



STATE OF WISCONSIN  
Department of Employee Trust Funds  
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**CORRESPONDENCE MEMORANDUM**

DATE: September 11, 2009  
TO: Employee Trust Funds Board  
Teachers Retirement Board  
Wisconsin Retirement Board  
FROM: Matt Stohr, Director of Legislative Affairs, Communications and  
Quality Assurance  
SUBJECT: Legislative and Communications Update

**This memo is for informational purposes only. No Board action is required.**

**Legislative Update**

**2009 Wisconsin Act 28**

2009 Wisconsin Act 28, the 2009-2011 biennial budget, has numerous provisions that directly affect the Department of Employee Trust Funds (ETF) and the Wisconsin Retirement System (WRS). Please find attached a summary of the provisions included in 2009 Wisconsin Act 28 that have an impact on various programs administered by the Department. The summary is posted on ETF's Internet site to help explain the provisions to WRS employers and members. It has been posted since July 14, 2009, and was updated on July 28, 2009.

**2009 Senate Bill 88/Assembly Bill 126**

2009 Senate Bill 88, and its companion bill 2009 Assembly Bill 126, would create a program that would allow participating employees in the WRS to purchase creditable service for all years of active military service subject to certain conditions. Among other things, the conditions include: the employee pays the Department the required employee contribution for general category employees based on the employee's final average earnings (determined as if the employee had retired on the first day of the

Reviewed and approved by Robert J. Conlin, Deputy Secretary.

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Signature

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Date

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annual earnings period during which the Department received the application). The Assembly Committee on Veterans and Military Affairs held a public hearing on 2009 Assembly Bill 126 on April 15, 2009. No further action has been taken.

### **2009 Assembly Bill 199**

2009 Assembly Bill 199 would classify various employees as protective occupation employees for the purposes of the WRS, including employees of the Parole Commission; state employees who are employed at state correctional institutes, juvenile correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or any secure mental health facility for sexually violent persons; psychologists and corrections classification specialists employed by the Department of Corrections who perform duties related to sexually violent person commitments; and clerical employees employed at probation, extended supervision and parole offices. This bill has been referred to the Assembly Committee on Courts and Corrections. As of this writing, it has not been scheduled for a hearing.

### **2009 Assembly Bill 337**

2009 Assembly Bill 337 provides that a participating WRS employer who is subject to the Municipal Employment Relations Act (MERA) may not pay, on behalf of any employee who first becomes a participating employee on or after the bill's effective date, the first 3% of earnings of an employee's required contribution. Employers covered by MERA generally include any city, county, village, town, metropolitan sewerage district, school district, family care district, or any other political subdivision of the state, or instrumentality of one or more political subdivisions of the state. This bill has been referred to the Assembly Committee on Urban and Local Affairs. As of this writing, it has not been scheduled for a hearing.

### **Variable Fund**

As of this writing, a bill to close the Variable Fund to new enrollees has not been introduced. I have had discussions with Senator Bob Wirsch and Representative Mary Hubler, the co-chairs of the Joint Survey Committee on Retirement Systems, about introducing a bill.

## **Communications Update**

### **Furlough-Office Closure**

As you are aware, the Department decided to close ETF offices on Friday, September 4, 2009, as a result of 2009 Executive Order 285. The Department published an article in both the September edition of *Trust Fund News* and *It's Your Benefit* to make WRS members and employers aware of the office closure. In addition, we posted a brief article on our Internet site, we sent a press release to media outlets across the state, and people who called the ETF Call Center received an automated phone message announcing the office closure. We will use a similar communications strategy for the upcoming furlough days.

### **Domestic Partner Provision (2009 Wisconsin Act 28)**

The Department intends to have information about the domestic partner provision available prior to the health insurance enrollment period, which begins on Monday, October 5, 2009. Specifically, we intend to have a domestic partner "starter kit" available on the ETF Internet site, which will include an introduction to the program, a frequently asked question document, the affidavits, and a health insurance application.

### **Newsletters**

The Department currently distributes three types of newsletters to WRS members and employers. The *Trust Fund News*, which provides retirement benefit information, and the *It's Your Benefit*, which provides health insurance benefit information, are distributed three times a year (January, May and September). We also send *Employer Bulletins* to WRS employers throughout the year.

The Department has decided to reduce the number of *It's Your Benefit* editions from three per year to one per year. Thus, WRS members who participate in either the state health insurance program or local health insurance program administered by the Department, will only receive a paper copy of *It's Your Benefit* in September of each year. The September 2009 edition, which will be distributed in mid-September, will announce this change.

The change is one part of our overall effort to reduce operating costs and find more cost effective and timely ways of conveying news and information about benefits to members and employers. We will continue to provide important health insurance information to our members and employers; however, we will do so by better utilizing our Internet site and other electronic means to provide updates about health insurance benefits (e.g., expanding our popular online video programs). As you are aware, most of the health plans that participate in the state and local health insurance program provide

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newsletters to their enrolled members and those newsletters often cover much of the same information provided in *It's Your Benefit*. Our goal going forward will be to provide content specific to our group health insurance program, rather than providing general health insurance and medical information.

We are also looking at more cost effective ways of disseminating the *Trust Fund News* and our *Employer Bulletins*. In general, we believe that by better leveraging technology we'll be able to reduce our long-term costs while at the same time providing more timely and relevant updates to WRS members and employers.

I will be at the September 17, 2009, Joint Information meeting to answer any questions you may have.

Attachment



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Updated on July 28, 2009

Dear Wisconsin Retirement System (WRS) Participants and Employers:

2009 Wisconsin Act 28 (the state budget bill) contains a number of retirement and health insurance benefit provisions that affect the programs administered by the Department of Employee Trust Funds (ETF). The list below provides specific information on some of these provisions, including effective dates, participants affected and where to get more information. The list below also provides information on 2009 Wisconsin Act 14, which impacts the state and local group health insurance programs. Please note that at this time ETF does not currently have detailed information for those provisions that are effective January 1, 2010.

**PROVISIONS IN 2009 WISCONSIN ACT 28 RELATING TO ETF BENEFIT PROGRAMS**

***1. Deemed Earnings-Compensation That Would Have Been Paid (had the furlough not been ordered) Is Deemed As Earnings And Service For Retirement Purposes***

- a. **Description:** The provision addresses the effect of furloughs on Wisconsin Retirement System (WRS) reportable earnings and benefits. For WRS purposes only, the earnings of a state employee includes compensation that would have been payable to the employee at the employee's rate of pay immediately prior to the beginning of any mandatory, temporary reduction of work hours or days (furlough) ordered by the State of Wisconsin from July 1, 2009, through June 30, 2011, for service that would have been rendered by the employee during that period had a furlough not been ordered.

Contributions must be paid to the WRS on earnings considered to be received under this provision (referred to as "deemed earnings"). The deemed earnings are considered in the calculation of the participant's final average earnings for purposes of determining the participant's retirement annuity. The provision also includes in the definition of creditable service, the service for which a participating employee is considered to have received deemed earnings and for which contributions have been made as required by law.

- b. **Effective Date:** July 1, 2009
- c. **Applies To:** State employees (including University of Wisconsin System)
- d. **More Information:** [http://www.etf.wi.gov/employers/bulletins\\_state/ebs20090707.pdf](http://www.etf.wi.gov/employers/bulletins_state/ebs20090707.pdf)
- e. **For More Information about the impact of this provision on WRS Disability Programs go to:** [http://www.etf.wi.gov/employers/Furlough\\_Disability\\_Impact.pdf](http://www.etf.wi.gov/employers/Furlough_Disability_Impact.pdf)

f. **Statutory Reference:** Wis. Stat. § 40.02 (22) (ef)

## 2. ***Changes In The Calculation Of WRS Benefits For Certain Part-Time Staff***

This provision has two parts:

### **PART I: Educational support staff qualify for WRS participation at 440 hours**

- a. **Description:** One of the current eligibility criteria for WRS participation is that an individual is expected to work at least 600 hours per year for non-teacher participants and 440 hours per year for teacher participants. This provision changes the educational support staff threshold to 440 hours.
- b. **Effective Date:** July 1, 2009
- c. **Applies To:** ONLY educational support personnel employed by a school district. It does not apply to those employed by a technical college district or by the Milwaukee Public School District.
- d. **More Information:** [http://etf.wi.gov/employers/Educational\\_support\\_provisions.pdf](http://etf.wi.gov/employers/Educational_support_provisions.pdf)
- e. **Statutory Reference:** Wis. Stat. § 40.22 (2m) (a)

### **PART II: The early retirement actuarial reduction is lowered for all part-time non-teaching participants.**

- a. **Description:** Under current law, when calculating the actuarial reduction, a year of creditable service for participants with at least 5 years of part-time service in the 10 years immediately preceding retirement is calculated using 1,904 hours for non-teacher participants. This provision requires that the calculation use 1,320 hours as the full-time equivalent for a year of creditable service.
- b. **Effective Date:** July 1, 2009
- c. **Applies To:** All part-time non-teaching participants who terminate WRS employment on or after July 1, 2009
- d. **More Information:** [http://etf.wi.gov/employers/Educational\\_support\\_provisions.pdf](http://etf.wi.gov/employers/Educational_support_provisions.pdf)
- e. **Statutory Reference:** Wis. Stat. § 40.23 (2m) (fm)

### **3. Domestic Partners – Retirement and Insurance Benefits Available**

- a. Description:** These provisions generally establish that a domestic partner is treated like a spouse for purposes of the benefits in Wis. Stat. Ch. 40, including the WRS, health insurance (state and local), Deferred Compensation and other related benefits. Domestic partners must meet all of the following conditions:
- Be at least 18 years of age and otherwise competent to enter into a contract
  - Neither individual is married to or in a domestic partnership with another person
  - Neither individual is related by blood in any way that would prohibit marriage under Wisconsin law
  - The two individuals consider themselves to be members of each other's immediate family
  - The two individuals agree to be responsible for each other's basic living expenses
  - The two individuals share a common residence.
- b. Effective Date:** January 1, 2010
- c. Applies to:** Subscribers-meaning state employees and retirees, and local employees and retirees of participating employers
- d. More Information:** Available leading up to the health insurance enrollment period in October 2009 and closer to the effective date.
- e. Statutory Reference:** Wis. Stat. §§ 40.02 (21c), (21d), 25 (b) 3, 40.08 (8) (a) 4, 40.08 (9), 40.23 (4) (e), 23 (4) (f) (intro.), 40.24 (7) (a) (intro.), 40.24 (7) (b), 40.25 (3m), 40.51 (2m), 40.52 (2), 40.55 (1), 40.65 (5) (b) 1, 40.65 (5) (c), 40.65 (7) (am) (intro.), (7) (am) 1, (7) (am) 2, (7) (ar) 1, 40.80 (2r) (a) 2

### **4. Health Insurance Coverage Of Dependents up to Age 27**

- a. Description:** Requires that health plans provide coverage to a dependent child through age 26 years unless the dependent is married or is employed and eligible for employer-sponsored health insurance where the cost to the dependent is greater than the cost as a dependent under our program.
- b. Effective Date:** January 1, 2010
- c. Applies To:** Eligible dependents of subscribers in the state or local group health insurance program.
- d. More Information:** Provided in the 2010 *It's Your Choice* booklet, set for publication prior the October health insurance enrollment period.

e. **Statutory Reference:** Wis. Stat. § 632.885 (2)

## 5. **Insurance Coverage for Treatment of Autism Spectrum Disorders**

a. **Description:** Act 28 requires health plans to provide coverage for treatment of autism spectrum disorders if the treatment is prescribed by a physician and provided by individuals with specified expertise who are qualified to provide intensive-level or nonintensive-level services.

- **Conditions Covered:** Autism, Asperger's Syndrome and Pervasive Developmental Disorder - Not Otherwise Specified.
- **Covered Providers:** Psychiatrist, psychologist, social worker who is certified or licensed to practice psychotherapy, paraprofessional working under the supervision of any of those three types of providers, a professional working under the supervision of an outpatient mental health clinic, speech-language pathologist or an occupational therapist.
- **Coverage Minimums:** (adjusted annually according to Consumer Price Index)
  - ✓ Intensive-level: at least \$50,000 per insured per year with 30 to 35 hours of care per week for minimum duration of 4 years
  - ✓ Nonintensive-level: at least \$25,000 per insured per year
  - ✓ Minimum coverage amounts or duration required for treatment need not be met if less treatment is considered medically appropriate by the supervising professional and physician
- **Limitations:** Coverage is subject to any deductibles, coinsurance, or copayments that generally apply to other conditions covered under the policy or plan. However, coverage may not be subject to limitations or exclusions, including limitations on the number of treatment visits.

b. **Effective Date:** January 1, 2010

c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents

d. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.

e. **Statutory Reference:** Wis. Stat. § 632.895 (12m)



## 6. Insurance Coverage of Contraceptives and Services

- a. **Description:** Act 28 requires health plans that cover outpatient health care services, preventive treatments and services, or prescription drugs and devices to provide coverage for contraceptives prescribed by a health care provider. “Contraceptives” means drugs or devices approved by the federal Food and Drug Administration (FDA) to prevent pregnancy. Coverage is also required for outpatient consultations, examinations, procedures, and medical services that are necessary to prescribe, administer, maintain, or remove a contraceptive if covered for any other drug benefits under the plan.

*Please note that benefits under the State of Wisconsin Uniform Benefits and Standard Plan Group Health Insurance programs currently provide coverage for most contraceptives and services. This provision expands coverage to include implantable birth control devices that are currently excluded.*

- b. **Effective Date:** January 1, 2010.
- c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents
- d. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.
- e. **Statutory Reference:** Wis. Stat. § 632.895 (17)

## 7. Insurance Coverage of Licensed Mental Health Professionals Services

- a. **What:** Act 28 provides a definition for a “Licensed mental health professional” and requires health plans to provide coverage for the treatment of nervous or mental disorders, or alcoholism or other drug abuse problems when the services are provided by a licensed mental health professional that is practicing within the scope of his or her license. Coverage is also required when such outpatient services are provided by psychologists who are licensed under state law.

- “Licensed mental health professional” is defined as a clinical social worker, marriage and family therapist, or professional counselor licensed under state law.
- The provision eliminates the existing statutory requirement for a psychologist to be listed in the national register of health service providers in psychology or to be certified by the American board of professional psychology.

- b. **Effective Date:** January 1, 2010
- c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents

- d. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.
- e. **Statutory Reference:** Wis. Stat. §§ 632.89 (1) (dm), (1) (e) 3, (1) (e) 4

## **8. Insurance - Independent Review of Coverage Denial Determinations**

- a. **Description:** Act 28 made changes to the independent review process, which permits participants to have claim disputes reviewed by medical professionals who have no connection to their health plan. Insurers will be required to provide a process for the request of independent review for *coverage denial determinations* – a new category that incorporates existing adverse determinations that include medical necessity and experimental treatment and adds two more categories.
  - Under Act 28, the new “coverage denial determination” category includes:
    - adverse determinations
    - experimental treatment determinations
    - pre-existing condition exclusion denial determinations
    - rescissions of a policy or certificate
  - “Pre-existing condition exclusion denial determination” is the denial of treatment, termination of treatment, or the denial of payment for treatment on the basis of a condition of an individual that existed before the individual’s date of enrollment for coverage. Wis. Stat. § 632.745 (23)
  - Independent Review Organization (IRO) decisions regarding pre-existing condition exclusion denial determinations and rescissions are not binding on the insured. IRO decisions regarding adverse and experimental treatment determinations are binding on both the insurer and the insured.
  - Act 28 also eliminates the \$25 fee paid by the insured.
- b. **Effective Date:** January 1, 2010
- c. **Applies To:** Subscribers in the state or local group health plan and eligible insured dependents
- f. **More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.
- d. **Statutory Reference:** Wis. Stat. § 632.835

## **SEPARATE LEGISLATION: 2009 WISCONSIN ACT 14**

### **1. Insurance Coverage of Hearing Aids, Cochlear Implants and Related Treatments For Infants and Children**

- a. Description:** Act 14 requires health plans to provide coverage for hearing aids, cochlear implants and related treatments for a child covered under the plan that is less than 18 years of age and who is certified as deaf or hearing impaired by a physician or by an audiologist licensed under Wisconsin law. *(Please note that currently under the State of Wisconsin Uniform Benefits Group Health Insurance program, hearing aids and cochlear implants are benefits that are payable at 80%. This provision requires the hearing aid and cochlear implant benefits to be payable at 100% for members who are less than 18 years of age.)*
- Plans must cover the cost of hearing aids and cochlear implants that are prescribed by a physician or by an audiologist licensed under Wisconsin law, in accordance with accepted professional medical or audiological standards.
  - Plans are also required to cover the cost of services, diagnoses, procedures, surgery and therapy rendered by a health care professional and related to hearing aids and cochlear implants, including procedures for implantation of cochlear devices
  - Coverage is not required to exceed the cost of one hearing aid per ear per child more often than once every three years
- b. Effective Date:** January 1, 2010.
- c. Applies To:** Subscribers in the state or local group health plan and eligible insured dependents
- d. More Information:** For more information, we recommend contacting your health plan or the Office of the Commissioner of Insurance.
- e. Statutory Reference:** Wis. Stat. § 632.895 (16)