
 - (B) joint ownership or purchase of a motor vehicle by the retirement system member and the same-sex partner;
 - (C) joint ownership of a checking, savings, or investment account or joint liability for a loan or credit account by the retirement system member and the same-sex partner;
 - (D) the same-sex partner is named as primary beneficiary for a life insurance policy of the retirement system member;
 - (E) the same-sex partner is named as primary beneficiary for the retirement system member's pension or annuity plan benefits, deferred compensation plan, Individual Retirement Arrangement or Account, 401(k) plan, Keogh plan, or other tax-deferred or taxable plan;
 - (F) the same-sex partner is named as primary beneficiary in the retirement system member's will;
 - (G) the same-sex partner has authority to deal with property owned by the retirement system member under a valid written power of attorney;
 - (H) the retirement system member has given the same-sex partner written authority to make decisions concerning the retirement system member's health and well being if the retirement system member is unable to do so.
- (d) A deceased retirement system member's same-sex partner whom the administrator determines is validly designated as the member's beneficiary to receive survivor benefits has the same rights to survivor benefits, including group insurance and alternative insurance benefits available under the applicable plan, that a surviving spouse would have, and is subject to the same requirements that a surviving spouse would be subject to relating to those benefits.
- (e) After the date of retirement, a retirement system member's revocation of the designation of the member's same-sex partner as the beneficiary

to receive survivor benefits does not change the form or amount of a joint and survivor benefit payable to the member or allow designation of a different beneficiary to receive the joint and survivor benefit.

- (f) A member of a state retirement system who has designated a same-sex partner as beneficiary under this section shall provide written confirmation of the designation, supplementing documentation provided under (c) of this section if that information has changed, upon request of and in the manner requested by the plan administrator. Failure to provide written confirmation requested by the plan administrator may result in ineligibility of the designated same-sex partner for survivor benefits.
- (g) A retirement system member who enrolls a same-sex partner, or same-sex partner and eligible child under (c) of this section, in coverage under this section shall pay any premium established by the plan that the retirement system member is required to pay for comparable coverage for a spouse or spouse and dependent child.
- (h) In this section, “resided together at a common primary residence” requires the member of a state retirement system and the member’s same-sex partner to share the same domicile. The common primary residence can change during the 12-month period set out in (c) of this section. Once a member of a state retirement system and same-sex partner have begun to reside together at a common primary residence, absence by the retirement system member or the same-sex partner required for employment that requires periodic absence from the common primary residence, education, medical reasons, military service, or other reasons determined by the plan administrator will not result in a break in eligibility, as long as the absent retirement system member or same-sex partner intends to return to common primary residence.

HISTORY: Effective date for medical benefits provisions: 11/12/2006, Register 181; effective date for retirement systems benefits provisions: 11/16/2006, Register 181; am 1/1/2016, Register 217

AUTHORITY: AS 14.25.005, AS 22.25.027, AS 39.35.005, Former AS 39.37.090

EDITOR’S NOTE: The two November 2006 effective dates for the provisions of 2 AAC 38.070 were established by the Alaska Supreme Court in its order of December 19, 2006 in *State of Alaska v. Alaska Civil Liberties Union, et al* (Supreme Court No. S-12480) 159 P.3d 513. 2 AAC 38.070 first appeared in print in the Alaska Administrative Code in Register 181, April 2007.

2 AAC 38.100. Responsibilities and Rights of a State Employee or Member of a State Retirement System and Same-Sex Partner.

- (a) It is the responsibility of a member of a state retirement system to comply with all requirements of an insurance, retirement, or benefit plan or program, including all application, designation, affidavit, and documentation requirements, in order to provide or allow provision of benefits to the retirement system member's same-sex partner. Except when specifically provided by this chapter or the terms of an insurance, retirement, or benefit plan or program, a retirement system member's compliance with the application, affidavit, and documentation requirements of a plan or program does not entitle the retirement system member's same-sex partner to rights or benefits under a different plan or program.
- (b) Nothing in this chapter supersedes the requirements of a court order regarding rights or benefits of a former spouse or dependents of a retirement system member.
- (c) Nothing in this chapter provides, or allows the provision of, any right or benefit to the same-sex partner of a retirement system member that would not be available to the spouse of the retirement system member.

HISTORY: Eff. date for medical benefit provisions: 11/12/2006, Register 181; effective date for retirement system benefits provisions: 11/16/2006, Register 181 ; am 1/1/2016, Register 217.

AUTHORITY: AS 14.25.005, AS 22.25.027, AS 39.30.090, AS 39.35.005, Former AS 39.37.090

EDITOR'S NOTE: The two November 2006 effective dates for the provisions of 2 AAC 38.100 were established by the Alaska Supreme Court in its order of December 19, 2006 in *State of Alaska v. Alaska Civil Liberties Union, et al* (Supreme Court No. S-12480) 159 P.3d 513. 2 AAC 38.100 first appeared in print in the Alaska Administrative Code in Register 181, April 2007.

CHAPTER 39

Group Health and Life Insurance

Chapter 39

Group Health and Life Insurance

Article

1. Long-Term Care Insurance. (2 AAC 39.010 - 2 AAC 39.100)
2. Dental-Vision-Audio Insurance. (2 AAC 39.210 - 2 AAC 39.290)
3. Major Medical Insurance. (2 AAC 39.300 - 2 AAC 39.399)
4. Appeals From Denials of Medical Claims Under the Medical Coverage Provided by the Public Employee's Retirement System. (2 AAC 39.500 - 2 AAC 39.590)
5. Appeals From Denials of Medical Claims Under the Medical Coverage Provided by the Teachers' Retirement System. (2 AAC 39.600 - 2 AAC 39.690)
6. Miscellaneous Provisions. (2 AAC 39.900 - 2 AAC 39.925)
7. Waiver of Coverage. (2 AAC 39.950 - 2 AAC 39.995)

ARTICLE 1. Long-Term Care Insurance

Section

10. Eligibility and coverage.
20. Application for long-term care insurance.
30. Implementation of the long-term care insurance plan for existing benefit recipients. **[Repealed 2/1/93]**
40. Date of application.
50. Premium payments for long-term care coverage.
60. Effective date of long-term care insurance coverage.
70. Changes in coverage.
80. Discontinuation of long-term care insurance coverage.
90. Change by the administrator in coverage and premiums.
95. Postmark.
100. Definitions for 2 AAC 39.010 - 2 AAC 39.100.

2 AAC 39.010. Eligibility and Coverage.

- (a) Except as provided in (b) and (c) of this section, a benefit recipient may apply for long-term care insurance on an individual or joint basis by applying in accordance with 2 AAC 39.020.
- (b) A spouse who is receiving a survivor benefit may elect to obtain long-term care insurance on an individual basis only.
- (c) A dependent child who is receiving a survivor benefit may not elect long-term care insurance.
- (d) Individual long-term care insurance covers only the benefit recipient. Joint long-term care insurance covers the benefit recipient and the benefit recipient's spouse. Coverage will be limited for long-term care necessitated by a pre-existing condition.

- (e) A spouse who is not receiving a survivor benefit, and whose long-term care insurance coverage under a benefit recipient's joint coverage is discontinued as a result of divorce from or death of the benefit recipient, may elect to continue that coverage on an individual basis by paying the premium established by the administrator as provided in 2 AAC 39.050(b).

HISTORY: Eff. 11/12/86, Register 100; am 5/31/87, Register 102; am 5/11/90, Register 114; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.020. Application for Long-Term Care Insurance.

- (a) A benefit recipient who elects long-term care insurance shall apply for that insurance on a form provided by the administrator. Except as provided in (b) and (c) of this section, application for that insurance must be made before the effective date of retirement.
- (b) A person applying for a survivor benefit and electing long-term care insurance shall submit an application for that insurance when the person applies for the survivor benefit.
- (c) A person applying for a disability benefit and electing long-term care insurance shall submit an application for that insurance within 60 days of the person's approval for the disability benefit.
- (d) A spouse who elects to continue coverage under 2 AAC 39.010(e) shall make the election on a form provided by the administrator. The election must be made no later than 60 days after the spouse's coverage under a benefit recipient's joint coverage is discontinued. Retroactive premiums are required to prevent a lapse in coverage.
- (e) Failure to make timely application as provided in (a) through (d) of this section will result in the loss of all rights to apply for or obtain long-term care insurance under this chapter. The administrator may waive this requirement if extraordinary circumstances are demonstrated to the satisfaction of the administrator. Need, or the awareness of need, for long-term care insurance arising after the application period has ended is not an extraordinary circumstance.

HISTORY: Eff. 11/12/86, Register 100; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

PUBLISHER'S NOTE: Pursuant to instruction from the department of law, the reference to 2 AAC 39.010(b) in the first sentence in subsection (d) of this regulation has been changed to 2 AAC 39.010(e) as of Register 114 (July 1990).

2 AAC 39.040. Date of Application.

The date of postmark of the application or the date of receipt of the application by the administrator, whichever is earlier, is the date of application for long-term care insurance coverage.

HISTORY: Eff. 11/12/86, Register 100

AUTHORITY: AS 39.30.090(a)

2 AAC 39.050. Premium Payments for Long-Term Care Coverage.

- (a) A benefit recipient who elects long-term care insurance coverage must pay for that coverage by paying the premium established by the administrator. Premium payments are deducted from the monthly benefit warrant unless the benefit is insufficient to permit the deduction of the full monthly premium. If at any time the benefit amount is insufficient to cover the full long-term care insurance premium, the administrator will notify the benefit recipient, and premium payments due after the notice must be made by the recipient directly to the insurance carrier.
- (b) A spouse who elects to continue coverage under 2 AAC 39.010(e) shall pay the premium established by the administrator directly to the insurance carrier.
- (c) A plan participant who pays a premium directly to the insurance carrier forfeits the right to participate in the plan if
 - (1) a premium payment is delinquent by more than 60 days; or
 - (2) premium payments are delinquent twice in any one calendar year by more than 31 days.

- (d) A plan participant who must pay premiums directly to the insurance carrier must pay any retroactive premiums necessary to avoid a lapse in coverage.

HISTORY: Eff. 11/12/86, Register 100; am 1/29/89, Register 109

AUTHORITY: AS 39.30.090(a)

2 AAC 39.060. Effective Date of Long-Term Care Insurance Coverage.

- (a) Except as provided in (b) of this section, long-term care insurance coverage for a benefit recipient begins on the date that continuing monthly benefits begin.
- (b) Long-term care insurance coverage for a benefit recipient receiving a disability benefit is effective on the first day of the calendar month after the month in which the premium is first deducted.
- (c) Retroactive premiums will be deducted as necessary.

HISTORY: Eff. 11/12/86, Register 100; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.070. Changes in Coverage.

- (a) A benefit recipient may change long-term care insurance coverage from joint coverage to individual coverage at any time. Once joint coverage has been discontinued, it may only be reelected in accordance with (b) of this section.
- (b) A benefit recipient may change from individual long-term care insurance coverage to joint coverage only when the benefit recipient marries. A spouse who wants coverage shall complete a health statement and will be subject to approval or denial by the long-term care insurance carrier.
- (c) An application for a change in long-term care insurance coverage from individual to joint coverage or from joint to individual coverage must be submitted in writing and is subject to verification by the administrator. Application for a change from individual coverage to

joint coverage must be made within 120 days after the marriage of the benefit recipient. A change in coverage based on an application that is postmarked or received on or before the 15th day of a month will be effective on the first day of the next calendar month. A change in coverage based on an application that is postmarked or received after the 15th day of a month will be effective no later than the first day of the second month after the date of postmark or receipt of the application. Retroactive adjustments of premiums will be made if necessary.

HISTORY: Eff. 11/12/86, Register 100; am 5/31/87, Register 102; am 1/29/89, Register 109; am 5/11/90, Register 114; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.080. Discontinuation of Long-Term Care Insurance Coverage.

- (a) A benefit recipient may discontinue participation in the long-term care insurance plan at any time by submitting a signed, written request to the administrator. If the request is received or postmarked on or before the 15th day of a month, the administrator will stop premium payments in that month. If the request is received or postmarked after the 15th day of a month, premiums will be stopped no later than the month following the date of receipt or postmark. Coverage ends on the last day of the month after the month in which the last premium is deducted.
- (b) A person who is paying premiums directly to the insurance carrier may discontinue participation in the long-term care insurance plan at any time by submitting a signed, written request to the insurance carrier. Coverage ends on the last day of the month for which the last premium was paid.
- (c) A person who has elected continued coverage and who then discontinues coverage may not reapply for the coverage.

HISTORY: Eff. 11/12/86, Register 100; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.090. Change by the Administrator in Coverage and Premiums.

If necessary to maintain the financial integrity of the plan, the administrator may change the premiums for all plan participants and may change the terms of coverage for plan participants who are not receiving long-term care insurance benefits.

HISTORY: Eff. 11/12/86, Register 100

AUTHORITY: AS 39.30.090(a)

2 AAC 39.095. Postmark.

If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the division.

HISTORY: Eff. 5/11/90, Register 114

AUTHORITY: AS 39.30.090(a)

2 AAC 39.100. Definitions.

In 2 AAC 39.010 - 2 AAC 39.100, unless the context requires otherwise,

- (1) “administrator” means the director of the division of retirement and benefits in the department of administration;
- (2) “benefit recipient” means a person who is receiving a continuing monthly benefit from the public employees’, teachers’, judicial, or elected public officers retirement systems;
- (3) “pre-existing condition” means a medical condition that has been diagnosed or treated within the 90 days before the effective date of coverage;
- (4) “postmark” means the official cancellation stamp, used by the United States Post Office, that records the date and place of mailing;
- (5) “disability benefit” means a continuing monthly benefit paid under AS 14.25.130, AS 39.35.400, AS 39.35.410, AS 22.25.101(b), or former AS 39.37.030;

- (6) “survivor benefit” means a continuing monthly benefit paid to a spouse or dependent child under AS 14.25.155, 14.25.157, 14.25.162, 14.25.164, 14.25.167, AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, AS 22.25.030, or former AS 39.37.060.

HISTORY: Eff. 11/12/86, Register 100; am 5/31/87, Register 102; am 5/11/90, Register 114; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090(a)

ARTICLE 2. Dental-Vision-Audio Insurance

Section

- 210. Eligibility and coverage.
- 220. Application for dental-vision-audio insurance.
- 230. Date of application.
- 240. Premium payments.
- 250. Effective date of dental-vision-audio insurance coverage.
- 260. Changes in coverage.
- 265. Open enrollment period.
- 270. Discontinuation of dental-vision-audio insurance coverage.
- 280. Change by the administrator in coverage and premiums.
- 285. Postmark.
- 290. Definitions for 2 AAC 39.210 - 2 AAC 39.290.

EDITOR'S NOTE: Regulations in this article, showing an effective date of 7/1/82, were adopted in 1982 but were not printed in the Alaska Administrative Code until their amendment in 1987.

2 AAC 39.210. Eligibility and Coverage.

A benefit recipient may elect to obtain dental-vision-audio insurance on (1) an individual, (2) an individual plus spouse, (3) an individual plus children, or (4) a family basis by applying in accordance with 2 AAC 39.220. Individual dental-vision-audio insurance covers the benefit recipient only. Individual plus spouse dental-vision-audio insurance covers the benefit recipient and spouse. Individual plus children dental-vision-audio insurance covers the benefit recipient and all eligible dependent children. Family dental-vision-audio insurance covers the benefit recipient, the benefit recipient's spouse, and all eligible dependent children.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 1/29/89, Register 109; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.220. Application for Dental-Vision-Audio Insurance.

- (a) A benefit recipient who elects dental-vision-audio insurance shall apply for that insurance on a form provided by the administrator. Except as otherwise provided in this section, application for that insurance must be made before the effective date of retirement.
- (b) A person applying for a survivor benefit and electing dental-vision-audio insurance shall submit an application for that insurance when the person applies for the survivor benefit.
- (c) A person applying for a disability benefit and electing dental-vision-audio insurance shall submit an application for that insurance within 60 days of the person's approval for the disability benefit.
- (d) A new law benefit recipient who elects major medical insurance under AS 14.25.168(d) or AS 39.35.535(c) is eligible to apply for dental-vision-audio insurance under (a) - (c) of this section, or during an open enrollment period under 2 AAC 39.265.
- (e) Failure to make timely application as outlined in (a) - (d) of this section will result in the loss of all rights to apply for or obtain dental-vision-audio insurance under this chapter. The administrator may waive this requirement if extraordinary circumstances are demonstrated to the satisfaction of the administrator. Need, or the awareness of need, for dental-vision-audio insurance arising after the application period has ended is not an extraordinary circumstance.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.230. Date of Application.

The date of postmark of the application or, if the application does not bear a dated postmark, the date of receipt of the application by the administrator, is the date of application for dental-vision-audio insurance coverage.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102

AUTHORITY: AS 39.30.090(a)

2 AAC 39.240. Premium Payments.

- (a) A benefit recipient who elects dental-vision-audio insurance coverage must pay for that coverage by paying the premium established by the administrator. Premium payments are deducted from the monthly benefit warrant unless the benefit is insufficient to permit the deduction of the full monthly premium. If at any time the benefit amount is insufficient to cover the full monthly premium, the administrator will notify the benefit recipient, and all premium payments due after the notice must be made by the benefit recipient directly to the insurance carrier. Retroactive premiums, to the date coverage would have lapsed due to an insufficient benefit warrant, must be paid directly to the insurance carrier by the benefit recipient.
- (b) A benefit recipient who pays a premium directly to the insurance carrier forfeits the right to participate in the plan if
 - (1) a premium payment is delinquent by more than 60 days; or
 - (2) premium payments are delinquent twice in any one calendar year by more than 31 days.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 1/29/89, Register 109

AUTHORITY: AS 39.30.090(a)

2 AAC 39.250. Effective Date of Dental-Vision-Audio Insurance Coverage.

- (a) Except as provided in (b) and (c) of this section, dental-vision-audio insurance coverage for a benefit recipient begins on the date that continuing monthly benefits begin.
- (b) Dental-vision-audio coverage for a benefit recipient receiving a disability benefit is effective on the first day of the calendar month after the month in which the premium is first deducted.
- (c) Dental-vision-audio coverage for a new law benefit recipient, who makes an election of major medical and dental-vision-audio insurance during an open enrollment period, is effective on January 1 of the year following the open enrollment period.
- (d) Retroactive premiums will be deducted as necessary.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.260. Changes in Coverage.

- (a) A benefit recipient may discontinue dental-vision-audio insurance coverage for a recipient's covered dependent at any time. Once coverage has been discontinued it may be reelected only in accordance with (b) or (d) of this section.
- (b) A benefit recipient may add coverage for the recipient's eligible dependents only when a change has occurred in the recipient's family structure. A change in family structure occurs at the marriage of a recipient or at the birth or adoption of a first child. Application for the additional coverage must be made within 120 days after the change in the recipient's family structure occurs.
- (c) An application for a change in coverage must be submitted in writing and is subject to verification by the administrator. A change in coverage based on an application that is postmarked or received on or before the 15th of a month, will be effective on the first day of the next calendar month. A change in coverage based on an application that is postmarked or received after the 15th of a month, will be effective no later than the first day of the second month after the date of postmark or receipt of the application. Retroactive adjustments of premiums will be made if necessary.
- (d) A new law benefit recipient who elects major medical insurance coverage under AS 14.25.168(d) or AS 39.35.535(c) may add dependent children or spouse coverage during an open enrollment period under 2 AAC 39.265.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 8/5/88, Register 107; am 1/29/89, Register 109; am 5/11/90, Register 114; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090(a)

2 AAC 39.265. Open Enrollment Period.

An open enrollment period will be held once a year during the months of October and November for new law benefit recipients who elect major medical insurance coverage under AS 14.25.168(d) or AS 39.35.535(c). Only during this open enrollment period may a new law benefit recipient add or change dental-vision-audio insurance coverage and only if the recipient selects the same or greater level of major medical insurance coverage under 2 AAC 39.300.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.270. Discontinuation of Dental-Vision-Audio Insurance Coverage.

- (a) A benefit recipient may discontinue participation in the dental-vision-audio insurance plan at any time by submitting a signed, written request to the administrator. If the request is received or postmarked on or before the 15th day of the month, the administrator will stop premium payments in that month. If the request is received or postmarked after the 15th day of a month, premiums will be stopped no later than the month following the date of receipt or postmark. Coverage ends on the last date of the month after the month in which the last premium is deducted.
- (b) A participant who is paying premiums directly to the insurance carrier may discontinue participation in the dental-vision-audio insurance plan at any time by submitting a signed, written request to the insurance carrier. Coverage ends on the last day of the month for which the last premium was paid.
- (c) Once dental-vision-audio insurance coverage ends under this section it may not be reinstated except as provided in 2 AAC 39.265.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

2 AAC 39.280. Change by the Administrator in Coverage and Premiums.

When necessary to maintain the financial integrity of the plan, the administrator may change the premiums and the terms of coverage.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102

AUTHORITY: AS 39.30.090(a)

2 AAC 39.285. Postmark.

If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the division.

HISTORY: Eff. 5/11/90, Register 114

AUTHORITY: AS 39.30.090(a)

2 AAC 39.290. Definitions.

In 2 AAC 39.210 - 2 AAC 39.290, unless the context otherwise requires

- (1) “administrator” means the director of the division of retirement and benefits of the department of administration;
- (2) “benefit recipient” means a person who is receiving a continuing monthly benefit from the public employees’, teachers’, judicial, or elected public officers retirement systems;
- (3) “postmark” means the official cancellation stamp used by the United States Post Office, that records the date and place of mailing.
- (4) “disability benefit” means a continuing monthly benefit paid under AS 14.25.130, AS 39.35.400, 39.35.410, AS 22.25.010(b), or former AS 39.37.030;
- (5) “new law benefit recipient” means a person under the age of 65 who is receiving or is qualified to receive a

- (A) continuing monthly benefit under the Public Employees' Retirement System and who was first hired after June 30, 1986;
 - (B) continuing monthly benefit under the Teachers' Retirement System and who was first hired after June 30, 1990; or
 - (C) survivor benefit as the survivor of a person described in (A) or (B) of this paragraph;
- (6) “survivor benefit” means a continuing monthly benefit paid to a spouse or dependent child under AS 14.25.155, 14.25.157, 14.25.162, 14.25.164, 14.25.167, AS 22.25.030, AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, or former AS 39.37.060.

HISTORY: Eff. 7/1/82; am 5/31/87, Register 102; am 5/11/90, Register 114; am 2/1/93, Register 125

AUTHORITY: AS 39.30.090

ARTICLE 3.

Major Medical Insurance

Section

- 300. Eligibility and coverage.
- 310. Application for major medical insurance.
- 320. Date of application.
- 330. Premium payments.
- 340. Effective date of major medical insurance coverage.
- 350. Changes in major medical insurance coverage.
- 360. Open enrollment period.
- 370. Pre-existing condition limitation.
- 380. Discontinuation of major medical insurance coverage.
- 390. Change by the administrator in major medical insurance coverage and premiums.
- 399. Definitions for 2 AAC 39.300 - 2 AAC 39.399.

2 AAC 39.300. Eligibility and Coverage.

- (a) A new law benefit recipient who elects to purchase major medical insurance under AS 14.25.168(d) or AS 39.35.535(c) may purchase that insurance on (1) an individual, (2) an individual plus spouse, (3) an individual plus children, or (4) a family basis, by applying for coverage in accordance with 2 AAC 39.310.
- (b) An alternate payee who elects major medical insurance under AS 14.25.168(c), AS 22.25.090(d), or AS 39.35.535(d) may purchase that insurance on an individual or an individual plus children basis.
- (c) Individual major medical insurance covers the benefit recipient or alternate payee only. Individual plus spouse major medical insurance covers the benefit recipient and spouse. Individual plus children major medical insurance covers the benefit recipient or alternate payee, and all eligible dependent children. Family major medical insurance covers the benefit recipient, the benefit recipient's spouse, and all eligible dependent children.

- (d) A peace officer or firefighter may elect major medical insurance coverage as a disabled member under AS 39.35.535(c)(2)(B), if all of the following apply:
- (1) the peace officer or firefighter is eligible for normal retirement benefit under AS 39.35.370(a)(2), but has not yet elected normal retirement;
 - (2) the peace officer or firefighter has less than 25 years of credited service as a peace officer or firefighter;
 - (3) the peace officer or firefighter becomes eligible for but has not elected an occupational disability benefit under AS 39.35.410(h);
 - (4) the administrator has determined that the police officer or firefighter is eligible for medical benefits under AS 39.35.535(c)(2)(B).
- (e) A peace officer or firefighter may apply to the administrator for a determination of eligibility for medical benefits under AS 39.35.535(c)(2)(B) before employment is terminated. A determination by the administrator finding eligibility for medical benefits under AS 39.35.535(c)(2)(B) is void if the employee fails to terminate employment within 30 days of the date of the determination. Additionally, the following standards apply:
- (1) A peace officer or firefighter who fails to file an application for medical benefits under AS 39.35.535(c)(2)(B) within the time established by this section forfeits the right to apply, unless the person demonstrates to the administrator there are extraordinary circumstances that prevented the person from meeting the deadline. Extraordinary circumstances may include being adjudged as incompetent or confined to a hospital, but do not include lack of information or mere neglect.
 - (2) If a final determination granting medical benefits under AS 39.35.535(c)(2)(B) is not made in time to pay the benefit when due, a retroactive payment shall be made to cover the period of deferment.
- (f) The administrator shall determine eligibility for medical benefits under AS 39.35.535(c)(2)(B) for a peace officer or firefighter who is eligible for but has not elected occupational disability benefits, and appoint the eligible peace officer or firefighter to normal retirement. The administrator requires medical documentation substantiating both

the disability and causation. The administrator may require the peace officer or firefighter to provide additional information and to submit to an examination by one or more physicians of the administrator's choosing at the division's expense. Additionally, the following standards apply:

- (1) A peace officer or firefighter electing medical insurance coverage as a disabled member who is appointed to normal retirement AS 39.35.535(c)(2)(B) must establish eligibility by
 - (A) terminating employment because of the peace officer's or firefighter's occupational disability; and
 - (B) filing an application for medical benefits under AS 39.35.535(c)(2)(B) within 90 days of the date of termination of employment.
- (2) Eligibility for medical benefits under AS 39.35.535(c)(2)(B) ceases when a peace officer or firefighter recovers from an occupational injury or illness before reaching age 60. The administrator may, in the administrator's discretion, require a member to submit to an examination by one or more physicians of the administrator's choosing at the division's expense no more frequently than every two years.

HISTORY: Eff. 2/1/93, Register 125; am 7/9/2010, Register 195

AUTHORITY: AS 14.25.168, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.005, AS 39.35.370, AS 39.35.410, AS 39.35.535

2 AAC 39.310. Application for Major Medical Insurance.

- (a) A new law benefit recipient who elects major medical insurance must apply on a form provided by the administrator before the recipient's retirement date. A new law benefit recipient applying for a survivor benefit and electing major medical insurance must submit an application for that insurance when applying for the survivor benefit. Failure of a new law benefit recipient to make timely application under this subsection will result in the loss of all rights to apply for or obtain major medical insurance under this chapter.
- (b) An alternate payee who elects major medical insurance must apply on a form provided by the administrator within 60 days after the first

monthly benefit paid under a qualified domestic relations order is mailed or otherwise delivered to the alternate payee. Failure of an alternate payee to make timely application under this section will result in the loss of all rights to apply for or obtain major medical insurance under this chapter.

- (c) The administrator may waive the application requirements of this section if extraordinary circumstances are demonstrated to the satisfaction of the administrator. Need, or the awareness of need, for major medical insurance arising after the application period has ended is not an extraordinary circumstance.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.320. Date of Application.

The date of application for major medical insurance is the date of receipt by the administrator or, if the application was mailed, the date of postmark. If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the administrator or, if the application is for coverage for an alternate payee, by the health carrier.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.330. Premium Payments.

- (a) Premium payments for major medical insurance under AS 14.25.168(d) or AS 39.35.535(c) will be deducted from the monthly benefit warrant unless the benefit amount is insufficient to cover the new law benefit recipient's full required premium. If the benefit amount is insufficient to cover the full required premium, the administrator will notify the recipient that premium payments due after that notice must be made directly to the insurance carrier by the recipient.
- (b) Premium payments made by an alternate payee must be made directly to the insurance carrier.

- (c) A person who pays premiums directly to the insurance carrier loses the right to participate in the major medical insurance coverage if
 - (1) a premium payment is delinquent by more than 60 days; or
 - (2) premium payments are delinquent by more than 31 days twice in any one calendar year.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.340. Effective Date of Major Medical Insurance Coverage.

- (a) For a new law benefit recipient electing major medical insurance under AS 14.25.168(d) or AS 39.35.535(c), the effective date of that coverage is
 - (1) the date of appointment to a continuing monthly benefit if the election is made in accordance with 2 AAC 39.310(a);
 - (2) January 1 for a recipient electing coverage during an open enrollment period; or
 - (3) the first day of the month in which a recipient runs age 65, if coverage is not in effect before that time.
- (b) For an alternate payee electing major medical insurance, coverage begins on the first day of the next calendar month following receipt of the qualified domestic relations order by the administrator, if the order is received on or before the 15th day of the month. If the qualified domestic relations order is received after the 15th day of a month, coverage begins on the first day of the second month after receipt of the application.
- (c) Retroactive premiums will be required as necessary.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.350. Changes in Major Medical Insurance Coverage.

- (a) A new law benefit recipient may discontinue major medical insurance coverage at any time for a recipient's covered dependent. Once coverage has been discontinued it may be reelected only in accordance with (c) of this section or during an open enrollment period.
- (b) An alternate payee may discontinue dependent children coverage at any time. Once coverage has been discontinued, it cannot be reelected.
- (c) A new law benefit recipient may add coverage for the recipient's eligible dependents only when a change has occurred in the recipient's family structure. A change in family structure occurs at the marriage of a recipient or at the birth or adoption of a first child. Application for the additional coverage must be made within 120 days after the change in the recipient's family structure occurs.
- (d) An application for a change in coverage under this section must be submitted in writing and is subject to verification by the administrator. A change in coverage based on an application that is postmarked or received on or before the 15th day of a month will be effective on the first day of the next calendar month. A change in coverage based on an application that is postmarked or received after the 15th day of a month will be effective no later than the first day of the second month after the date of postmark or receipt of the application. Retroactive premiums will be deducted as necessary.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.360. Open Enrollment Period.

An open enrollment period will be held once a year during the months of October and November, during which only a new law benefit recipient may add or change coverage for the following year. This open enrollment period does not apply to an alternate payee.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.370. Pre-existing Condition Limitation.

- (a) If major medical insurance coverage is elected during an open enrollment period, the new law benefit recipient and any eligible dependents are subject to a pre-existing condition limitation. Under this limitation, only the first \$1,000 of covered medical expenses relating to a pre-existing condition will be paid by the insurer. After a person has been covered for 12 consecutive months, the limitation no longer applies.
- (b) The pre-existing condition limitation does not apply to
- (1) a new law benefit recipient who makes an election of major medical insurance under 2 AAC 39.310(a);
 - (2) a benefit recipient appointed to a disability benefit;
 - (3) a new law benefit recipient eligible due to reaching the age of 65; or
 - (4) an alternate payee.
- (c) In this section “pre-existing condition” means a condition for which an individual has received diagnosis, tests, or treatment, including the taking of medication, during the three month period before the effective date of coverage.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.380. Discontinuation of Major Medical Insurance Coverage.

- (a) A new law benefit recipient who elects major medical insurance coverage under AS 14.25.168(d) or AS 39.35.535(c) may discontinue participation in that plan at any time by submitting a signed, written request to the administrator. If the request is received or postmarked on or before the 15th day of a month, the administrator will stop premium payments in that month. If the request is received or postmarked after the 15th day of a month, premium payments will be stopped no later than the month following the date of receipt or postmark. Coverage ends on the last day of the month after the month

in which the last premium is deducted. A new law benefit recipient who discontinues coverage may not reapply for the coverage except as provided in 2 AAC 39.360.

- (b) A person who is paying premiums for major medical insurance directly to the insurance carrier may discontinue participation in the major medical insurance plan at any time by submitting a signed, written request to the insurance carrier. Coverage ends on the last day of the month for which the last premium was paid.
- (c) An alternate payee who discontinues major medical insurance coverage may not reapply for coverage.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.390. Change by the Administrator in Major Medical Insurance Coverage and Premiums.

If necessary, the administrator may change the premiums and the terms of major medical insurance coverage.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027 AS 22.25.090, AS 39.30.090, AS 39.35.535

2 AAC 39.399. Definitions.

In 2 AAC 39.300 - 2 AAC 39.399, unless the context otherwise requires

- (1) “administrator” means the director of the division of retirement and benefits of the Department of Administration;
- (2) “alternate payee” means a person who is receiving a continuing monthly benefit under a qualified domestic relations order and who is eligible to elect major medical insurance coverage under AS 14.25.168(c), AS 22.25.090(d), or AS 39.35.535(d);
- (3) “benefit recipient” means a person who is receiving a continuing monthly benefit from the Public Employees’ Retirement System, Teachers’ Retirement System, or Judicial Retirement System;

- (4) “disability benefit” means a continuing monthly benefit paid under AS 14.25.130, AS 39.35.400, or 39.35.410;
- (5) “new law benefit recipient” means a person under the age of 65 who is receiving or is qualified to receive a
 - (A) continuing monthly benefit under the Public Employees’ Retirement System and who was first hired after June 30, 1986;
 - (B) continuing monthly benefit under the Teachers’ Retirement System and who was first hired after June 30, 1990; or
 - (C) survivor benefit as the survivor of a person described in (A) or (B) of this paragraph;
- (6) “survivor benefit” means a continuing monthly benefit paid to a spouse or dependent child under AS 14.25.155, 14.25.157, 14.25.162, 14.25.164, 14.25.167, AS 22.25.030, AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, or former AS 39.37.060.

HISTORY: Eff. 2/1/93, Register 125

AUTHORITY: AS 14.25.168, AS 14.25.170, AS 22.25.027, AS 22.25.090, AS 39.30.090, AS 39.35.535

ARTICLE 4.
Appeals From Denials of Medical Claims
Under the Medical Coverage Provided by
the Public Employees’ Retirement System

Section

- 500. Applicability.
- 510. Exhaustion of remedies provided by claims payer required.
- 520. Appeal to plan administrator.
- 530. Appeal to the public employee’s retirement board.
- 540. Emergency procedures.
- 590. Definitions.

2 AAC 39.500. Applicability.

The provisions of 2 AAC 39.500 - 2 AAC 39.590 apply only so long as the plan administrator determines that a self-insured program of medical coverage is provided to enrollees. If a self-insured program ceases to exist, the plan administrator and the board will not hear appeals from denial of medical claims under AS 39.35.535 and AS 39.30.090.

HISTORY: Eff. 5/28/99, Register 151

AUTHORITY: AS 39.35.040, AS 39.35.535

2 AAC 39.510. Exhaustion of Remedies Provided by Claims Payer Required.

Before appealing to the plan administrator or to the board under 2 AAC 39.500 - 2 AAC 39.590, an enrollee must fully utilize any appeal procedures provided by a claims payer under a contract entered into under AS 39.30.090 - 39.30.095.

HISTORY: Eff. 5/28/99, Register 151

AUTHORITY: AS 39.35.040, AS 39.35.535

2 AAC 39.520. Appeal to Plan Administrator.

- (a) An enrollee may appeal to the plan administrator from a final decision by the claims payer denying the enrollee's claim in whole or in part. A "final decision by the claims payer" is a decision that is not subject to any further review by the claims payer.
- (b) The enrollee's appeal must be in writing, must explain the grounds for the appeal, and must be postmarked or received by the plan administrator within 45 days of the date that the enrollee received written notice of the final decision by the claims payer. The appellant may submit documentation in support of the appeal. The filing requirement of this subsection may be waived by the plan administrator if the enrollee can show that there are extraordinary circumstances resulting in the enrollee's inability to meet the filing requirement.
- (c) The plan administrator shall send a final written decision on the appeal within 30 days of the date that the appeal was received, unless the administrator determines that additional information is necessary for resolution of the appeal. If the administrator determines that additional information is necessary from the appellant, the administrator shall allow the appellant an additional 30 days to submit the additional information. If the additional information is not furnished within 30 days, the administrator may deny the appeal. If the additional information is furnished in a timely manner, the administrator shall send a final written decision on the appeal within 30 days of the date that the additional information is received. If the plan administrator determines that a medical review by an independent review organization is necessary, the administrator shall make such request and notify the appellant within 15 days of the date that the appeal is received. After the plan administrator receives the report of the independent review, the administrator shall send a final written decision on the appeal within 30 days of the date that the independent review is received.
- (d) In the final written decision, the plan administrator shall indicate which aspects of the decision are appealable to the board under 2 AAC 39.530, and which aspects are not so appealable.

HISTORY: Eff. 5/28/99, Register 151

AUTHORITY: AS 39.35.040, AS 39.35.535

2 AAC 39.530. Appeal to the Public Employee’s Retirement Board.

- (a) Except as provided in (b) of this section, if an enrollee is not satisfied with the decision of the plan administrator under 2 AAC 39.520(c), the enrollee may appeal to the board within 30 days after receiving the plan administrator’s decision. Unless the recipient requests a hearing directly before the board at the time of the appeal, the secretary of the board shall appoint a qualified hearing officer to hear the appeal.
- (b) Determinations of the plan administrator respecting issues relating to coordination of benefits and the calculation of usual, customary and reasonable charges are not appealable to the board.
- (c) Appeals to the board are subject to the procedures set out in 2 AAC 35.160, except that a party to the appeal may be represented by counsel only if the party gives written notice to the board secretary (for appeals before the full board) or the hearing officer (for appeals before a hearing officer), with service upon the other party, at least 30 days before the scheduled hearing date.
- (d) If a hearing is held before a hearing officer, that officer shall issue a recommended decision within 21 days of the completion of the hearing or, if the record is held open following completion of the hearing for submission of argument or additional evidence, within 21 days of the date that the record is closed. The recommended decision shall be presented to the board at its next scheduled meeting. The board will, if requested, allow either party to speak to the proposed decision. The board may adopt the recommended decision in whole, may adopt the recommended decision with modifications, or may reject the recommended decision. The board will, in its discretion, decide the appeal upon the record including the transcript or tape recording of the earlier hearing, with or without taking additional evidence, or may refer the appeal to the same or another hearing officer to take additional evidence.
- (e) If the appeal is referred to a hearing officer for the taking of additional evidence under (d) of this section, the hearing officer shall prepare a proposed decision based upon the additional evidence and the record of the earlier hearing.
- (f) The board will, in its discretion, give the parties the opportunity to present argument, either oral or written, before the board.

- (g) The time limits established in this section may be extended if it is determined that the limits impose undue restrictions on either party.

HISTORY: Eff. 5/28/99, Register 151

AUTHORITY: AS 39.35.040, AS 39.35.535

2 AAC 39.540. Emergency Procedures.

- (a) The plan administrator and the board may review claims of an emergency nature on an expedited basis, including use of shortened schedules, telephonic proceedings, and other procedures necessary to facilitate prompt determinations. “Emergency” as used in this section is limited to determinations where a patient’s life or health would be threatened by delay, and substantial deference shall be afforded to a certificate by an enrollee’s treating physician that such an emergency exists.
- (b) Appeals granted under emergency procedures do not have any precedential value in future appeals due to the abbreviated nature of emergency procedures, and any medical treatment approved in an emergency procedure is not thereby approved for any claimant not specifically a party to the emergency procedure.

HISTORY: Eff. 5/28/99, Register 151

AUTHORITY: AS 39.35.040, AS 39.35.535

2 AAC 39.590. Definitions.

In this chapter,

- (1) “board” means the Public Employees’ Retirement Board;
- (2) “claim” means a claim for benefits under the major medical insurance coverage provided under AS 39.35.535;
- (3) “claims payer” means the third-party administrator of benefit claims and payments under a contract entered into by the plan administrator under AS 39.30.090 - 39.30.095;
- (4) “day” means a calendar day;

- (5) “enrollee” means a person receiving medical coverage under any provision of AS 39.35, or the legal guardian of such a person;
- (6) “independent review organization” means an impartial health organization selected by the plan administrator to provide medical reviews of cases at the request of the plan administrator;
- (7) “plan administrator” means the administrator appointed by the commissioner of administration under AS 39.35.050;
- (8) “qualified hearing officer” means a person experienced in rendering decisions as a neutral decision-maker, and may include an employee of the state or a state agency other than the division of retirement and benefits in the Department of Administration.

HISTORY: Eff. 5/28/99, Register 151

AUTHORITY: AS 39.35.040, AS 39.35.535

ARTICLE 5.
Appeals From Denials of Medical Claims
Under the Medical Coverage Provided by the
Teachers’ Retirement System

Section

- 600. Applicability.
- 610. Exhaustion of remedies provided by claims payer required.
- 620. Appeal to plan administrator.
- 630. Appeal to the teachers’ retirement board.
- 640. Emergency procedures.
- 690. Definitions.

2 AAC 39.600. Applicability.

The provisions of 2 AAC 39.600 - 2 AAC 39.690 apply only so long as the plan administrator determines that a self-insured program of medical coverage is provided to enrollees. If a self-insured program ceases to exist, the plan administrator and the board will not hear appeals from denials of medical claims under AS 14.25.168 and AS 39.30.090.

HISTORY: Eff. 5/27/99, Register 151

AUTHORITY: AS 14.25.035, AS 14.25.168

2 AAC 39.610. Exhaustion of Remedies Provided by Claims Payer Required.

Before appealing to the plan administrator or to the board under 2 AAC 39.600 - 2 AAC 39.690, an enrollee must fully utilize any appeal procedures provided by a claims payer under a contract entered into under AS 39.30.090 - 39.30.095.

HISTORY: Eff. 5/27/99, Register 151

AUTHORITY: AS 14.25.035, AS 14.25.168

2 AAC 39.620. Appeal to Plan Administrator.

- (a) An enrollee may appeal to the plan administrator from a final decision by the claims payer denying the enrollee's claim in whole or in part. A "final decision by the claims payer" is a decision that is not subject to any further review by the claims payer.
- (b) The enrollee's appeal must be in writing, must explain the grounds for the appeal, and must be postmarked or received by the plan administrator within 45 days of the date that the enrollee received written notice of the final decision by the claims payer. The appellant may submit documentation in support of the appeal. The filing requirement of this subsection may be waived by the plan administrator if the enrollee can show that there are extraordinary circumstances resulting in the enrollee's inability to meet the filing requirement.
- (c) The plan administrator shall send a final written decision on the appeal within 30 days of the date that the appeal is received, unless the administrator determines that additional information is necessary for resolution of the appeal. If the administrator determines that additional information is necessary from the appellant, the administrator shall allow the appellant an additional 30 days to submit the additional information. If the additional information is not furnished within 30 days, the administrator may deny the appeal. If the additional information is furnished in a timely manner, the administrator shall send a final written decision on the appeal within 30 days of the date that the additional information is received. If the plan administrator determines that a medical review by an independent review organization is necessary, the administrator shall make such request and notify the appellant within 15 days of the date that the appeal is received. After the plan administrator receives the report of the independent review, the administrator shall send a final written decision on the appeal within 30 days of the date that the independent review is received.
- (d) In the final written decision, the plan administrator shall indicate which aspects of the decision are appealable to the board under 2 AAC 39.630, and which aspects are not so appealable.

HISTORY: Eff. 5/27/99, Register 151

AUTHORITY: AS 14.25.035, AS 14.25.168

2 AAC 39.630. Appeal to the Teachers' Retirement Board.

- (a) Except as provided in (b) of this section, if an enrollee is not satisfied with the decision of the plan administrator under 2 AAC 39.620(c), the enrollee may appeal to the board within 30 days after receiving the plan administrator's decision. Unless the enrollee requests a hearing directly before the board at the time of the appeal, the secretary of the board shall appoint a qualified hearing officer to hear the appeal.
- (b) Determinations of the plan administrator respecting issues relating to coordination of benefits and the calculation of usual, customary, and reasonable charges are not appealable to the board.
- (c) Appeals to the board are subject to the procedures set out in 2 AAC 36.120, except that a party to the appeal may be represented by counsel only if the party gives written notice to the board secretary (for appeals before the full board) or the hearing officer (for appeals before a hearing officer), with service upon the other party, at least 30 days before the scheduled hearing date.
- (d) If a hearing is held before a hearing officer, that officer shall issue a recommended decision within 21 days of the completion of the hearing or, if the record is held open following completion of the hearing for submission of argument or additional evidence, within 21 days of the date that the record is closed. The recommended decision shall be presented to the board at its next scheduled meeting. The board will, if requested, allow either party to speak to the proposed decision. The board may adopt the recommended decision in whole, may adopt the recommended decision with modifications, or may reject the recommended decision. The board will, in its discretion, decide the appeal upon the record including the transcript or tape recording of the earlier hearing, with or without taking additional evidence, or may refer the appeal to the same or another hearing officer to take additional evidence.
- (e) If the appeal is referred to a hearing officer for the taking of additional evidence under (d) of this section, the hearing officer shall prepare a proposed decision based upon the additional evidence and the record of the earlier hearing.
- (f) The board will, in its discretion, give the parties the opportunity to present argument, either oral or written, before the board.

- (g) The time limits established in this section may be extended if it is determined that the limits impose undue restrictions on either party.

HISTORY: Eff. 5/27/99, Register 151

AUTHORITY: AS 14.25.035, AS 14.25.168

2 AAC 39.640. Emergency Procedures.

- (a) The plan administrator and the board may review claims of an emergency nature on an expedited basis, including use of shortened schedules, telephonic proceedings, and other procedures necessary to facilitate prompt determinations. “Emergency” as used in this section is limited to determinations where a patient’s life or health would be threatened by delay, and substantial deference shall be afforded to a certificate by an enrollee’s treating physician that such an emergency exists.
- (b) Appeals granted under emergency procedures do not have any precedential value in future appeals due to the abbreviated nature of emergency procedures, and any medical treatment approved in an emergency procedure is not thereby approved for any claimant not specifically a party to emergency procedure.

HISTORY: Eff. 5/27/99, Register 151

AUTHORITY: AS 14.25.035, AS 14.25.168

2 AAC 39.690. Definitions.

In this chapter,

- (1) “board” means the Alaska Teachers’ Retirement;
- (2) “claim” means a claim for benefits under the major medical insurance coverage provided under AS 14.25.168;
- (3) “claims payer” means the third-party administrator of benefit claims and payments under a contract entered into by the plan administrator under AS 39.30.090 - 39.30.095;
- (4) “day” means a calendar day;

- (5) “enrollee” means a person receiving medical coverage under any provision of AS 14.25, or the legal guardian of such a person;
- (6) “independent review organization” means an impartial health organization selected by the plan administrator to provide medical reviews of cases at the request of the plan administrator;
- (7) “plan administrator” means the administrator appointed by the commissioner of administration under AS 14.25.015;
- (8) “qualified hearing officer” means a person experienced in rendering decisions as a neutral decision-maker, and may include an employee of the state or a state agency other than the division of retirement and benefits in the Department of Administration.

HISTORY: Eff. 5/27/99, Register 151

AUTHORITY: AS 14.25.035, AS 14.25.168

ARTICLE 6. Miscellaneous Provisions

Section

- 900. Exemption from group health and life insurance coverage for state bargaining units.
- 905. Eligible children.
- 910. Plan requirements.
- 915. Coordination of benefits.
- 920. Reduction of coverage for spouses and dependent children.
- 925. Definitions.

2 AAC 39.900. Exemption From Group Health and Life Insurance Coverage for State Bargaining Units.

- (a) A bargaining unit of the executive branch of the state may be exempted from the coverage of the group insurance policy or policies covering state employees, their spouses, and eligible dependents by entering into a collective bargaining agreement that meets the requirements of (b) and (c) of this section, and if the commissioner of administration approves the exemption.
- (b) A collective bargaining agreement exempting a bargaining unit from the coverage of a group policy or policies as provided in (a) of this section must provide for the indemnification of the state for liability for any consequence, loss, injury, or claim arising from the exemption.
- (c) An alternative insurance program implemented as a result of an exemption permitted under this section must comply with all applicable federal and state law and regulations, and, beginning July 1, 2004, meet the requirements of mandatory coverage set out in AS 39.30.090(a)(2), and the requirements of 2 AAC 39.910 and 2 AAC 39.915.

HISTORY: Eff. 6/9/89, Register 110; am 7/1/2003, Register 166

AUTHORITY: AS 39.30.090

2 AAC 39.905. Eligible Children.

The term “dependent children,” referring to children who are covered by a group insurance policy or policies covering eligible state employees, is defined by the terms of

- (1) a collective bargaining agreement, with respect to employees covered by that agreement; the agreement may limit coverage for “dependent children” as to
 - (A) age; and
 - (B) living arrangements; and
- (2) that policy or policies, with respect to employees not covered by a collective bargaining agreement and in the exempt or partially exempt service.

HISTORY: Eff. 12/30/89, Register 112; am 7/1/2003, Register 166

AUTHORITY: AS 39.30.090

2 AAC 39.910. Plan Requirements.

- (a) Beginning July 1, 2004, the commissioner of administration will approve an exemption under 2 AAC 39.900 only if the requirements of this section are met.
- (b) All plans covering state employees to which the state contributes must follow the requirements of 2 AAC 39.915 regarding coordination of benefits.
- (c) If an eligible state employee either is married to another eligible state employee or, together with another eligible state employee, has eligible dependent children, and if
 - (1) neither employee has an eligible dependent child, each employee may select employee-only coverage;
 - (2) either employee has an eligible dependent child and both employees are in the same state employee health plan, one employee must select family coverage; and

- (3) either employee has an eligible dependent child and the employees are in different state employee health plans, the employee who has primary responsibility for the eligible dependent child under 2 AAC 39.915 must select family coverage.

HISTORY: Eff. 7/1/2003, Register 166

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.915. Coordination of Benefits.

- (a) Beginning July 1, 2004, all plans covering state employees to which the state contributes must coordinate benefits as provided in this section.
- (b) A plan without coordination provisions is always the primary plan.
- (c) If all plans have a coordination provision, the primary plan must be determined in the following order:
 - (1) first, any active plan, whether it covers the employee or a dependent, is the primary plan over Medicare;
 - (2) second, the plan covering the employee directly, rather than as a dependent, is the primary plan;
 - (3) third, the plan covering the employee as an active employee, rather than as a laid-off or retired employee, is the primary plan;
 - (4) fourth, the plan that has covered the employee longer is the primary plan.
- (d) If a child is covered under both parents' plans, the plan of the parent whose birthday falls earlier in the year is the primary plan for the child. If both parents have the same birthday, the plan that has covered a parent longer is the primary plan for the child.
- (e) Notwithstanding (d) of this section, if an employee is separated or divorced, the plans pay in the following order:
 - (1) first, the plan of the parent whom a court of competent jurisdiction has established as financially responsible for the health care of a child who is otherwise eligible for coverage as a dependent child under the plan, if the administrator of the plan is notified of the order;

- (2) second, the plan of the parent with custody of the child;
 - (3) third, the plan of the spouse of the parent with custody of the child;
 - (4) fourth, the plan of the parent who does not have custody of the child;
 - (5) fifth, the plan that has covered the child longer.
- (f) An employee covered by a plan under this section must report the existence of any plan, or the benefits payable to the employee under any plan.
- (g) If a plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered is considered a covered service and a benefit paid. The reasonable cash value of any services provided is considered an expense incurred by the employee or the employee's covered dependent, and the liability under the secondary plan is reduced accordingly.

HISTORY: Eff. 7/1/2003, Register 166

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.920. Reduction of Coverage for Spouses and Dependent Children.

- (a) Coverage of the spouse of an eligible state employee will be reduced to 30 percent under the commissioner's health plan obtained under AS 39.30.090 - 39.30.095, if the spouse is a state employee participating in a plan exempted under 2 AAC 39.900 and
- (1) waives coverage; or
 - (2) selects a health plan option that
 - (A) reduces coverage for the spouse below 70 percent; or
 - (B) provides only catastrophic coverage.
- (b) The coverage of the dependent children of an eligible state employee will be reduced to 30 percent under the commissioner's health plan obtained under AS 39.30.090 - 39.30.095 if the

- (1) employee is covered under a plan exempted under 2 AAC 39.900 and selects a health plan option that
 - (A) does not include coverage for dependent children;
 - (B) reduces coverage for dependent children below 70 percent; or
 - (C) provides only catastrophic coverage; and
- (2) plan exempted under 2 AAC 39.900 would have been the primary plan under 2 AAC 39.915 for the dependent children, had the employee selected a health plan option other than one listed in (1)(A) - (1)(C) of this subsection.

HISTORY: Eff. 7/1/2003, Register 166

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.925. Definitions.

In 2 AAC 39.900 - 2 AAC 39.925, unless the context requires otherwise,

- (1) “catastrophic coverage” means a health care insurance plan that
 - (A) provides benefits for hospital and medical care with a lifetime maximum benefit per insured of at least \$250,000; and
 - (B) has a deductible of at least \$5,000;
- (2) “employee-only coverage” means a health care insurance plan that covers the employee with at least 70 percent coinsurance and an out-of-pocket limit of no more than \$3,500;
- (3) “family coverage” means a health care insurance plan that covers all eligible members of the family with at least 70 percent coinsurance and out-of-pocket limits of no more than \$3,500 per individual.
- (4) “out-of-pocket limit” means the amount the member needs to pay in coinsurance before the plan pays covered medical expenses at 100 percent.

HISTORY: Eff. 7/1/2003, Register 166

AUTHORITY: AS 39.30.090, AS 39.30.091

ARTICLE 7. Waiver of Coverage

Section

- 950. Exemption from group health benefit plan coverage upon waiver of coverage.
- 960. Election to waive coverage.
- 970. Employer contribution.
- 980. Date of election of waiver.
- 990. Open enrollment period.
- 995. Definitions.

2 AAC 39.950. Exemption From Group Health Benefit Plan Coverage Upon Waiver of Coverage.

An eligible state employee may be exempted from coverage under a group health benefit plan for state employees, in whole or in part, if the employee elects to voluntarily waive the medical, dental, or vision coverage for the eligible state employee in the format provided by the plan administrator. An eligible state employee's election to waive medical, dental or vision coverage also waives that coverage for the eligible state employee's spouse and dependents. An eligible state employee may elect to waive the medical, dental or vision coverage for the employee's spouse and dependents while maintaining the eligible state employee's individual coverage.

HISTORY: Eff. 1/1/2017, Register 220

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.960. Election to Waive Coverage.

- (a) An eligible state employee who elects to waive coverage under the medical, dental, or vision benefit plan must signify election to waive each benefit in a format provided by the plan administrator. Except as provided in this section, an employee electing to waive coverage must elect waiver for each component of the group health benefit plan

coverage being waived and do so each benefit year during the annual open enrollment period as set forth in 2 AAC 39.990. A waiver of coverage made during an annual open enrollment period is effective on the first day of the benefit year immediately following the open enrollment.

- (b) An eligible state employee may elect to waive coverage during the 30-day period after the eligible state employee initially becomes eligible for coverage and before the date on which coverage becomes effective under the group health benefit plan. Such waiver shall be effective as of the 31st consecutive day after the eligible state employee begins employment in a position eligible for coverage.
- (c) An eligible state employee who changes positions from a position in a bargaining unit exempted from coverage under 2 AAC 39.900 to a position covered by the group health benefit plan may elect to waive coverage within 30 days of the effective date of the change. Such waiver shall be effective on the first day of the month following the change of position. If the change of position occurs on the first day of a month, the waiver shall be effective on such first day of the month.
- (d) During the term of a benefit year, an eligible state employee may elect to (1) waive coverage previously elected for the benefit year, or (2) enroll in coverage that was previously waived for the benefit year pursuant to (b) or (c) of this section. An election under this subsection must be based upon qualified changes in status or other applicable event allowed by 26 C.F.R. 1.125-4 and that are set forth by the plan administrator in the plan document governing the applicable coverage. Elections under this subsection may be made on behalf of the eligible state employee, a spouse and dependents consistent with the change in status or other applicable event; provided that the spouses and dependents may not be covered under any component of the group health benefit plan if the eligible state employee is not also covered. An election shall be made no later than 30 days after the date of the change in status or other applicable event, unless federal law requires a lengthier election period, and shall be effective as of the date of the change in status or other applicable event. Elections shall be subject to reasonable administrative procedures as determined by the plan administrator.

HISTORY: Eff. 1/1/2017, Register 220

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.970. Employer Contribution.

The rate of employer contribution for an eligible state employee's position shall remain the same regardless of whether the employee has made an election to waive coverage under 2 AAC 39.960.

HISTORY: Eff. 1/1/2017, Register 220

AUTHORITY: AS 39.30.090, AS 39.30.091, AS 39.30.095

2 AAC 39.980. Date of Election of Waiver.

The date a state employee signifies election to waive coverage is the date of postmark of the written notification of the election or the date it is received by the plan administrator, whichever is earlier. If a postmark is illegible or undated, the postmark day is presumed to be five working days before receipt by the division.

HISTORY: Eff. 1/1/2017, Register 220

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.990. Open Enrollment Period.

During the open enrollment period of each benefit year, an eligible state employee wishing to waive coverage under the medical, dental, or vision plan must signify election to waive each component of the group health benefit plan coverage being waived. An eligible state employee's failure to timely submit the written election to waive coverage during open enrollment period will result in automatic enrollment in the default health plans selected by the plan administrator. A waiver of coverage elected during open enrollment is effective on the first day of the benefit year immediately following the open enrollment.

HISTORY: Eff. 1/1/2017, Register 220

AUTHORITY: AS 39.30.090, AS 39.30.091

2 AAC 39.995. Definitions.

In 2 AAC 39.950 - 2 AAC 39.995, unless the context otherwise requires:

- (1) “eligible state employee” means an employee of the State of Alaska who is eligible to be covered by the group health benefit plan and is not exempted from coverage pursuant to 2 AAC 39.900 - 2 AAC 39.925;
- (2) “group health benefit plan” means the medical plan, dental plan, and vision plan offered to eligible state employees;
- (3) “plan administrator” means the Commissioner of the Department of Administration or his or her designee; and
- (4) “postmark” means the official cancellation stamp used by the United States Post Office that records the date and place of mailing.

HISTORY: Eff. 1/1/2017, Register 220

AUTHORITY: AS 39.30.090, AS 39.30.091, AS 39.30.095

REPEALED
and/or
DELETED
REGULATIONS

REPEALED AND/OR DELETED REGULATIONS

Chapter 36

Teachers' Retirement System

Article

1. Board. (2 AAC 36.010 - 2 AAC 36.020)
2. Administration of the Defined Benefits Plan (AS 14.25.009 - 14.25.220) and the Defined Contribution Plan (AS 14.25.310 - 14.25.590). (2 AAC 36.021 - 2 AAC 36.187)
3. Benefits Under the Defined Benefits Plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220). (2 AAC 36.200 - 2 AAC 36.269)
5. Alaska State Pension Investment Board.
6. Miscellaneous Provisions Relating to the Defined Benefit Plan. (2 AAC 36.800 - 2 AAC 36.890)

ARTICLE 1. Board

Section

10. Quorum. [~~Deleted 10/05~~]
20. Teleconferencing. [~~Deleted 10/05~~]

EDITOR'S NOTE: As of Register 175 (October 2005), the regulations attorney deleted 2 AAC 36.010 and 2 AAC 36.020, to recognize the establishment of the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board. The changes were made by the regulations attorney in accordance with ch. 9, FSSLA 2005 and AS 44.62.125(b)(6).

2 AAC 36.010. Quorum. *[Deleted 10/05]*

- (a) Three members of the Alaska teachers' retirement board, one of whom is the chairperson, and none of whom is a physician appointed under AS 14.25.035(a)(2), constitute a quorum of the board for the transaction

of business other than hearing of appeals to determine medical eligibility for disability benefits.

- (b) Four board members, at least one of whom is a physician appointed under AS 14.25.035(a)(2), constitute a quorum of the board for hearing of appeals to determine medical eligibility for disability benefits.
- (c) Meetings of the board will be convened at locations and on dates approved by a majority of board members who serve as appointed members under AS 14.25.035(a)(1).
- (d) **[Repealed 1/7/01]** Special meetings of the board may be held only upon the written request of a member and one board member. At least two weeks' written advance notice must be provided to all board members before a special meeting may be convened.

HISTORY: In effect before 10/21/83, Register 93; am 7/12/90 (not printed); am 11/18/90, Register 122; am 1/7/2001, Register 159; deleted as of Register 175, October 2005

2 AAC 36.020. Teleconferencing. ***[Deleted 10/05]***

- (a) A board member may participate in a meeting by teleconference if teleconference facilities are available at the meeting site. A board member may vote on a matter by teleconference if the board member has had the opportunity to evaluate all evidence and testimony regarding the matter.
- (b) A person may participate in a board meeting or hearing by teleconference if the person arranges in advance with the administrator to participate telephonically and if teleconference facilities are available at the meeting site. However, if a board member or a party to an appeal objects to telephonic participation by a party or witness, the board may, in its discretion, postpone the hearing and order that the testimony of the party or witness will be excluded unless the party or witness is made available in person at a future hearing or at a videotaped deposition.
- (c) The administrator may require a person who requests to participate or present witnesses telephonically at a meeting or hearing to pay the charges for telephonic participation.

HISTORY: Eff. 7/12/90 (not printed); am 11/18/90, Register 122; deleted as of Register 175, October 2005

ARTICLE 2.
Administration of the Defined Benefits Plan
(AS 14.25.009 - 14.25.220)
and the Defined Contribution Plan
(AS 14.25.310 - 14.25.590)

Section

- 30. Regulations. [Partially repealed 7/20/06]
- 50. Appeals. [Repealed 7/20/06]
- 60. Filing of notice of appeal. [Partially repealed 7/20/06]
- 100. Scheduling appeal. [Repealed 7/20/06]
- 110. Presentation of evidence. [Repealed 7/20/06]
- 115. Physician board members in appeals to determine medical eligibility for disability benefits. [Repealed 7/20/06]
- 117. Subpoenas and preservation of testimony. [Repealed 7/20/06]
- 120. Appeal procedures. [Repealed 7/20/06]
- 130. Deliberations on appeal. [Repealed 7/20/06]
- 140. Decision on appeal to be written. [Repealed 7/20/06]
- 145. Reconsideration. [Repealed 7/20/06]
- 150. Interest. [Repealed 7/20/06]
- 160. Calculation of indebtedness for territorial service claimed under AS 14.25.105. [Repealed 7/20/06]
- 165. Payment of remaining indebtedness at retirement. [Repealed 7/20/06]
- 170. Calculation of average base salary for teachers with sabbatical leave. [Repealed 7/20/06]
- 180. Calculation of average base salary and TRS contribution amounts. [Repealed 7/20/06]
- 182. Procedures for making additional contributions under the defined contribution plan. [Repealed 1/13/10]

2 AAC 36.030. Regulations.

[Partially repealed 7/20/06]

- (a) **[Repealed 7/20/2006]** Except as provided in (c) of this section for emergency regulations, the administrator or board member proposing board action on a regulation shall provide the text of the proposed regulation, or the text of the proposed amendment or repeal of an existing regulation to board members and to the division of retirement and benefits 45 days before board action on the proposed adoption, amendment or repeal. The administrator or board member proposing the action shall include with the text of the proposal a statement of the need for the action and an explanation of how the action would effect the teachers' retirement system.
- (a) **[Repealed 7/20/2006]** A regulation becomes effective 30 days after adoption, not counting the day of adoption. If the 30th day falls on a Saturday, Sunday, or holiday, then the regulation becomes effective on the next business day following the Saturday, Sunday, or holiday.
- (b) **[Repealed 7/20/2006]** Except for AS 44.62.310 and AS 44.62.312, regarding public meetings, the Administrative Procedure Act (AS 44.62) does not apply to regulations adopted under this chapter.

HISTORY: In effect before 10/21/83; am 11/30/84, Register 93; am 5/13/85, Register 99; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003

EDITOR'S NOTE: This regulation was adopted by the Alaska Teachers' Retirement Board before AS 14.25.022 was amended by Ch. 35, SLA 1984. AS 14.25.022(f), which supercedes (d) of this section, provides that regulations adopted by the board take effect 30 days after adoption. Additional requirements for publication of notice of adoption, amendment or repeal of regulations by the board are provided by AS 14.25.022(c).

2 AAC 36.050. Appeals.

[Repealed 7/20/06]

Appeals to the board under AS 14.25.035 and requests for waivers of benefit adjustment under AS 14.25.175 are governed by the procedures established in this chapter, except where different procedures are established by 2 AAC 39.600 - 39.690.

HISTORY: In effect before 10/21/83, Register 93; am 5/27/99, Register 151; repealed 7/20/2006, Register 179

2 AAC 36.060. Filing of Notice of Appeal. *[Partially repealed 7/20/06]*

- (a) **[Repealed 7/20/2006]** The effective date of filing is the day the notice of appeal is received by the division, or, if mailed, the day the notice of appeal is postmarked.
- (b) **[Repealed 7/20/2006]** If a mailed notice of appeal has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day the notice of appeal was received in the division.

HISTORY: In effect before 10/21/83, Register 93; am 5/3/89, Register 111; am 1/7/2001, Register 159; am/readopt 7/20/2006, Register 179

AUTHORITY: AS 14.25.003, AS 14.25.175

2 AAC 36.100. Scheduling Appeal. *[Repealed 7/20/06]*

- (a) It is the intent of the board to hear all matters in an appeal no earlier than 90 days but no later than 12 months of the date of receipt of the appeal, except as provided in (b) - (e) of this section.
- (b) An appeal will be scheduled for a hearing before the board at a meeting of the board held 90 days or more following the receipt by the division of a notice of appeal, unless the division and appellant agree to an earlier date and the board does not object to the earlier date.
- (c) An appellant or the division may obtain a continuance
 - (1) for good cause shown, if the appellant or division makes the request more than ten days before the date scheduled for hearing; however, in the case of genuine emergency, the board may grant an appropriate continuance. In this paragraph, “good cause” includes the pendency of contested workers’ compensation or judicial proceedings involving the appellant and the appellant’s current or former employer that raise issues similar to those presented to the board in the appeal;
 - (2) for any reason, if the appellant or division makes the request more than 30 days before the date scheduled for hearing and states the reasons for requesting the continuance.

- (a) **[Repealed 1/7/02]** The board will rule on an appeal for waiver of adjustment within 120 days after receipt by the division of a notice of appeal unless the appellant agrees to have the appeal heard at a later meeting of the board. An appellant may waive the right to have the appeal ruled upon within 120 days by submitting a written waiver to the division.

- (b) An appellant may not request extensions under (c)(2) of this section that total more than 18 months. The division shall advise an appellant of this limit, and shall advise an appellant each time an extension is requested of the time remaining in which the appeal must be held. If an appellant is not prepared to proceed with an appeal after exhausting the extensions permitted by (c)(2) of this section, the board will dismiss the appeal, unless the appellant establishes extraordinary circumstances warranting a further extension. For purposes of this subsection, “extraordinary circumstances” do not include the desire of an appellant to have the appeal held at a geographic location convenient to the appellant, the appellant’s attorneys, or the appellant’s witnesses.

- (c) The chair of the board may act on behalf of the board on matters involving scheduling of appeals including requests for continuance or objections to continuance. In the event a party objects to a continuance request made under this section, the objecting party may submit an objection in writing to the chair of the board by sending the objection to the chair at the address of the division within three working days after the service of the request for continuance, and at the same time serving the objection on the opposing party or the party’s counsel, if the party is represented by counsel. Within three working days after the receipt of the objection, the chair or, if the chair is not available, the vice chair shall determine whether the continuance request should be granted, modified, or denied.

- (d) A notice required by this section is considered served when mailed.

HISTORY: In effect before 10/21/83, Register 93; am 12/6/85, Register 99; am 11/18/90, Register 122; am 11/29/92, Register 126; am 4/25/97, Register 150; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.110. Presentation of Evidence.***[Repealed 7/20/06]***

- (a) Except as provided in (c) of this section all documentary evidence, written arguments, and a list of witnesses to be presented to the board must be submitted according to the following schedule unless otherwise agreed to by the appellant and the division:
- (1) the appellant shall send his or her materials to the administrator at least 60 days before the hearing;
 - (2) the division shall send its material to the appellant not later than 15 days before the hearing; and
 - (3) the division shall send its materials and the appellant's materials to all board members not later than 15 days before the hearing.
- (b) Material submitted by the appellant under (a) of this section may be supplemented at the hearing if the appellant demonstrates to the satisfaction of the board that there is good reason why the supplementary material was not submitted in a timely fashion. A supplementary submission of material that constitutes a substantial and detrimental surprise to the division's case is grounds for the board to delay or postpone the hearing.
- (c) The board may, in its discretion, schedule, require, or allow pre-hearing procedures established by (b) of this section, post-hearing briefs, memoranda, or written argument.
- (d) Teleconferencing will be in accordance with 2 AAC 36.020.
- (e) If the appellant submits materials to the division under (a)(1) of this section, the appellant shall submit eight copies of the materials in an appeal other than an appeal concerning disability benefits, and ten copies in an appeal concerning disability benefits. Even if requested by the appellant, the division will not send to the board materials from the appellant's file submitted before the appellant filed the notice of appeal, or materials not submitted with the requisite number of copies.
- (f) Absent a submission by the appellant that complies with this section, the board may proceed to hear the appeal on only those documents submitted by the administrator. The administrator is not required to submit the appellant's file to the board.

HISTORY: In effect before 10/21/83, Register 93; am 12/6/85, Register 99; am 7/12/90 (not printed); am 11/18/90, Register 122; am 11/29/92, Register 126; am 4/25/97, Register 150; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.115. Physician Board Members in Appeals to Determine Medical Eligibility for Disability Benefits.
[Repealed 7/20/06]

- (a) In an appeal to determine medical eligibility for disability benefits, a physician board member appointed under AS 14.25.035(a)(2) shall participate as a board member in the decision of all issues raised in the appeal. However, physician board members will not participate in a disability appeals hearing where medical eligibility is not at issue.
- (b) Repealed /17/2001.

HISTORY: Eff. 7/12/90 (not printed); am 11/18/90 Register 122; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.117. Subpoenas and Preservation of Testimony.
[Repealed 7/20/06]

- (a) The board shall issue subpoenas on its own initiative or at the request of a party before the board, including subpoenas duces tecum. Requests or subpoenas made before a hearing begins must be directed to the secretary of the board, who shall sign the subpoena. Requests for subpoenas made after a hearing begins must be directed to the board chair, who shall sign the subpoena.
- (b) A subpoena issued by the board will be signed and sealed but will otherwise be blank. The party requesting the subpoena is responsible for filling out the subpoena, including the name of the witness and the documents or other physical items that the witness must bring, and for serving the subpoena. Service of the subpoena is governed by the terms of Rule 45 of the Alaska Rules of Civil Procedure and Rule 9 of the Alaska Rules of Administration.
- (c) A person served with a subpoena or a subpoena duces tecum under this section may seek to quash the subpoena, in whole or in part, or to impose conditions on a subpoena duces tecum, by filing a written request to quash or to impose conditions with the secretary of the board if the written request is made before the commencement of the

hearing, or by filing a written request with the board chair, or by appearing before the board, if the request is made after the commencement of the hearing. Grounds for seeking to quash a subpoena include lack of reasonable time for compliance and unreasonable or oppressive request for documents or other physical items. A request to impose conditions on a subpoena duces tecum may ask that the person issuing the subpoena bear part or all of the costs of producing the documents or other physical items. The board may allow the person requesting the subpoena to respond to the request to quash or to impose conditions, either in writing or orally, and may order that any response be in writing. The board will consider the request to quash or to impose conditions at the board's earliest convenience, and may consider the request at a telephonic meeting. If the request and any response are both in writing, the board may elect not to allow oral argument on the request. A meeting to consider a request to quash or to impose conditions is not subject to AS 44.62.310 because of AS 44.62.310(d)(1).

- (d) Upon a showing of good cause, including a showing that the board is not likely to compel a person to attend and testify at a hearing through the issuance of a subpoena, the board will issue an order compelling that person to appear for a deposition. The provisions of AS 44.62.440(b), Rule 45 of the Alaska Rules of Civil Procedure, and Rule 9 of the Alaska Rules of Administration apply to orders issued under this subsection, except that the superior court order required by AS 44.62.440(b) shall be obtained by the party seeking to take the deposition.
- (e) In this section, "subpoenas duces tecum" means subpoenas that require a person to bring with the person documents or other physical items specified in the subpoena.

HISTORY: Eff. 9/29/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.120. Appeal Procedures. ***[Repealed 7/20/06]***

- (a) At the hearing of the appeal, unless otherwise provided by the board
- (1) the division shall briefly state its position on appeal;
 - (2) the appellant shall briefly state his or her position on appeal;

- (3) each party, commencing with the appellant, shall present its case in chief and may
 - (A) utilize oral testimony taken under oath or affirmation;
 - (B) examine witnesses;
 - (C) introduce exhibits;
 - (D) cross-examine opposing witnesses on matters relevant to the issues even though that matter was not covered in the direct examination;
 - (E) discredit a witness regardless of which party first called the witness to testify;
 - (F) rebut the evidence against that party; and
 - (G) make closing arguments.
- (b) The board will, at its discretion, ask questions of any party or witness at any point during the hearing.
- (c) The hearing will not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence, including hearsay evidence, will be admitted if it is evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence will be excluded or curtailed.
- (d) In order to expedite resolution of an appeal, the board may, in its discretion, seek additional evidence. All parties to the appeal will be duly notified and given an opportunity to participate in the consideration of additional evidence. Parties to the appeal and witnesses shall remain available to assist in the event the board seeks additional evidence.
- (e) All phases of the hearing except the board's deliberations will be recorded. The board's deliberation will be recorded unless the deliberations are closed under 2 AAC 36.130.

HISTORY: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

2 AAC 36.130. Deliberations on Appeal.***[Repealed 7/20/06]***

- (a) The deliberations of the board on an appeal will follow as soon after the hearing is concluded as is possible. These deliberations, in the discretion of a majority of the board, may be closed to all other persons. The legal counsel for the board may be included in otherwise closed deliberations. If the deliberations are to be open, they will occur only after notice to all interested parties to the appeal and shall be held on record.
- (b) A majority in a board vote shall be determined based upon those members present and voting.
- (c) If the board's vote in an appeal is a tie vote of those members present and voting, the administrator's decision is affirmed.

HISTORY: In effect before 10/21/83, Register 93; am 4/25/97, Register 150; repealed 7/20/2006, Register 179

2 AAC 36.140. Decision on Appeal to be Written.***[Repealed 7/20/06]***

Within 30 days after the record on appeal has been closed, the board will issue a written decision containing its findings of fact and conclusions of law. That decision will identify each board member who voted, how the board member voted, and whether the board member participated in the decision in person or by teleconference, and will be mailed to the appellant and the administrator. The written decision of the board is the final administrative decision required for purposes of appeal to the superior court.

HISTORY: In effect before 10/21/83, Register 93; am 7/12/90 (not printed); am 11/18/90, Register 122; repealed 7/20/2006, Register 179

2 AAC 36.145. Reconsideration.***[Repealed 7/20/06]***

- (a) On its own motion or at the request of a party, the board may order reconsideration of all or part of a decision or order issued in connection with an appeal. A party requesting reconsideration of a decision or

order of the board must file that request with the board's secretary. If the administrator of the system is requesting reconsideration, the administrator must furnish proof that a copy of the request has been sent to the appellant. A request must be postmarked or delivered in person to the secretary within 30 days of the date that the decision or order is sent to the parties, unless the board finds good cause for a later filing.

- (b) A request for reconsideration may not exceed five pages in length, exclusive of exhibits. Reconsideration will not be granted if it is sought merely for the purpose for obtaining a reargument of matters that have already been fully considered by the board. Rather a party seeking reconsideration must show that the board
 - (1) has overlooked, misapplied, or failed to consider a statute, decision, or principle that is directly controlling;
 - (2) has overlooked or misconceived some material fact or proposition of law; or
 - (3) has overlooked or misconceived a material question in the appeal.
- (c) Any party may submit written opposition to a request for reconsideration. The opposition may not exceed five pages, exclusive of exhibits, and must be postmarked or delivered in person to the secretary of the board within 30 days of the date that the request for reconsideration is mailed or delivered to the other parties, unless the board finds good cause for a later filing.
- (d) The board will schedule a time during a future meeting to consider a request for reconsideration. The board may allow the parties to present oral argument on the request, regardless of whether written opposition has been filed, or may elect to decide the request on the written request and any opposition. If the board decides to grant reconsideration, the board may
 - (1) reconsider the matter at the same meeting; or
 - (2) decide to take up the reconsideration at a future meeting.
- (e) All decisions by the board with regard to a request for reconsideration will be reduced to writing and served upon the parties to an appeal.

HISTORY: Eff. 9/29/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.150. Interest.

[Repealed 7/20/06]

- (a) Effective July 1, 1974, the interest rate on arrearage, retroactive and reinstatement contributions is seven percent compounded annually on June 30.
- (b) Effective June 30, 1974, the interest rate on member contribution accounts is four and one-half percent compounded annually on June 30.
- (c) Interest on member contribution accounts will be credited on contributions which are due for the preceding school year and are transmitted by July 15 of the succeeding school year. The date of postmark is the transmittal date. The system is not liable for interest on contributions which cannot be posted to the member contribution account.
- (d) Compound interest as prescribed for arrearage indebtedness, retroactive indebtedness and reinstatement indebtedness commences on the date specified by law. If a law permits the establishment of an indebtedness not previously authorized, then the interest commences the date of the enactment of the law or the date the member joins the system, whichever is later.

HISTORY: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

2 AAC 36.160. Calculation of Indebtedness for Territorial Service Claimed Under AS 14.25.105.

[Repealed 7/20/06]

- (a) The amount of the retroactive contributions for territorial service claimed under AS 14.25.105 equals the amount of the contributions that the member would have made to the system had the service been creditable at the time it was rendered.
- (b) Compound interest at the prescribed rate shall be added to the retroactive indebtedness for the territorial service credit beginning July 1, 1980, or the date on which the member first attains 15 years of membership service, whichever is later.

HISTORY: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

2 AAC 36.165. Payment of Remaining Indebtedness at Retirement.
[Repealed 7/20/06]

A member with an indebtedness to the system who wishes to pay off the balance of that indebtedness, including accrued interest, must pay off the balance before the member's retirement benefit begins. Once the member is appointed to retirement, the application of a lifetime actuarial reduction to the member's benefits based upon any indebtedness balance may not be changed. Any indebtedness payments received after the member has been appointed to a retirement benefit will be refunded to the member.

HISTORY: Eff. 3/18/2004, Register 172; repealed 7/20/2006, Register 179

EDITOR'S NOTE: Even though the adoption of 2 AAC 36.165 was effective 3/18/2004, it was not published until Register 172, January 2005.

2 AAC 36.170. Calculation of Average Base Salary for Teachers with Sabbatical Leave.
[Repealed 7/20/06]

The salary actually paid to a teacher during the time the teacher was on sabbatical leave may be used in calculating the average base salary for retirement purposes. The salary the teacher would have earned had the teacher continued in full-time teaching may not be used in calculating average base salary for retirement purposes.

HISTORY: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

2 AAC 36.180. Calculation of Average Base Salary and TRS Contribution Amounts.
[Repealed 7/20/06]

The reduction of wages authorized under AS 39.30.150(c) does not affect the determination of "base salary" (AS 14.25.220(6)) or the determination of "average base salary" (AS 14.25.220(5)) under the TRS. The amounts of TRS contributions and benefits are based on the full wages prior to the reduction made under AS 39.30.150(c).

HISTORY: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

2 AAC 36.182. Procedures for Making Additional Contributions Under the Defined Contribution Plan.
[Repealed 1/13/10]

Subject to the receipt of a favorable private letter ruling by the Internal Revenue Service, a member of the defined contribution plan (AS 14.25.310 - 14.25.590) who wishes to make additional contributions to the member's individual account under AS 14.25.340(b) must make the election to make additional contributions within 24 months of the date that the member is employed or reemployed under that plan. An election under AS 14.25.340(b) and this subsection is irrevocable and remains in effect until the termination of the member's employment in a position with the employer covered by the plan.

HISTORY: Eff. 6/22/2006, Register 179; am 9/13/2006, Register 180; repealed 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.320, AS 14.25.340

2 AAC 36.187. Date of Termination of Employer Contributions to the Individual Account of a Deceased Member of the Defined Contribution Plan.
[Repealed 1/13/10]

An employer under the defined contribution plan (AS 14.25.310 - 14.25.590) shall make contributions under AS 14.25.487(c) to the individual account of a member of the plan who has suffered an occupational death under AS 14.25.487(a) only through the last month of the limitation year, as defined in AS 14.25.590, of the member's death.

HISTORY: Eff. 6/22/2006, Register 179; repealed 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.380, AS 14.25.487, AS 14.25.590

ARTICLE 3.
Benefits Under the Defined Benefits Plan
of the Teachers' Retirement System
(AS 14.25.009 - 14.25.220)

Section

- 236. Declaration of teacher shortage. **[Repealed 1/13/10]**
- 237. Reemployed retired teacher coverage. **[Repealed 1/13/10]**
- 240. Application for disability benefits. **[Repealed 7/20/06]**
- 241. Recovers from the disability. **[Repealed 7/20/06]**
- 245. Application for retirement. **[Repealed 7/20/06]**
- 247. Application for retirement incentive program. **[Repealed 1/07/01]**

2 AAC 36.236. Declaration of Teacher Shortage.
[Repealed 1/13/10]

A school district or regional educational attendance area must file the resolution permitting the employment of retired teachers under AS 14.20.135(a) with the administrator before the hire date of a retired teacher in order for the teacher to make an election under AS 14.25.043(b) and 2 AAC 36.237.

HISTORY: Eff. 7/5/2001, Register 167; readopt 7/20/2006, Register 179; repealed 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.135

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.236, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

Although 2 AAC 36.236 took effect 7/5/2001 by emergency order, and was made permanent on 10/29/2001, it did not appear in print in the Alaska Administrative Code until Register 167.

2 AAC 36.237. Reemployed Retired Teacher Coverage.
[Repealed 1/13/10]

- (a) A retired member who is otherwise eligible to make an election to waive coverage under AS 14.25.043(b) must have been terminated from TRS employment for a minimum of 30 calendar days in order to exercise the waiver option.
- (b) If a retired member returns to employment with an employer, it is the responsibility of the member to file an election under AS 14.25.043(b) with the administrator within 30 calendar days after reemployment in order to continue receiving benefit payments during the period of reemployment.
- (c) The 30-day election period in (b) of this section is determined from the member's reemployment date to the date of election.
- (d) The date of postmark of the election or the actual date of receipt of the election by the administrator, whichever is earlier, is the date of election.
- (e) **[Repealed 7/20/2006]** If a mailed election has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day the election is received by the administrator.
- (f) Failure to make timely election as provided in (a) - (e) of this section will result in the member being subject to AS 14.25.043(a) and 14.25.050.
- (g) Once the administrator receives an election, the election is irrevocable for the period of reemployment.
- (h) A member who is eligible and makes an election under AS 14.25.043(b) is a retired teacher or member under AS 14.25.220(34) for the purposes of AS 14.25.009 - 14.25.220 and this chapter.

HISTORY: Eff. 7/5/2001, Register 167; am/readopt 7/20/2006, Register 179; repealed 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.035, AS 14.25.043, AS 14.25.050, AS 14.25.220

EDITOR'S NOTE: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 36.237, except for 2 AAC 36.237(e) and (h), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also repealed 2 AAC 36.237(e) and amended 2 AAC 36.237(h). Chapter 9, FSSLA

2005 eliminated the Teachers' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 36 to the commissioner of administration.

Although 2 AAC 36.237 took effect 7/5/2001 by emergency order, and was made permanent on 10/29/2001, it did not appear in print in the Alaska Administrative Code until Register 167.

2 AAC 36.240. Application for Disability Benefits. ***[Repealed 7/20/06]***

- (a) The administrator shall determine eligibility for disability benefits under AS 14.25. The administrator may require the member to provide additional information and to submit to an examination by one or more physicians of the administrator's choosing at the division's expense.
- (b) A member may apply to the administrator for a determination of eligibility for disability benefits before employment is terminated. A determination by the administrator finding disability is void if the member fails to terminate employment within 30 days of the date of the determination.
- (c) When a determination is made under this section before termination, notice of the determination will be mailed to the member's employer.
- (d) A person who fails to file a notice of appeal within the time established by this section forfeits the right to appeal, unless the person demonstrates to the administrator that there are extraordinary circumstances that prevented the person from meeting the deadline. Extraordinary circumstances may include being adjudged as incompetent or confined to a hospital, but do not include lack of information or mere neglect.

HISTORY: Eff. 3/30/84, Register 93; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.241. Recovers from the Disability. ***[Repealed 7/20/06]***

For purposes of AS 14.25.130(e), "recovers from the disability" means that the member becomes capable of performing the duties required of a teacher.

HISTORY: Eff. 1/7/2001, Register 159; repealed 7/20/2006, Register 179

2 AAC 36.245. Application for Retirement.
[Repealed 7/20/06]

- (a) It is the responsibility of the member to make application for retirement in writing on a form prescribed by the administrator. The effective date of application is the day the application is received by the division, or, if mailed, the day the application is postmarked. A member requesting appointment to retirement should apply 30 days before the requested retirement date.
- (b) If a mailed application has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day the application is received in the division.
- (c) The amendment to (a) of this section, regarding postmark, and (b) of this section, apply to applications pending or mailed on or after December 12, 1988.

HISTORY: In effect before 10/21/83, Register 93; am 5/3/89, Register 111; repealed 7/20/2006, Register 179

2 AAC 36.247. Application for Retirement Incentive Program.
[Repealed 1/07/01]

- (a) A member of the Teachers' Retirement System who is designated as eligible for participation in the retirement incentive program under sec. 3, 4, or 5, ch. 89, SLA 1989, as amended, is deemed to have applied on a form provided by the administrator under sec. 2(c), ch. 89, SLA 1989 if the member files with the administrator
 - (1) a Retirement Incentive Program (RIP) Application for Retirement Benefits on or before the applicable deadline for filing of an application established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended; or
 - (2) proof that the member provided notice of intent to retire under the program to the member's employer, which must include certification by the employer that the notice of intent was
 - (A) provided to the employer on or before the applicable deadline established by sec. 3, 5, or 6, ch. 89, SLA 1989, as amended;

- (B) accepted by the employer; and
 - (C) not subsequently revoked or denied.
- (b) For purposes of (a)(2)(C) of this section, a member's notice of intent to retire under the retirement incentive program is revoked if the member
- (1) provides the employer with written or oral notice of revocation;
 - (2) does not pursue retirement and continues employment after the applicable retirement deadline established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended; or
 - (3) acts or fails to act in such a manner that the employer reasonably relies on a belief that the act or failure to act constitutes revocation of the notice of intent.
- (c) This section applies to a member appointed to retirement
- (1) before or after the effective date of this section; and
 - (2) on or before the applicable retirement deadline established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended.

HISTORY: Effective 11/18/90, Register 122; repealed 1/7/2001, Register 159

ARTICLE 5. Alaska State Pension Investment Board

Section

310. Election of Alaska State Pension Investment Board trustees.
[Deleted 10/05]
320. Board trustee election procedures. [Deleted 10/05]
330. Removal and suspension of trustees. [Deleted 10/05]

EDITOR'S NOTE: As of Register 175 (October 2005), the regulations attorney deleted 2 AAC 36.310, 2 AAC 36.320, and 2 AAC 36.330, to recognize the establishment of the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board. The changes were made by the regulations attorney in accordance with ch. 9, FSSLA 2005 and AS 44.62.125(b)(6).

2 AAC 36.310. Election of Alaska State Pension Investment Board Trustees. **[Deleted 10/05]**

A person elected by the members of the teachers' retirement system as an Alaska State Pension Investment Board trustee under AS 37.10.210, and a person voting in an election to elect such a trustee, must be an active, disabled, inactive, or retired member of the teachers' retirement system as defined in AS 14.25.220. The term of an elected trustee of the Alaska State Pension Investment Board begins the first day the position is vacant or the date the election is certified, whichever is later. The winner of an election for a trustee's seat is the candidate receiving the most votes cast in the election. If there are two vacancies at one election, the winners will be the two candidates receiving the most votes cast in the election, with the candidate receiving the most votes elected to the longer term.

HISTORY: Eff. 8/7/92, Register 126; deleted as of Register 175, October 2005

2 AAC 36.320. Board Trustee Election Procedures.

[Deleted 10/05]

- (a) The commissioner of revenue will conduct the elections required by AS 37.10.210 for the two trustees of the Alaska State Pension Investment Board who represent the members of the teachers' retirement system.
- (b) If both trustees are to be elected at one election, eligible voters may vote for two candidates.
- (c) The commissioner of revenue will provide notice of a vacancy or anticipated vacancy on the Alaska State Pension Investment Board, and of the election to fill it, to members of the teachers' retirement system at least 70 days before the election is held. Notice will be made through publication in a newspaper in at least three major cities in the state, and compliance with the minimum period of notice will be measured from the date publication has been made in the three major cities. On or after the publication of notice and before the election, the commissioner will also distribute the notice to state personnel officers and other public employees' retirement system employers for posting, and will submit the notice for posting on the Alaska Online Public Notice System and for publication in the teachers' retirement system newsletter, if it is likely that the newsletter will be published before the election. The notice will contain information about and procedures for the election, including the effective date of the vacancy, the length of the term for the seat to be filled, the qualifications that a candidate must have, the deadline for filing nominating petitions, the deadline for submitting ballots, and the date the ballots will be counted.
- (d) A nomination for a trustee's seat may be made by the Teachers' Retirement Board or by petition on a form prescribed by the commissioner of revenue. A nominee nominated by the board shall submit to the commissioner a biographical sketch not to exceed 150 words. A nominating petition must include
 - (1) the nominee's name and address, a statement of willingness to serve, and a short biographical sketch not to exceed 150 words; and
 - (2) the printed names, signatures, and addresses of at least 10 members of the system.

- (e) A completed nominating petition must be received in an office of the Department of Revenue by the deadline set out in the notice of vacancy and election. Corrections to a nominating petition will not be accepted after that deadline.
- (f) The commissioner of revenue will review the petitions and prepare the ballots. The names of the nominees whose petitions are incomplete or received after the deadline will not be included on the ballot. A nominee will be excluded from the ballot if, among other reasons, the nominee is not a member of the system, or the nominee's petition contains less than 10 signers who are members; a signature on a petition will not be counted if the signature and printed name are illegible, or if the address furnished by the signer does not correspond with the system's address for the signer. The commissioner will advise an excluded nominee of the reason for the exclusion. If a petition is received and reviewed in sufficient time before the petition deadline, and is determined to be inadequate, the nominee may make the necessary corrections by the petition deadline.
- (g) Voting will be by secret ballot. The commissioner of revenue will mail the ballots to all members of the teachers' retirement system at least 30 days before the date on which ballots will be counted, and will include with the ballot the biographical sketch submitted by each candidate appearing on the ballot.
- (h) The commissioner of revenue will tally the vote. Each candidate may be present or have a representative present at the tallying.
- (i) Any candidate or Teachers' Retirement Board member may challenge the eligibility of any person to vote in an election. Challenged ballots will be held separately. If the number of challenged ballots is insufficient to change the outcome of the election, the ballots will be disregarded. If the challenged ballots could affect the outcome of the election, the commissioner of revenue will, after considering the objections, make a determination as to whether to accept and tally, or reject, each challenged ballot, or whether to take other appropriate action, including conducting a new election.
- (j) The commissioner will notify the board and all participating candidates of the results of a tally.
- (k) If the top vote-getters for a seat receive the same number of votes, the commissioner of revenue will, within 30 days after the ballots are tallied, mail out ballots for a runoff election between the candidates

receiving the most votes. The provisions of (g) through (m) of this section apply to a runoff election.

- (l) Within seven days after notice of the tally of ballots under (j) of this section has been given by the commissioner of revenue, any candidate may file with the commissioner an objection to the manner in which the election was conducted or to any conduct affecting the results of the election. The commissioner will investigate any objections filed under this subsection and, based on the commissioner's findings, will certify the results of the election or order any other appropriate action, including a runoff or new election.
- (m) All ballots and petitions will, in the discretion of the commissioner of revenue, be destroyed 30 days after the commissioner's certification of the election.

HISTORY: Eff. 8/7/92, Register 126; deleted as of Register 175, October 2005

2 AAC 36.330. Removal and Suspension of Trustees. *[Deleted 10/05]*

- (a) The Teachers' Retirement Board will, in its discretion, propose the removal for cause, including incompetence, neglect of duty, or misconduct in office, of a trustee of the Alaska State Pension Investment Board who was elected by members of the teachers' retirement system. The retirement board will also, in its discretion, propose the removal for cause of a trustee elected by members of the teachers' retirement system who has failed to attend at least 75 percent of the meetings of the Alaska State Pension Investment Board held during a calendar year.
- (b) The retirement board will give to a trustee being proposed for removal for cause a written copy of the charges, and will afford that trustee an opportunity for a public hearing to present a defense to the charges. A hearing will not be scheduled within the 10 days after the date upon which the trustee was given a copy of the charges. If a hearing is not requested within those 10 days, the charges are considered to be not contested, and the trustee is removed from office at the conclusion of the 10-day period.
- (c) At a hearing requested under (b) of this section, the trustee proposed for removal may be represented by counsel, may present witnesses

and evidence, and may cross-examine adverse witnesses. If, after the hearing, the Teachers' Retirement Board finds that the charges have been proven, the trustee is immediately removed from office.

- (d) The Teachers' Retirement Board will, in its discretion, suspend a trustee for a violation of law or for misconduct in office pending the proceedings for removal from office under this section.
- (e) A trustee who is also a member of the Teachers' Retirement Board may not vote in any removal action taken by the retirement board against that member, including the initial decision proposing to remove the trustee and the vote following a hearing on the proposed removal.
- (f) If a trustee is removed for cause under this section, the Teachers' Retirement Board will file with the Alaska State Pension Investment Board a complete statement of all charges made against the trustee and, if a hearing on the charges was held, the retirement board's findings and a complete record of the proceedings.

HISTORY: Eff. 8/7/92, Register 126; deleted as of Register 175, October 2005

ARTICLE 6.
Miscellaneous Provisions Relating to the
Defined Benefit Plan

Section

- 820. Release of information. [Repealed 1/7/01]
- 835. Assignment of a portion of an employee contribution account to an alternate payee. [Repealed 1/13/10]
- 840. Employers to supply employment records. [Repealed 7/20/06]
- 870. Supervisors within the Department of Education and Early Development. [Repealed 1/7/01]
- 880. Surviving spouse or member's spouse. [Repealed 7/20/06]
- 890. Certification of teachers. [Repealed 1/13/10]

2 AAC 36.820. Release of Information.
[Repealed 1/7/01]

- (a) The release of information regarding personal or financial data on active members, inactive members, survivors, or former members must be in accord with policies promulgated by the administrator. Information on a member or former member must be released to that individual, his employer or former employer(s), and state agencies authorized to secure such information, but will not be released to any other person except
 - (1) upon production of written authorization for release from the affected member or former member; or
 - (2) when the inquiring party has a court order or subpoena to secure such information.
- (b) For purpose of this section, “employer or former employer” is defined in AS 14.25.220(15).

HISTORY: In effect before 10/21/83, Register 93; repealed 1/7/2001, Register 159

2 AAC 36.835. Assignment of a Portion of an Employee Contribution Account to an Alternate Payee.
[Repealed 1/13/10]

- (a) A terminated non-vested or vested employee in the defined benefit plan of the Teachers' Retirement System (AS 14.25.009 - 14.25.220), whose rights to benefits are subject to a qualified domestic relations order, may elect to receive a refund of the pro-rata portion of the employee contribution account, but only if the alternate payee also elects to receive a refund of the alternate payee's pro-rata portion of the employee contribution account.
- (b) A refund of employee contributions irrevocably voids the qualified domestic relations order (QDRO).

HISTORY: Eff. 1/7/2001, Register 159; am/readopt 7/20/2006, Register 179; repealed 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.200, AS 14.25.220

2 AAC 36.840. Employers to Supply Employment Records.
[Repealed 7/20/06]

- (a) The employer shall transmit all notification of employment forms or notification of termination forms to the administrator within 10 days of the date that the employee is hired or terminated.
- (b) The administrator may, in his or her discretion, impose a penalty of \$100 on an employer for each violation of (a) of this section.

HISTORY: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

2 AAC 36.870. Supervisors Within the Department of Education and Early Development.
[Repealed 1/7/01]

For the purposes of AS 14.25.220(38), "supervisors within the Department of Education and Early Development" means those certificated employees who supervise or administer an educational program for which a teaching certificate is required as a condition of employment.

HISTORY: In effect before 10/21/83, Register 93; repealed 1/7/2001, Register 159

2 AAC 36.880. Surviving Spouse or Member’s Spouse. ***[Repealed 7/20/06]***

For purposes of AS 14.25.155, AS 14.25.157, AS 14.25.160, AS 14.25.162 and AS 14.25.164, the phrase “surviving spouse” or “member’s spouse” means the legal spouse of the member at the time of the member’s death.

HISTORY: In effect before 10/21/83, Register 93; am 5/13/85, Register 99; repealed 7/20/2006, Register 179

2 AAC 36.890. Certification of Teachers. ***[Repealed 1/13/10]***

- (a) For purposes of the definition of “teacher” and “member” in AS 14.25.220 and 14.25.590, a person is considered certificated and may remain in the teachers’ retirement system if the person provides the administrator with evidence acceptable to the administrator that the person holds a valid teaching certificate issued to the person by the Department of Education and Early Development within 120 days of the person’s employment. If 120 days have elapsed following the date of the person’s employment and the person has not provided the administrator with evidence that the person holds a valid teaching certificate issued by the Department of Education and Early Development, the person’s membership in the system will be terminated immediately, contributions will be refunded for that period of ineligible employment after the date of employment, and the corresponding period of ineligible service will be removed from the person’s employment history if the position into which the person was hired was under the defined benefit plan of the teachers’ retirement system.
- (b) A school district will provide a copy of this regulation to a person hired for a teaching position who does not possess a valid teaching certificate at the time the person is hired.

HISTORY: In effect before 10/21/83, Register 93; am 3/18/2004, Register 172; am/readopt 7/20/2006, Register 179; repealed 1/13/2010, Register 193

AUTHORITY: AS 14.25.003, AS 14.25.220

EDITOR’S NOTE: As of Register 151 (October 1999), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Education to the Department of Education and Early Development made by ch. 58, SLA 1999, and the corresponding title change of the commissioner of education.

Even though the amendments to 2 AAC 36.890 were effective 3/18/2004, they were not published until Register 172, January 2005.

Chapter 38

Employment-Related Benefits for Same-Sex Partners of State Employees and Retirees Under the State's Retirement Systems

Section

10. Same-sex partner insurance coverage. **[Repealed 1/1/16]**
30. Enrollment of same-sex partner and same-sex partner's eligible child. **[Repealed 1/1/16]**
50. Imputation of income and effect on pre-tax premiums. **[Partially repealed 1/1/16]**

2 AAC 38.010. Same-Sex Partner Insurance Coverage. ***[Repealed 1/1/16]***

- (a) A state employee or member of a state retirement system who is covered by group insurance under AS 39.30.090 or 39.30.091, such as the state's retiree medical, Select Benefits, or Supplemental Benefits plans, or by an alternative insurance program, such as a union health trust, under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2), may enroll the employee's or retirement system member's same-sex partner in the group insurance or alternative insurance program if the employee and same-sex partner, or retirement system member and same-sex partner, meet the requirements of this section.
- (b) In order to enroll a same-sex partner in group insurance coverage provided under AS 39.30.090 or 39.30.091 or an alternative insurance program under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2), the covered employee or covered member of a state retirement system shall file with the administrator of the health plan or retirement system an affidavit executed by the employee and same-sex partner or the retirement system member and same-sex partner declaring under penalty of perjury that they

- (1) are at least 18 years old and are each competent to enter into a contract;
 - (2) have been in an exclusive, committed, and intimate relationship with each other for the last consecutive 12 months and intend to continue that relationship indefinitely;
 - (3) have resided together at a common primary residence for the last 12 consecutive months and intend to reside together indefinitely;
 - (4) consider themselves to be members of each other's immediate family;
 - (5) are not related to each other to a degree of closeness that would preclude them from marrying each other in this state if they were of the opposite sex from each other;
 - (6) are neither one of them legally married to anyone else;
 - (7) have not executed an affidavit affirming same-sex partner status with anyone else within the last 12 months;
 - (8) are each other's sole domestic partner and are each responsible for the common welfare of the other;
 - (9) share financial obligations, including joint responsibility for basic living expenses and health care costs;
 - (10) understand that, under applicable federal income tax law, payments for medical coverage of a same-sex partner or child of a same-sex partner may not be eligible for pre-tax treatment, and coverage of a same-sex partner may result in additional imputed taxable income to the covered employee, retirement system member, or survivor and related withholding for payroll, income, or pension and annuity taxes; and
 - (11) understand that, in addition to requirements of this section, there are terms and conditions of coverage set out in each group policy, state plan of self-insurance, or alternative insurance program to which they are bound.
- (c) In order to enroll a same-sex partner in group insurance coverage provided under AS 39.30.090 or 39.30.091 or an alternative insurance program under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2), and upon request of the health plan or retirement system administrator after enrollment, the

covered state employee or member of a state retirement system shall provide documentation establishing that the employee and same-sex partner, or retirement system member and same-sex partner, meet at least five of the following criteria:

- (1) joint interest in real property, as evidenced by title or mortgage, lease, or rental agreement, by the employee or retirement system member and the same-sex partner;
 - (2) joint ownership or purchase of a motor vehicle by the employee or retirement system member and the same-sex partner;
 - (3) joint ownership of a checking, savings, or investment account or joint liability for a loan or credit account by the employee or retirement system member and the same-sex partner;
 - (4) the same-sex partner is named as primary beneficiary for a life insurance policy of the employee or retirement system member;
 - (5) the same-sex partner is named as primary beneficiary for the employee's or retirement system member's pension or annuity plan benefits, deferred compensation plan, Individual Retirement Arrangement or Account, 401(k) plan, Keogh plan, or other tax-deferred or taxable plan;
 - (6) the same-sex partner is named as primary beneficiary in the employee's or retirement system member's will;
 - (7) the same-sex partner has authority to deal with property owned by the employee or retirement system member under a valid written power of attorney;
 - (8) the employee or retirement system member has given the same-sex partner written authority to make decisions concerning the employee's or retirement system member's health and well being if the employee or retirement system member is unable to do so.
- (d) An employee or member of a state retirement system who enrolls a same-sex partner in coverage under this section may also enroll the child of the same-sex partner if the child is unmarried, is dependent on the employee or retirement system member for support, and meets other requirements set out in the group policy, state plan of self-insurance, or alternative insurance program, and applicable statute governing the retirement system, including age and applicable school enrollment requirements.

- (e) An employee or member of a state retirement system who has enrolled a same-sex partner, or a same-sex partner and child, in coverage under this section shall provide written confirmation of eligibility of the enrolled person, supplementing documentation provided under (c) of this section if that information has changed, upon request of and in the manner requested by the plan administrator. Failure to provide written confirmation requested by the plan administrator may result in suspension of coverage of the enrolled person.
- (f) An employee or retirement system member who enrolls a same-sex partner in coverage under this section must agree that, if the employee or retirement system member and same-sex partner no longer meet the requirements of this section, the employee or retirement system member will file with the administrator of each plan in which the same-sex partner is enrolled a written statement of termination of eligibility within 30 days of the date that eligibility ends. Eligibility of the same-sex partner for benefits of a plan terminates on midnight of the date that eligibility ends as declared in writing by the employee or retirement system member. Failure to notify the plan administrator of termination of eligibility results in liability of the employee or retirement system member for any resulting overpayment of benefits under the plan. Continuation of coverage will be offered to the former same-sex partner of the employee or retirement system member as if a divorce had occurred.
- (g) An employee or retirement system member who enrolls a same-sex partner, or same-sex partner and eligible child under (d) of this section, in coverage under this section shall pay any premium established by the plan that an employee or retirement system member is required to pay for comparable coverage for a spouse or spouse and dependent child.
- (h) In this section, “resided together at a common primary residence” requires the employee or member of a state retirement system and the employee’s or member’s same-sex partner to share the same domicile. The common primary residence can change during the 12-month period set out in (b) of this section. Once an employee or member of a state retirement system and same-sex partner have begun to reside together at a common primary residence, absence by the employee or retirement system member or the same-sex partner required for employment that requires periodic absence from the common primary residence, education, medical reasons, military service, or other reasons determined by the plan administrator will not result in a break

in eligibility, as long as the absent employee, retirement system member, or same-sex partner intends to return to common primary residence.

HISTORY: Eff. date for medical benefit provisions: 11/12/2006, Register 181; eff. date for retirement system benefits provisions: 11/16/2006, Register 181.

AUTHORITY: AS 14.25.005, AS 39.30.090, Former AS 39.37.090, AS 22.25.027, AS 39.35.005

2 AAC 38.030. Enrollment of Same-Sex Partner and Same-Sex Partner's Eligible Child ***[Repealed 1/1/16]***

- (a) After November 12, 2006, a special enrollment will be conducted to allow enrollment of eligible same-sex partners and eligible children of same-sex partners in group insurance plans described in 2 AAC 38.010(a). If the terms of a group insurance plan described in 2 AAC 38.010(a) allow enrollment of a spouse or family at only a specific time, such as the date of retirement of a member of the retirement system, in order to enroll a same-sex partner or child of a same-sex partner in the plan during the special enrollment, the employee or member of a state retirement system must establish that the requirements of 2 AAC 38.010(b) and (c) were met at the time specified by the terms of the plan.
- (b) Following the special enrollment, enrollment of a same-sex partner or child of a same-sex partner may occur only at a subsequent open enrollment or upon the occurrence of a qualifying status change and in accordance with the terms of the plan. For purposes of a plan described in 2 AAC 38.010(a) that allows an employee or member of a state retirement system to enroll a spouse or dependent child within a period of time after a qualifying status change occurs, such as a change in family structure, ineligibility for other coverage or change in insurance coverage, a qualifying status change for enrollment of the employee's or retirement system member's same-sex partner or eligible children of a same-sex partner occurs on the date upon which
 - (1) the employee or retirement system member is first able to meet the requirements of 2 AAC 38.010(b) and (c), if the plan allows enrollment of a spouse and eligible dependent children when a plan member marries;
 - (2) a status change occurs related to the same-sex partner that would

constitute a qualifying status change event under the terms of the plan if the status change related to the spouse of the employee or retirement system member.

- (c) The employee or retirement system member should provide the documentation required by 2 AAC 38.010(c) within 90 days of filing an enrollment form with the administrator of a plan under AS 39.30.090 or 39.30.091, or if the enrollment is filed with the administrator of an alternative insurance program under AS 39.30.090(a)(2), within the time provided by the alternative insurance program plan. Once the documentation required under 2 AAC 38.010(c) is received by the administrator of a plan under AS 39.30.090 or 39.30.091, coverage of the eligible same-sex partner is effective on the latest of the first day of the month after the enrollment form is received by the plan administrator, the date of the employee's appointment to receive retirement or disability benefits if the enrollment is for a retiree insurance plan, the date coverage is allowed under the terms of an open enrollment if the enrollment is filed under the open enrollment, or January 1, 2007. Payment will not be made on covered claims until eligibility is established under 2 AAC 38.010. Payment will not be made on claims arising more than 12 months before eligibility is established under 2 AAC 38.010.
- (d) This section does not authorize or require a change in type or level of coverage if such a change is not allowed by federal regulations governing mid-year changes in coverage or under the provisions of the plan, nor does this section prohibit mid-year changes in the type or level of coverage if such change is required by federal regulations or permitted under the provisions of the plan. Changes in the type or level of coverage may be made during any regular open enrollment period of the plan, if allowed by federal regulations governing the plan.
- (e) To the extent permitted by federal regulations, a same-sex partner and an eligible child of a same-sex partner will be considered dependents under the plan for purposes of eligibility, including continuation of coverage and 29 U.S.C. 1182 (Health Care Portability and Accountability Act of 1996) (HIPAA) portability rights, even if the individual does not qualify as a dependent for federal tax purposes.

HISTORY: Eff. date for medical benefit provisions: 11/12/2006, Register 181; eff. date for retirement system benefits provisions: 11/16/2006, Register 181.

AUTHORITY: AS 14.25.005, AS 39.30.090, Former AS 39.37.090, AS 22.25.027, AS 39.35.005

2 AAC 38.050. Imputation of Income and Effect on Pre-Tax Premiums.
[Partially repealed 1/1/16]

- (a) If an employee's premium payment for group insurance coverage of a same-sex partner or child of a same-sex partner is not eligible for pre-tax treatment, the premium payment will be deducted on a post-tax basis in the amount established by the administrator of the applicable plan.

- (b) Income imputed under this section does not constitute compensation for purposes of determining employer or employee contributions or computation of benefits under the state's retirement systems or Alaska Supplemental Annuity Plan.

HISTORY: Effective date for medical benefits provisions: 11/12/2006, Register 181; effective date for retirement systems benefits provisions: 11/16/2006, Register 181; am 1/1/2016, Register 217

AUTHORITY: AS 14.25.005, AS 39.30.090, AS 39.35.005, Former AS 39.37.090

EDITOR'S NOTE: The two November 2006 effective dates for the provisions of 2 AAC 38.050 were established by the Alaska Supreme Court in its order of December 19, 2006 in *State of Alaska v. Alaska Civil Liberties Union, et al* (Supreme Court No. S-12480) 159 P.3d 513. 2 AAC 38.050 first appeared in print in the Alaska Administrative Code in Register 181, April 2007.

Chapter 39

Group Health and Life Insurance

Article

1. Long-Term Care Insurance. (2 AAC 39.010 - 2 AAC 39.100)

ARTICLE 1. Long-Term Care Insurance

Section

30. Implementation of the long-term care insurance plan for existing benefit recipients. **[Repealed 2/1/93]**

2 AAC 39.030. Implementation of the Long-Term Care Insurance Plan for Existing Benefit Recipients. [Repealed 2/1/93]

- (a) To be eligible for long-term care insurance coverage, a person appointed to receive a monthly benefit before February 2, 1987, must apply for the insurance by May 30, 1987. Coverage, if approved, will be effective on the first day of the month following the month in which premiums are deducted.
- (b) A person appointed to receive a monthly benefit before February 2, 1987, must complete a health statement for both himself or herself and for a spouse who will be covered under joint coverage. The health statement will be used to determine eligibility and coverage will be approved or denied based on established underwriting standards. The standards are designed to identify individuals likely to require confinement and professional nursing care in a skilled nursing facility, intermediate care facility, or home convalescent setting within the 12 months after the effective date of coverage.

HISTORY: Eff. 11/12/86, Register 100; am 5/31/87, Register 102

AUTHORITY: AS 39.30.090(a)



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