

PROPOSED DIRECTOR'S RULES FOR 2/18/10 HEARING

Chapter 1 - Definitions of Independent Contractor and Service Date

- 1-51. Independent Contractor. A firm or individual who is responsible to the state for the results of certain work, but is not subject to the state's control as to the means and methods of accomplishing those results. AS DEFINED BY THE INTERNAL REVENUE SERVICE, AN INDEPENDENT CONTRACTOR IN THE STATE PERSONNEL SYSTEM IS NOT AN EMPLOYEE AND SHALL NOT BE TREATED AS SUCH. For purposes of determining independent contractor status, the Director will apply the criteria set forth in the fiscal rules of the state controller, STATE AND FEDERAL LAW. Synonymous with contractor.
- 1-70. Service Date. The date continuous state service begins, including state employment outside the state personnel system, but excluding temporary and student employment. Service dates do not change except for separation from service of more than 90 days, ~~periods of unpaid leave~~, or any break in a probationary period.

Chapter 2 - Job Evaluation

- 2-7. ~~An official job description and written request for an evaluation must be submitted when permanent and substantial changes have been made to the position. Absent extenuating circumstances, the appointing authority must submit the written request to the department's personnel office within six months.~~ EACH POSITION SHALL HAVE AN ACCURATE OFFICIAL (SIGNED BY THE APPOINTING AUTHORITY) JOB DESCRIPTION. APPOINTING AUTHORITIES ARE RESPONSIBLE FOR PROVIDING AN ACCURATE OFFICIAL JOB DESCRIPTION FOR EACH POSITION TO THE DEPARTMENT'S HUMAN RESOURCES OFFICE AND A COPY TO THE EMPLOYEE. ONLY AN ACCURATE OFFICIAL JOB DESCRIPTION IS USED TO ALLOCATE A POSITION TO THE PROPER CLASS BY THE DEPARTMENT'S HUMAN RESOURCES OFFICE.
- A. AN APPOINTING AUTHORITY MUST SUBMIT THE ACCURATE OFFICIAL JOB DESCRIPTION AND ANY EVALUATION REQUEST TO THE DEPARTMENT'S HUMAN RESOURCES OFFICE WITHIN SIX MONTHS WHEN PERMANENT CHANGES ARE MADE TO A POSITION'S ASSIGNMENT.
1. AN EMPLOYEE MAY REQUEST AN EVALUATION OF HIS OR HER POSITION IF PERMANENT CHANGES ARE MADE AND THE JOB DESCRIPTION HAS NOT BEEN EVALUATED OR UPDATED WITHIN THE PREVIOUS 12 MONTHS.
 2. THE EMPLOYEE'S REQUEST MUST BE MADE TO THE APPOINTING AUTHORITY WHO SHALL SUBMIT THE REQUEST, ALONG WITH THE ACCURATE OFFICIAL JOB DESCRIPTION, TO THE DEPARTMENT'S HUMAN RESOURCES OFFICE.

Chapter 5 - Time Off

Authority for rules promulgated in this chapter is found in §§24-50-104 (1)(g) and (7), 24-50-109.5, 1-6-122, 1-7-102, 8-13.3-101 through 104, 12-34-101.5, 13-71-119 and 134, 19-5-211, 24-10-103, 24-11-101 and 112, 24-32-2202 and 2223 through 2228, 24-34-402.7, 24-50-401(1), 28-1-102 through 106, 28-3-601 through 612, 31-30-1131, and 24-50 Part 3, C.R.S. Board rules are identified by cites beginning with "Board Rule".

General Principles

- 5-1. ~~Regular attendance and punctuality are an important part of each state job so employees must use leave responsibly.~~ EMPLOYEES ARE REQUIRED TO WORK THEIR ESTABLISHED WORK SCHEDULE UNLESS ON APPROVED LEAVE. ~~They~~ EMPLOYEES are responsible for requesting leave on the ~~State of Colorado Leave Request and Authorization~~ form (or equivalent form) as much FAR in advance as possible, ~~providing the general reason for the leave and sufficient information.~~ THE LEAVE REQUEST MUST PROVIDE SUFFICIENT INFORMATION TO DETERMINE THE TYPE OF LEAVE.
- A. ~~The leave form~~ APPOINTING AUTHORITY shall balance the employee's privacy rights and the employer's need FOR ADEQUATE INFORMATION ~~to know in order to make the~~ DETERMINE IF family/medical leave (FML) ~~designation~~ IS APPROPRIATE.
 - B. Appointing authorities are responsible for ~~approval of~~ APPROVING all ~~types of leave~~ LEAVE REQUESTS AND FOR DETERMINING THE TYPE OF LEAVE GRANTED, subject to these RULES AND ANY ADDITIONAL DEPARTMENTAL LEAVE PROCEDURES provisions. ~~They are expected to use good business judgment and leave management practices to balance the needs of employees with those of the state, to prevent abuse, and to comply with all legal requirements.~~ DEPARTMENTAL PROCEDURES SHALL BE PROVIDED TO EMPLOYEES.
 - C. Unauthorized use of any leave may result in the denial of paid leave and/or corrective or disciplinary action.
 - D. REQUIRING AN EMPLOYEE TO HAVE A SPECIFIED LEAVE BALANCE IS PROHIBITED.
- 5-2. Paid leave is to be exhausted before an employee is placed on unpaid leave unless the reason for leave does not qualify for the type of leave available, ~~an appointing authority has denied the use of paid leave~~ OR DURING A MANDATORY FURLOUGH.
- 5-3. ~~Departments must report, in a timely manner, the use of any type of leave when requested by the Director for use in the accurate tracking, reporting, and costing of information used to make policy decisions.~~ DEPARTMENTS SHALL KEEP ACCURATE LEAVE RECORDS IN COMPLIANCE WITH RULE AND LAW AND BE PREPARED TO REPORT THE USE OF ANY TYPE OF LEAVE WHEN REQUESTED BY THE DIRECTOR. ~~Departments are required to have an internal control process to assure compliance with rule and law.~~

Personal ACCRUED PAID Leave

- 5-4. Annual leave is ~~provided~~ for an employee's personal needs. AND use is subject to the approval of the appointing authority. THE APPOINTING AUTHORITY ~~who~~ may establish periods when annual leave will not be allowed, or must be taken, based on business necessity. These periods cannot create a situation where the employee does not have a reasonable opportunity to use REQUESTED leave that will be subject to forfeiture. IF THE DEPARTMENT CAUSES THE FORFEITURE OF LEAVE, THE FORFEITED HOURS MUST BE PAID BEFORE THE END OF THE FISCAL YEAR.
- 5-5. Sick leave is ~~provided in the event time off is needed~~ for health reasons ONLY. ~~—This includes~~ diagnostic and preventative examinations, treatment, and recovery. Accrued sick leave may ~~also~~ be used for the health needs of the EMPLOYEE, employee's child who is under the age of 18 or an adult child incapable of self care, parent, spouse, INJURED MILITARY SERVICE MEMBER AS ESTABLISHED UNDER RULE 5-23, legal dependent, or a person in the household for whom the employee is the primary care giver. ~~Accrued sick leave is also used during family/medical leave for an injured military service member.~~ The appointing authority may require documentation of the familial relationship. ~~Note that this definition of family is different from family/medical and bereavement leave.~~

- A. APPOINTING AUTHORITIES MAY SEND EMPLOYEES HOME AND CHARGE SICK LEAVE (ANNUAL LEAVE IF SICK LEAVE IS EXHAUSTED) IF AN EMPLOYEE COMES TO WORK WITH WHAT AN APPOINTING AUTHORITY DETERMINES TO BE AN ILLNESS OR INJURY THAT EITHER IMPACTS THE EMPLOYEE'S ABILITY TO PERFORM THE JOB OR THE SAFETY OF OTHERS.

MEDICAL CERTIFICATES

- 5-6. ~~A **State of Colorado Medical Certificate** form (or equivalent) completed by a health care provider must be provided within 15 calendar days, absent extenuating circumstances, for any health-related absence of more than three consecutive, full working days.~~ EMPLOYEES MUST PROVIDE A **STATE OF COLORADO MEDICAL CERTIFICATE** FORM FOR AN ABSENCE OF MORE THAN THREE CONSECUTIVE FULL WORKING DAYS FOR ANY HEALTH REASON. APPOINTING AUTHORITIES HAVE THE DISCRETION TO REQUIRE CERTIFICATES FOR ABSENCES OF LESS THAN THREE DAYS TO DETERMINE IF FML APPLIES OR WHEN THE APPOINTING AUTHORITY HAS A REASONABLE BASIS FOR SUSPECTING abuse. ~~Certification may also be required for absences of fewer days at the discretion of the appointing authority to determine if family/medical leave FML applies or when a pattern of absences indicates possible abuse.~~ Certification FOR FML may be required for the first leave request each fiscal year ~~even though certification for the same condition previously was provided.~~ Additional medical certificates may be required every 30 days or the time period established in the original certificate, whichever is longer, unless circumstances change or new information is received.

- A. THIS FORM MUST BE COMPLETED BY A HEALTH CARE PROVIDER. THE COMPLETED FORM MUST BE RETURNED WITHIN 15 DAYS FROM THE START OF THE LEAVE.
- B. Failure to provide the certificate ~~will~~ SHALL result in denial of leave and possible corrective/disciplinary action.

- 5-7. ~~If the~~ WHEN A CERTIFICATE IS SUBMITTED TO DEMONSTRATE THAT THE LEAVE IS FML-QUALIFYING ~~condition is covered by FML, AND AN INCOMPLETE MEDICAL CERTIFICATE IS RETURNED, and does not involve workers' compensation or a reasonable accommodation under the Americans with Disability Act,~~ THE EMPLOYEE MUST BE ALLOWED SEVEN DAYS TO OBTAIN COMPLETE INFORMATION, ABSENT EXTENUATING CIRCUMSTANCES. ~~there shall be no contact with the employee's health care provider.~~

- A. ONLY THE HUMAN RESOURCES DIRECTOR OR FMLA COORDINATOR IN THE DEPARTMENT'S HUMAN RESOURCE OFFICE MAY HAVE DIRECT CONTACT WITH AN EMPLOYEE'S HEALTH CARE PROVIDER. SUCH CONTACT IS LIMITED TO VERIFYING THE AUTHENTICITY AND CLARIFYING THE CONTENT OF A MEDICAL CERTIFICATE. ~~If the department employs a health care provider and the employee has given written permission, that health care provider may contact the employee's health care provider to clarify content or verify authenticity.~~

- 5-8. WHEN A certificate IS SUBMITTED TO DEMONSTRATE THAT THE LEAVE IS FML-QUALIFYING, the ~~appointing authority~~ DEPARTMENT has the right to request a second opinion on the **original** certificate. ~~An original certificate includes the first certificate each fiscal year even though certificates previously were provided. The department must pay the expenses for the second opinion and chooses a health care provider who is not employed by, or on contract with, the state. An appointing authority may require a third opinion which is final and binding, if the original and second opinions conflict. IF THE ORIGINAL AND SECOND OPINION CONFLICT, THE DEPARTMENT MAY REQUIRE A BINDING THIRD OPINION BY A MUTUALLY AGREED UPON HEALTH CARE PROVIDER. UNDER BOTH CIRCUMSTANCES THE COST IS PAID BY THE DEPARTMENT. Again, the department must pay the expenses but the health care provider~~

~~is mutually agreed upon.~~ Second and third opinions are not permitted on additional certificates for recertification purposes.

- 5-9. If an absence is more than 30 days for the employee's own condition, ~~a~~ THE EMPLOYEE MUST PROVIDE A fitness-to-return ~~certification~~ CERTIFICATE ~~is required for that condition.~~ The ~~certification~~ CERTIFICATE may be required for absences of 30 or fewer days OR LESS ~~when it is a business necessity~~ given the nature of the condition in relation to the EMPLOYEE'S assignment JOB. ~~It cannot~~ THE DEPARTMENT MAY ALSO REQUIRE A CERTIFICATE OF EMPLOYEES ~~be required for those~~ taking intermittent family/medical leave EVERY 30 DAYS IF THERE ARE REASONABLE SAFETY CONCERNS REGARDING THE EMPLOYEE'S ABILITY TO PERFORM HIS OR HER JOB DUTIES.
- A. ~~The employee is allowed at least 15 calendar days from the date of the request to provide the required certificate.~~ WHEN REQUESTED, EMPLOYEES MUST PRESENT A COMPLETED FITNESS-TO-RETURN CERTIFICATE BEFORE THEY WILL BE ALLOWED TO RETURN TO WORK. Failure to provide a fitness-to-return ~~certification~~ CERTIFICATE as instructed could result in delay of return, a requirement for a new medical CERTIFICATE ~~certification~~, or administrative discharge as defined in ~~the next~~ rule 5-10.

EXHAUSTION OF LEAVE AND ADMINISTRATIVE DISCHARGE

- 5-10. If an employee has exhausted all credited paid leave AND IS UNABLE TO RETURN TO WORK, unpaid leave may be granted or the employee may be administratively ~~separated~~ DISCHARGED by written notice ~~after pre-separation communication.~~ FOLLOWING A GOOD FAITH EFFORT TO COMMUNICATE WITH THE EMPLOYEE. ADMINISTRATIVE DISCHARGE APPLIES ONLY TO EXHAUSTION OF LEAVE.
- A. The notice OF ADMINISTRATIVE DISCHARGE must inform the employee of appeal rights and the need to contact the employee's retirement plan on eligibility for retirement.
- B. ~~No~~ AN employee ~~may~~ CANNOT be administratively ~~separated~~ DISCHARGED if FML or short-term disability leave (includes the 30-day waiting period) ~~apply~~ APPLIES or if the employee is a qualified individual with a disability UNDER THE ADA who can reasonably be accommodated without undue hardship.
- C. A CERTIFIED employee WHO has been ~~separated~~ DISCHARGED under this rule and subsequently recovers ~~a certified employee~~ has reinstatement privileges.

Personal MONTHLY Leave Earning, Accrual, Payout, And Restoration FOR PERMANENT EMPLOYEES							
Annual Leave				Sick Leave			
Years of Service*	Hrs./Mon.	Max. Accrual**	Payout	Hrs./Mon.	Max. Accrual*	Restoration	Payout
1st through 5th	8	192 hrs.	Upon termination or death, unused leave IS paid out up to the maximum accrual rate.	6.66	360 hrs.	Previously accrued sick leave up to 360 hrs. is restored when eligible for reinstatement or reemployment.	Upon death or if eligible to retire upon initial termination , 1/4 of unused leave paid out to the maximum accrual rate. PERA's age and service requirements under the Defined Benefit plan are applied regardless of the plan actually enrolled in.
6th through 10th	10	240 hrs.					
11 th through 15th	12	288 hrs.					
16 th and above	14	336 hrs.					
* YEARS OF SERVICE IS COMPUTED FROM THE 1ST CALENDAR DAY OF THE MONTH FOLLOWING HIRE UNLESS THE EMPLOYEE BEGAN WORK ON THE 1ST WORKING DAY (THEN INCLUDE THAT MONTH). Employees with prior permanent state service, in or out of the state personnel system, earn leave based on the total whole months of service, excluding temporary assignments. Computed from 1st calendar day of the month following hire unless employee began work on the 1st working day (then computed that month).				* Over-accrued sick leave up to 80 hrs. is converted to annual leave each 7/1 on a 5:1 ratio (5 hrs of sick converts to 1 hr. annual leave). An employee may have an individual maximum accrual rate THAT IS GREATER THAN 360 HOURS if continuously employed in the state personnel system prior to 7/1/88 (6/30/88 accrual plus 360 hrs.).			
** Over-accrued amounts are forfeited each 7/1.							
General Provisions: Employees must be at work or on paid leave to earn monthly leave. Leave is credited on the last day of the month in which it is earned and is available for use on the first day of the next month. A terminating employee shall be compensated for leave earned through the last date DAY of employment provided the employee is at work or on paid leave through the termination date. Movement to the next higher leave earning rate is adjusted one month forward for each 173 working hours of unpaid leave in a 12-month period, except for unpaid military leave. Part-time employees who work regular, non-fluctuating schedules earn leave on a pro-rated basis based on the percentage of the regular appointment, rounded to the nearest 1/100 of an hour. Leave for part-time employees who work irregular, fluctuating schedules and full-time employees who work or are on paid leave less than a full month is calculated by dividing the number of hours worked by the number of work hours in the pay period. The percentage is then multiplied by the employee's leave earning rate to derive the leave earned. Overtime hours are not included in leave calculations. Leave payouts at separation are calculated using the annualized hourly rate of pay. Borrowing against any leave that may be earned in the future or "buying back" leave already used is not allowed. Forfeiture of leave as a disciplinary action or a condition of promotion, demotion, or transfer is not allowed. Use of annual leave cannot be required for an employee being laid off. Workers' Compensation MAKE WHOLE: When an employee is receiving workers' compensation payments, accrued paid leave is used TO MAKE THE EMPLOYEE'S SALARY WHOLE in an amount that is closest to the difference between the temporary compensation payment and the employee's gross base pay, excluding any pay							

differentials. LEAVE EARNING IS NOT PRORATED WHEN AN EMPLOYEE IS BEING MADE WHOLE.

STD: Employees are required to use paid leave during the 30-day waiting period for short-term disability benefits, including THE use of accrued annual LEAVE ONCE sick leave HAS BEEN exhausted. ~~Accrued~~ ANY REMAINING sick leave beyond the 30-day waiting period must be exhausted prior to eligibility for benefits payments.

Leave Sharing Program

- 5-12. ~~This program~~ LEAVE SHARING allows FOR the transfer of annual leave between permanent state employees ~~under certain circumstances~~ FOR AN UNFORESEEABLE LIFE-ALTERING EVENT BEYOND THE EMPLOYEE'S CONTROL, subject to the discretionary approval of a department head. Departments must develop and communicate their programs prior to use, INCLUDING CRITERIA FOR QUALIFYING EVENTS. The authority to approve leave sharing shall not be delegated below the department head without advance written approval of the Director.
- 5-13. ~~To be eligible to apply, the employee~~ EMPLOYEES must have at least one year of state service TO BE ELIGIBLE. Leave sharing is not an entitlement even if the individual case is qualified. Donated leave is not part of the ~~annual~~ leave payout upon termination or death.
- A. DONATED LEAVE IS ALLOWED FOR A QUALIFYING EVENT FOR THE EMPLOYEE OR THE EMPLOYEE'S IMMEDIATE FAMILY MEMBER AS DEFINED UNDER RULE 5-5. IN ORDER TO USE DONATED LEAVE, THE EMPLOYEE MUST FIRST EXHAUST ALL APPLICABLE PAID LEAVE AND COMPENSATORY TIME AND MUST NOT BE RECEIVING SHORT-TERM DISABILITY OR LONG-TERM DISABILITY BENEFITS. THE TRANSFER OF DONATED LEAVE BETWEEN DEPARTMENTS IS ALLOWED ONLY WITH THE APPROVAL OF BOTH DEPARTMENT HEADS.
- ~~B. A department head may expand the leave sharing program to include employees on active military service in the war against terrorism or other military operations who are experiencing serious financial hardship during the initial call up. Donated leave is used to make up the difference between the employee's base salary (excluding premiums) and the total gross military pay and allowances. Donated annual leave is only available after exhaustion of military, administrative and annual leave, and compensatory time. Transfer of donated leave between departments is not allowed.~~
- ~~C. A department head may expand the leave sharing program to include employees directly affected by, or serving as first responders to, life-altering catastrophic events or emergencies, e.g., wildfire, flood, tornado. It includes employees who suffer loss of life or substantial loss or complete destruction of the employee's residence as a result of a natural disaster or accidental catastrophe. It does not apply to foreseeable situations that could have been prevented or minimized by planning or action on the part of the employee or for a short term financial set back or inconvenience. Donated leave is only available after exhaustion of all other applicable paid leave and compensatory time. Transfer of donated leave between departments is allowed with the approval of both department heads.~~

Holiday Leave

- 5-14. Permanent full-time employees ON THE PAYROLL WHEN THE HOLIDAY IS OBSERVED are granted eight hours of paid holiday leave (prorated for part-time work or unpaid leave in the month) to observe each legal holiday designated by law, the Governor, or the President; ~~provided they are in paid status the scheduled workday before or after the holiday.~~ Appointing authorities may designate alternative holiday schedules for the fiscal year. ~~and the employee must be in paid status the scheduled workday before or after the alternative holiday to receive the paid leave. When a holiday is observed on the first regularly scheduled workday of the month for a new employee or the last regularly scheduled workday of the month for a terminating employee, leave shall be granted provided they are in paid status all other scheduled workdays in the month.~~
- A. Department heads have the discretion to grant employee requests to observe César Chávez day, March 31, in lieu of another holiday in the same fiscal year. The department

must be open and at least minimally operational for both days and the employee must have work to perform.

- 5-45. B. Each department shall establish AN equitable and consistent policy to ensure that all permanent employees are awarded their full complement of holidays.

Other Employer-Provided Leaves

5-4615. The types of leave in this section do not accrue, carry over, or pay out.

5-4716. Bereavement leave provides up to 40 hours of paid leave to permanent employees at the time of death of a family member or other person. ~~Bereavement leave cannot be used for settling an estate. The decision to~~ EMPLOYEES ARE RESPONSIBLE FOR REQUESTING THE AMOUNT OF LEAVE NEEDED. THE APPOINTING AUTHORITY AUTHENTICATES THE RELATIONSHIP AND grantS THE LEAVE REQUESTED. ~~and the amount of leave are based on the relationship to the deceased and the distance and mode of transportation.~~

5-4817. Military leave provides up to 15 paid workdays in a ~~calendar~~ FISCAL year to permanent employees who are members of the National Guard, military reserves, or National Disaster Medical Service to attend the annual encampment or equivalent training or who are called to active service, including declared emergencies. Unpaid leave is granted after exhaustion of the 15 workdays. The employee may request the use of annual leave before being placed on unpaid leave.

- A. In the case of a state emergency, the employee must return upon release from active duty. In the case of federal service, the employee must apply to return and is entitled to the same position or a position in the same class within the same department. This leave is not a break in service.

5-4918. Jury leave provides paid leave to ~~permanent~~ ALL employees ~~for jury duty~~, HOWEVER temporary employees ~~are granted up to~~ RECEIVE PAID LEAVE FOR A MAXIMUM OF three days of jury leave. Jury pay is not turned over to the department.

5-2019. Administrative leave may be used to grant paid time ~~in situations where~~ WHEN the appointing authority wishes to release employees from their official duties for the good of the state. In determining what is for the good of the state, an appointing authority MUST considers prudent use of taxpayer and personal services dollars and the business needs of the department. ~~Pursuant to 1-9, the appointing authority has the power to define the job. Activities performed in an official employment capacity, including job-related training and meetings, voluntary training, and conferences, PARTICIPATION IN HEARINGS OR SETTLEMENT CONFERENCES AT THE DIRECTION OF THE BOARD OR DIRECTOR, AND JOB-RELATED TESTIMONY IN COURT OR OFFICIAL GOVERNMENT HEARINGS REQUIRED BY AN APPOINTING AUTHORITY OR SUBPOENA are typically work time AND and do not require administrative leave. Participation in hearings or settlement conferences at the direction of the Board or Director is work time. Testifying in court or official government hearings on job-related matters when required by an appointing authority or subpoena is work time.~~ Administrative leave is not intended to be a substitute for ~~such things as~~ corrective or disciplinary action or other benefits and leave.

- A. ~~Any~~ Administrative leave ~~granted to an employee~~ that exceeds 20 consecutive working days must be reported to the department head and the Director.
- B. An appointing authority may grant administrative leave up to five days for local or 15 days for national emergencies per fiscal year to employees who are certified disaster service volunteers of the American Red Cross.

- C. IF A department head may adoptS a policy granting one period of administrative leave for the initial call up to active military service in the war against terrorism, IT ~~or other military operations.~~ Such leave shall not exceed 90 calendar days and applies after exhaustion of paid military leave. It is only used to make up the difference between the employee's base salary (excluding premiums) and total gross military pay and allowances.~~—The employee must furnish proof of military pay and allowances. This leave does not apply to regular military obligations such as the annual encampment and training.~~
- D. A DEPARTMENT SHALL ADOPT A POLICY TO ALLOW EMPLOYEES TO PARTICIPATE IN COMMUNITY OR SCHOOL VOLUNTEER ACTIVITIES.

5-2120. Administrative leave must be granted for the following.

- A. Two hours to participate in general elections if the employee does not have three hours of unscheduled work time during the hours the polls are open.
- B. Up to two days per fiscal year for organ, tissue, or bone donation for transplants.
- C. To serve as an UNCOMPENSATED election judge unless a supervisor determines that the employee's attendance on election day is essential. The employee ~~cannot receive compensation other than the paid administrative leave for serving as an election judge and~~ must provide evidence of service.
- D. UP TO 15 DAYS IN A FISCAL YEAR WHEN QUALIFIED VOLUNTEERS OR MEMBERS OF THE CIVIL AIR PATROL ARE DIRECTED TO SERVE DURING A DECLARED LOCAL DISASTER, PROVIDED THE EMPLOYEE RETURNS THE NEXT SCHEDULED WORKDAY ONCE RELIEVED FROM THE VOLUNTEER SERVICE.
- E. UP TO 18 HOURS IN AN ACADEMIC YEAR FOR PARENTS OR LEGAL GUARDIANS TO PARTICIPATE IN ACADEMIC-RELATED ACTIVITIES. THOSE ACTIVITIES INCLUDE BUT ARE NOT LIMITED TO SPECIAL EDUCATION SERVICES, DROPOUT PREVENTION, ATTENDANCE/TRUANCY AND DISCIPLINARY ISSUES, AS WELL AS REGULAR PARENT-TEACHER CONFERENCES.

5-2221. Unpaid leave may be approved by the appointing authority unless otherwise prohibited. The appointing authority may also place an employee on UNPAID leave ~~without pay~~ for unauthorized absences and may consider corrective and/or disciplinary action.~~—Those on unpaid leave receive no service credit and the service date is adjusted one month forward for every 173 hours accumulated in a 12-month period, except those on military leave, voluntary furlough, or while waiting for retention rights.~~ Probationary and trial service periods are extended by the number of days on unpaid leave and may be extended for periods of paid leave. UNPAID LEAVE IS CALCULATED BASED ON THE ANNUALIZED HOURLY RATE.

- A. ~~Short term disability (STD) leave is a type of unpaid leave of up to six months while either state or PERA STD benefit payments are being made. To be eligible for this leave, employees must have one year of service and an application for the STD benefit must be submitted within 30 days of the beginning of the absence or at least 30 days prior to the exhaustion of all accrued sick leave. The employee must also notify the department at the same time that a benefit application is submitted.~~
- BA. Voluntary furlough is a type of unpaid JOB PROTECTION ~~absence~~ granted for up to 72 workdays per fiscal year when a department head declares a budget deficit in personal services. The employee may request such absence to avoid more serious position reduction or abolishment. Employees earn sick and annual leave and continue to receive service credit as if the furlough had not occurred.

- GB. Victim protection LEAVE is a type of unpaid JOB PROTECTION leave granted for up to 24 hours (prorated for part-time employees) per fiscal year for victims of stalking, sexual assault, or domestic abuse or violence. An employee must have one year of state service to be eligible and have exhausted all annual and, if applicable, sick leave. ~~Leave is available for seeking a restraining order or health care for the employee or employee's children, securing or seeking safe housing, seeking legal assistance, and participating in legal matters. An appointing authority may require documentation of the need for leave. All information related to the leave shall be confidential and maintained in separate confidential files with limited access.~~ Retaliation against an employee is prohibited; however, this rule does not prohibit adverse employment action that would have otherwise occurred had the leave not been requested or used.
- C. VOLUNTEER FIREFIGHTER LEAVE IS 15 DAYS PER FISCAL YEAR OF UNPAID JOB PROTECTION WHEN AN EMPLOYEE IS REQUIRED TO LEAVE WORK OR CANNOT REPORT TO WORK IN ORDER TO RESPOND TO AN EMERGENCY. UPON RETURNING TO WORK, EMPLOYEES MUST PROVIDE DOCUMENTATION FROM THE FIRE CHIEF OF THE NATURE STATUS AND DATE, TIME, AND DURATION OF THEIR SERVICE.

Family/Medical Leave (FML)

5-2322. The state is considered to be a single employer under the Family and Medical Leave Act (FMLA) AND COMPLIES WITH ITS REQUIREMENTS, AS WELL AS so the following provisions RULES FOR apply to all employees in the state personnel system. ~~This section fulfills part of the notice requirements under the FMLA.~~ FAMILY/MEDICAL LEAVE CANNOT BE WAIVED.

5-2423. FML is granted to eligible employees for: (1) birth and care of a child and must be completed within one year of the birth; (2) placement and care of an adopted or foster child and must be completed within one year of the placement; (3) the serious health condition of an employee's parent, child UNDER THE AGE OF 18, or spouse for physical care or psychological comfort; (4) an employee's own serious health condition; (5) ACTIVE DUTY MILITARY LEAVE WHEN A PARENT, CHILD, OR SPOUSE EXPERIENCES A QUALIFYING EVENT DIRECTLY RELATED TO BEING DEPLOYED TO A FOREIGN COUNTRY; OR, (6) MILITARY CAREGIVER LEAVE FOR A PARENT, CHILD, SPOUSE, OR NEXT OF KIN WHO SUFFERS A SERIOUS INJURY OR ILLNESS IN THE LINE OF DUTY WHILE ON ACTIVE DUTY. MILITARY CAREGIVER LEAVE INCLUDES TIME FOR VETERANS WHO ARE RECEIVING TREATMENT WITHIN 5 YEARS OF THE BEGINNING OF THAT TREATMENT. Definitions of a serious health condition and health care provider are in the "Definitions" section of the "Organization, Responsibilities, Ethics, and Definitions" chapter.

A. ~~Expansion of FML for military family leave. For purposes of this leave, a child is one who is qualified for military service.~~

1. ~~Active duty family leave is granted to an eligible employee when a parent, child, or spouse experiences a qualifying exigency directly related to being called to, or on active duty for a contingency operation. A contingency operation is a military action or operation during a declared war or national emergency, as opposed to regular activities such as annual military training. The leave covers non-medical events directly related to pre-deployment, deployment, and post-deployment. Active duty family leave runs concurrent with all appropriate paid leave (except sick leave) and then unpaid leave. Military orders fulfill the certification requirement. All other rules related to FML apply.~~
2. ~~Military caregiver leave is granted to an eligible employee to care for a parent, child, spouse, or next of kin (nearest blood relative) who suffers a serious injury or illness in the line of duty while on active duty in support of a contingency operation. The condition may render the service member medically unfit to~~

~~perform the duties of his or her office, grade, rank, or rating. The leave covers medical treatment, recuperation, or therapy; outpatient status in a military facility or unit; or placement on the temporary disability retirement list. All other rules related to FML apply, except medical certification must indicate that the condition occurred in the line of duty while on active duty. In addition, a medical certificate issued by the department of defense may be accepted in lieu of the **State of Colorado Medical Certificate** form.~~

5-2524. To be eligible, an employee must have ~~one year~~ 12 MONTHS of total state service as of the date leave will begin. ~~Such service is time on the payroll, regardless of employee type, and need not be consecutive time. If currently a A STATE temporary,~~ the employee must also have worked 1250 hours within the 12 months prior to the date leave will begin. Time worked includes overtime hours ~~and paid leave (excludes any type of unpaid leave).~~

A. ~~If the employee has worked full time, FULL-TIME EMPLOYEES WILL BE GRANTED up to 520 hours per fiscal year will be granted, including active duty family leave. If part time, The amount of leave is prorated FOR PART-TIME EMPLOYEES based on the regular appointment or schedule. If a part-time employee works an irregular, variable schedule, the amount of leave is prorated based on the average number of hours worked in the 12 weeks prior to the beginning of the leave (rounded to the nearest 1/100 of an hour). Any extension of leave beyond the amount TO WHICH THE EMPLOYEE IS entitled to is not FML and is subject to other provisions RULES in these chapters. Requiring an employee to use more FML than needed is not permitted.~~

A5-25. Military caregiver leave is a one-time entitlement of up to 1040 hours (prorated for part-time) in a single 12-month period starting on the date the leave begins. While intermittent leave is permitted, it does not extend beyond the 12-month period. In addition, the combined total for military caregiver and all other types of FML shall not exceed 1040 hours.

~~5-26. In the case of a serious health condition and when medically necessary, FML can be used on an intermittent basis or with a reduced work schedule. Requests for intermittent leave or a reduced schedule in other circumstances may be granted at the sole discretion of the appointing authority. To accommodate such requests, the appointing authority may temporarily transfer the employee to another position. No temporary reduction in schedule is allowed until all paid personal leave is exhausted.~~

5-2726. All other types of leave, COMPENSATORY TIME, AND MAKE WHOLE UNDER WORKERS' COMPENSATION run concurrently with FML and do not extend the time WHICH the employee is entitled to. The employee must use all accrued ~~personal~~ PAID leave subject to the conditions for use of such leave before being placed on unpaid leave for the remainder of FML. ~~, except for workers' compensation and compensatory time. Compensatory time is not leave and is not counted against the employee's FML entitlement. In the case of workers' compensation, the employee must comply with the requirements of that plan and, although the department must make a timely designation, time is not counted against the employee's FML entitlement as long as the employee is using paid leave to make base pay whole. In addition, An employee cannot be required to accept a temporary "modified duty" assignment even though workers' compensation benefits may be affected.~~

5-2827. UNPAID LEAVE ~~Leave without pay provisions~~ RULES apply to any unpaid FML except the state continues to pay its portion of insurance premiums. An employee's condition that also qualifies for short-term disability benefits must comply with the requirements of that plan.

5-2928. Employer Requirements. It is the appointing authority's responsibility to designate and notify the employee whether requested leave qualifies as FML based on the information provided by the employee, regardless of the employee's desires. DEPARTMENTS SHALL FOLLOW ALL WRITTEN DIRECTIVES AND GUIDANCE ON DESIGNATION AND NOTICE REQUIREMENTS.

~~Family/medical leave cannot be waived. The appointing authority is expected to obtain the necessary information to make the proper designation. Such designation must be made within two business days, absent extenuating circumstances, after the appointing authority is aware of the reason for the leave. The appointing authority must notify the employee in writing of the employee's rights and responsibilities under FML. This notice requirement is met with the **State of Colorado Employer Notification** form (or equivalent). A copy of this notice must be maintained in the proper official file. The appointing authority may provide a verbal designation but it must be confirmed in writing, with the notice within one week. FML may be approved conditionally pending receipt of required documentation, e.g., medical certificate, proof of familial relationship. Documentation of any dispute over the designation must be placed in the proper official file.~~

~~A. If the appointing authority is aware of the reason for leave, either before or during the leave, and fails to designate it as FML in a timely manner, any leave used prior to the notice cannot be designated as FML. The employee receives all of the protections of FML, but the absence preceding the designation may not be counted against the FML entitlement.~~

~~B. FML cannot be designated retroactively once the employee returns to work unless: (1) the appointing authority was not aware of the reason for the leave until the employee returned; or, (2) the leave was conditionally designated as FML pending receipt of certification. Upon receipt of the information, the appointing authority must designate and notify the employee in a timely manner whether the leave qualifies as FML, including confirming or withdrawing a conditional designation.~~

5-3029. Employee Requirements. Written notice of the need for leave ~~is to~~ MUST be provided by the employee 30 days in advance or as soon as practical. "As soon as practical" means providing written notice within two business days, if feasible, after the employee verbally requests the leave. IF AN EMPLOYEE BECOMES AWARE OF THE NEED FOR LEAVE IN LESS THAN 30 DAYS IN ADVANCE, THE EMPLOYEE SHALL PROVIDE NOTICE EITHER THE SAME DAY OR THE NEXT BUSINESS DAY. Failure to provide timely notice when the need for leave is foreseeable, and WHEN there is no reasonable excuse, may delay the start of FML for up to 30 days after notice is received as long as it is designated as FML in a timely manner. Advance notice is not required in the case of a medical emergency. In such a case, an adult family member or other responsible party may give notice, by any means, if the employee is unable to do so personally.

5-3130. The employee shall consult with the appointing authority to: establish a mutually satisfactory schedule for intermittent treatments and a periodic check-in schedule; report a change in circumstances; make return to work arrangements, etc.

5-3231. ~~The employee is required to~~ EMPLOYEES SHALL provide proper medical certification, including additional medical certificates and fitness-to-return certificates as prescribed under sick leave IN RULES 5-6 THROUGH 5-9. ~~Failure to provide certification in a timely manner may result in a delay of starting or continuing FML. If the EMPLOYEE DOES NOT PROVIDE THE required documents are never provided, the leave WILL NOT QUALIFY AS is not FML and the other provisions of this chapter cover the employee. AND WILL BE DENIED.~~

5-3332. Benefits coverage continues during FML. If the employee is on paid FML, premiums will be paid through normal payroll deduction. If the FML is unpaid, the employee must pay the employee share of premiums as prescribed by benefits and payroll procedures.

5-3433. Upon return to work, the employee is restored to the same, or an equivalent, position, including the same pay, benefits, location, work schedule, and other working conditions. If the employee is no longer qualified to perform the job (e.g., unable to renew an expired license), the employee must be given an opportunity to fulfill the requirement.

- A. If the employee is no longer able to perform the essential functions of the job due to a continuing or new serious health condition, the employee does not have restoration rights under FML and the appointing authority may use RULE 5-10 subject to any applicable ADA provisions.
- B. The employee does not have restoration rights if the employment would not have otherwise continued had the FML leave not been taken, e.g., discharge due to performance, layoff, or the end of the appointment.

5-3534. FML does not prohibit adverse action that would have otherwise occurred had the leave not been taken.

5-3635. The use of FML cannot be considered in evaluating performance. If the performance plan includes an attendance factor, any time the employee was on FML cannot be considered.

5-3736. Records. Federal law requires that specified records be kept for all employees taking FML. These records must be kept for three years. Any medical information must be maintained in a separate confidential medical file in accordance with ADA requirements and Chapter 1.

5-3837. Injury Leave. ~~An A PERMANENT employee, other than an employee in provisional status or temporary status,~~ who suffers an injury or illness that is compensable under the Workers' Compensation Act shall be granted injury leave up to 90 occurrences (whole day increments regardless of the actual hours absent during a day) with full pay if the temporary compensation is assigned or endorsed to the employing department.

- A. If after 90 occurrences of injury leave an employee still is unable to work, the ~~injury leave shall be terminated and the employee IS placed on a "make whole" basis, first USING on accrued sick LEAVE FIRST, and THEN annual leave., and after exhaustion of ONCE all paid leave IS EXHAUSTED, EMPLOYEES may be given unpaid leave. Workers' compensation payments after termination of injury leave shall be made to the employee.~~
- B. ~~If the employee is unable to return to work after using all sick and annual leave, the appointing authority may invoke the provisions of 5-10. THE APPOINTING AUTHORITY MAY INVOKE RULE 5-10 IF THE EMPLOYEE IS UNABLE TO RETURN TO WORK AFTER EXHAUSTING ALL ACCRUED PAID LEAVE AND APPLICABLE JOB PROTECTION. Termination of service under that provision RULE will in no way NOT affect continuation of payments under the Workers' Compensation Act.~~
- C. IF THE EMPLOYEE'S TEMPORARY COMPENSATION PAYMENT IS REDUCED BECAUSE THE INJURY OR OCCUPATIONAL DISEASE WAS CAUSED BY WILLFUL MISCONDUCT OR VIOLATION OF RULES OR REGULATIONS, THE EMPLOYEE SHALL NOT BE ENTITLED TO OR GRANTED INJURY LEAVE. ~~If a determination is made that the injury or occupational disease was caused by willful misconduct of the employee or by willful disobedience of reasonable rules or regulations and the temporary compensation payment, is reduced the employee shall not be entitled to or be granted injury leave. Any absence resulting from the injury or occupational illness shall be charged on a "make whole" basis OR, as accrued sick or annual leave. then At AT the option of the appointing authority'S DISCRETION, unpaid leave may be granted and the temporary compensation payments shall be made to the employee.~~
- D. If an employee ~~incurs HAS A COMPENSABLE injury OR ILLNESS BUT THE FIRST 24 HOURS ARE NOT PAID FOR BY THE PROVIDER, that is compensated by insurance for the first three days and for which the carrier or third party administrator made no compensation,~~ the employee shall not be entitled to or be granted injury leave for those three days ~~unless the insurance payment is endorsed over to the employing department.~~

- E. If a holiday occurs while an employee is on injury leave, the employee receives the holiday and the day is not counted as an injury leave occurrence.

Chapter 8 - Address for Disputes to the Director

- 8-78. Disputes asserting claims or grounds within the Director's jurisdiction as authorized by Colorado Constitution, statute, or these rules must be submitted to the Director at:
Colorado State Personnel Director BOARD
Attn: ~~Dispute Resolution Process~~ APPEALS PROCESSING
1313 Sherman, First Floor 633 17TH STREET, SUITE 1320
Denver, CO ~~80203~~ 80202

Chapter – 11 – State Benefit Plans

General Principles

- 11-1. The state reserves the SOLE right to add, modify, or discontinue ~~the ANY state group benefit plans~~ BENEFITS as deemed necessary.
- 11-2. THE DIRECTOR COMPLIES WITH APPLICABLE FEDERAL AND STATE LAW AND REGULATIONS THAT GOVERN STATE GROUP BENEFIT PLANS, AS WELL AS THE ~~The~~ terms and conditions of the state group benefit plans ~~are controlled by group master contracts or~~ AND plan documents, ~~which shall prevail in the event of a conflict with these rules.~~
 - A. GOVERNING LAWS AND REGULATIONS SHALL PREVAIL IN ~~in~~ the event of a conflict with ~~governing laws or regulations, the governing laws or regulations will prevail~~ CONTRACTS, PLAN DOCUMENTS, OR RULES.
 - B. THE CONTRACTS AND PLAN DOCUMENTS SHALL PREVAIL IN THE EVENT OF A CONFLICT WITH THESE RULES.

Employer Responsibilities

- 11-3. THE RULES IN THIS CHAPTER APPLY TO ALL DEPARTMENTS ADMINISTERING AND ALL EMPLOYEES ELIGIBLE FOR STATE BENEFIT PLANS ~~All departments shall administer the state group benefit plans in accordance with the contracts, plan documents, governing law and regulations, rules, and written directives. When a department fails to timely notify vendors of employee terminations from the state group benefit plans, it is responsible for payment of total premiums (both state and employee contributions).~~

DIRECTOR RESPONSIBILITIES

- 11-4. The DIRECTOR ~~Department of Personnel~~ will PROVIDE ~~create and make available~~ ALL group benefits ~~materials~~ INFORMATION, WRITTEN DIRECTIVES and ~~direction~~ TRAINING to departments NECESSARY FOR DEPARTMENT BENEFIT ADMINISTRATORS TO FULFILL THEIR RESPONSIBILITIES AS DELEGATED AGENTS TO THE PLANS. ~~All departments will distribute the state group benefits materials and direction to newly hired employees within five working days of hire and to all eligible employees prior to each annual open enrollment period. This applies to all departments, including those that offer their own separate group benefit plans.~~
- 11-5. THE DIRECTOR HAS SOLE AUTHORITY TO DETERMINE ELIGIBILITY, NEGOTIATE CONTRACTS, DETERMINE PLAN DESIGNS, SET RATES AND COVERAGE TIERS, DEFINE THE PLAN YEAR, AND ESTABLISH OPEN ENROLLMENT PERIODS, IN ACCORDANCE WITH LAW, REGULATIONS, AND APPROVED FUNDING.

- 11-56. The Director's online benefits administration system is the official system of record for all eligibility and enrollment transactions. ~~All departments must maintain records of all supporting documentation pertaining to the state group benefit plans selected by each of their employees.~~

Eligibility

- 11-6. ~~Employees and their dependents must meet the eligibility requirements as defined in state law and rules to qualify for enrollment in the state group benefit plans. Employees and their dependents are not eligible to enroll or continue enrollment in the state group benefit plans when they cannot meet the eligibility criteria as defined in law, rule, and written directives. If at any time during the plan year any dependent ceases to meet the eligibility criteria, coverage ends on the last day of the month in which that dependent becomes ineligible. Failure to disenroll an ineligible dependent in a timely manner may result in continuing liability for the total premium although coverage ceases.~~

- A. ~~In addition to the statutory definition of eligible dependents in the State Employee Group Benefits Act, the term "dependent" also means an unmarried child of an enrolled employee who is under 25 years of age and who has either the same legal residence as the employee or is financially dependent upon the employee. The following criteria apply in determining eligibility.~~

1. ~~"Same legal residence as the employee" means the child has declared the intent to maintain as his or her permanent legal residence the same residence as the employee. The child's intent to establish the same legal residence as the employee may be evidenced by the circumstances, including the address of record contained in the child's driver's license, care registration, bank account, and tax returns.~~
2. ~~"Financially dependent" means that the employee provides significant financial support to the child and the child would not be financially solvent without such support.~~

Enrollment DEPARTMENT RESPONSIBILITIES

- 11-7 ~~The Director shall establish an annual open enrollment period when eligible employees can enroll, modify, or terminate enrollment in the state group benefit plans for themselves and each eligible dependent, subject to the terms and conditions of the contracts, plan documents and as defined in law and regulation, rule, and written directives. ALL DEPARTMENTS SHALL EXERCISE DUE DILIGENCE WHEN ADMINISTERING GROUP BENEFITS IN THE BEST INTERESTS OF THE PLANS AND ALL MEMBERS. AS DELEGATED AGENTS OF THE DIRECTOR IN THEIR RESPECTIVE DEPARTMENTS, EACH DEPARTMENT BENEFITS ADMINISTRATOR'S RESPONSIBILITIES INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING.~~

- A. KNOW AND COMPLY WITH PLAN DOCUMENTS AND BASIC PLAN FEATURES, LAW AND REGULATIONS, RULES, BENEFITS ADMINISTRATION SYSTEM, DEADLINES, THE DIRECTOR'S WEBSITE, AND WRITTEN DIRECTIVES.
- B. COMMUNICATE, DISSEMINATE, EXPLAIN, AND ANSWER QUESTIONS ON ALL BENEFITS-RELATED INFORMATION INCLUDING, BUT NOT LIMITED TO, OPTIONS AND CHANGES, PROCESS, REQUIREMENTS AND ELIGIBILITY.
- C. PROVIDE PROMPT NOTICE OF ENROLLMENT OPPORTUNITIES AND INFORMATION SO EMPLOYEES CAN ELECT BENEFITS DURING OPEN ENROLLMENT OR ENROLL WITHIN 31 DAYS OF HIRE OR A QUALIFIED EVENT. THE FIRST DAY (DAY 1) IS THE DATE OF HIRE OR A QUALIFIED EVENT.

- D. MONITOR DEADLINES AND ASSIST EMPLOYEES WITH MEETING THOSE DEADLINES.
- E. PROVIDE ACCESS TO AND TRAINING IN THE USE OF THE BENEFITS ADMINISTRATION SYSTEM, AND ASSIST EMPLOYEES WITH TRANSACTIONS.
- F. REFRAIN FROM ADVISING AN EMPLOYEE OF WHICH INDIVIDUAL ELECTIONS TO MAKE AND ASSISTING AN EMPLOYEE IN THE COMMISSION OF FRAUD OR ATTEMPTED FRAUD OF A STATE BENEFIT PLAN.
- G. PROCESS TIMELY AND ACCURATE TRANSACTIONS AND PAYMENTS. THIS INCLUDES REGULAR REVIEW OF PENDING ACTIONS, SUPPORTING DOCUMENTATION, AND SYSTEM REPORTS IN ORDER TO PROMPTLY APPROVE ELECTIONS, TERMINATE COVERAGE, INVESTIGATE SUSPICIOUS OR QUESTIONABLE ACTIONS OR DATA, CORRECT ERRORS, AND VERIFY CONTINUING DEPENDENT ELIGIBILITY.
- H. MAINTAIN RECORDS OF ALL SUPPORTING DOCUMENTATION PERTAINING TO THE STATE GROUP BENEFIT PLANS TO DEMONSTRATE COMPLIANCE WITH LAW, RULES, AND WRITTEN DIRECTIVES.

11-8 ~~Enrollment by employees and their dependents in the state group benefits plans is restricted to initial hire, the annual open enrollment period, and certain other eligible events as defined in law, regulation, or rule. Elections are irrevocable, except as specifically provided in law, regulations and plan documents. Employees who do not enroll themselves and their eligible dependents during these times cannot enroll until the next annual open enrollment period. THESE RESPONSIBILITIES APPLY TO ALL DEPARTMENTS, INCLUDING THOSE THAT OFFER THEIR OWN SEPARATE GROUP BENEFIT PLANS TO OTHER EMPLOYEES NOT COVERED BY THE "STATE EMPLOYEES GROUP BENEFITS ACT".~~

Employee Responsibilities

11-9. ~~Initial enrollments, changes to enrollments, and terminations of enrollment in state group benefit plans require that employees complete, sign, and date the appropriate state forms, which may be electronic, in accordance with criteria as defined in law and regulations, rule, and written directives. Employees shall provide any and all necessary supporting documentation. The employee's signature on the state forms, which may be electronic, and supporting documentation attests that the information provided is true and complete, authorizes the appropriate employee contribution or authorizes the department to stop employee contributions. EMPLOYEES ARE RESPONSIBLE FOR KNOWING, UNDERSTANDING, AND ADHERING TO THESE RULES, PLAN DOCUMENTS FOR THE TERMS AND CONDITIONS OF COVERAGE, AND ELIGIBILITY AND ENROLLMENT REQUIREMENTS IN ORDER TO MAKE TIMELY AND INFORMED CHOICES, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING.~~

- A. EMPLOYEES SHALL ENTER ALL REQUIRED INFORMATION IN THE BENEFITS ADMINISTRATION SYSTEM IN A TIMELY AND ACCURATE MANNER IN ORDER TO COMPLY WITH ELIGIBILITY AND ENROLLMENT REQUIREMENTS FOR THEMSELVES AND ELIGIBLE DEPENDENTS.
- B. ENROLLMENT OF EMPLOYEES AND ELIGIBLE DEPENDENTS IS RESTRICTED TO INITIAL HIRE, ANNUAL OPEN ENROLLMENT, AND LIMITED QUALIFIED EVENTS DEFINED BY LAW AND PLAN DOCUMENTS. ELECTIONS ARE IRREVOCABLE FOR THE PLAN YEAR, EXCEPT IN LIMITED CIRCUMSTANCES SPECIFIED BY LAW OR REGULATIONS. FAILURE TO ENROLL OR CHANGE ELECTIONS WITHIN DEADLINES IS NOT A QUALIFYING EVENT.

1. ANY PERMITTED ENROLLMENT, MODIFICATION, OR TERMINATION OF ENROLLMENT SHALL BE ENTERED INTO THE OFFICIAL BENEFIT ADMINISTRATION SYSTEM AND ACCOMPANIED BY SUPPORTING DOCUMENTATION DURING OPEN ENROLLMENT OR WITHIN 31 DAYS OF A QUALIFIED EVENT DURING THE YEAR (STARTING WITH THE DATE OF THE EVENT).
 2. FAILURE TO ENROLL OR MODIFY ENROLLMENT ON OR BEFORE THE 31ST DAY OF THE QUALIFYING EVENT (STARTING WITH THE DATE OF THE EVENT) REQUIRES THE EMPLOYEE TO WAIT UNTIL THE NEXT OPEN ENROLLMENT OR WHEN THE EMPLOYEE OR DEPENDENTS NO LONGER MEET ELIGIBILITY REQUIREMENTS.
 3. ENROLL AND VERIFY ELECTIONS ANNUALLY.
 4. EMPLOYEE'S WHO TRANSFER FROM ONE DEPARTMENT TO ANOTHER MUST NOTIFY BOTH DEPARTMENT BENEFIT ADMINISTRATORS TO AVOID A POTENTIAL LAPSE IN COVERAGE.
- C. EMPLOYEES SHALL REMOVE ANY DEPENDENT BY THE END OF THE MONTH IN WHICH THE DEPENDENT CEASES TO MEET ELIGIBILITY REQUIREMENTS. FAILURE TO DO SO RESULTS IN THE EMPLOYEE'S CONTINUING FINANCIAL LIABILITY FOR TOTAL PREMIUM (EMPLOYEE AND EMPLOYER CONTRIBUTIONS) AND COST OF PAID CLAIMS FOR THE INELIGIBLE DEPENDENT, AS SPECIFIED IN PLAN DOCUMENTS AND THESE RULES.
- D. ANY ENROLLMENT OR QUALIFIED CHANGE TO ENROLLMENT CONSTITUTES AUTHORIZATION TO BEGIN OR END PAYROLL DEDUCTIONS.
1. EMPLOYEES MUST VERIFY THE ACCURACY OF THEIR PAYROLL DEDUCTIONS AND NOTIFY THEIR DEPARTMENTS OF ANY ERROR. THE NOTICE MUST BE IN WRITING AND WITHIN 10 DAYS FROM THE PAY DATE IN WHICH THE FIRST PAYROLL DEDUCTION OCCURRED.
 2. IF AN EMPLOYEE FAILS TO NOTIFY THE DEPARTMENT OF THE PAYROLL ERROR WITHIN THE 10-DAY PERIOD, THE EMPLOYEE WILL CONTINUE TO BE LIABLE FOR THE ELECTION FOR THE REMAINDER OF THE PLAN YEAR UNLESS THE ELECTION IS NOT CONSISTENT WITH PLAN DOCUMENTS, RULES, LAWS, REGULATIONS, AND WRITTEN DIRECTIVES.
- 11-10. It is unlawful for any employee, or dependent to INTENTIONALLY provide false, incomplete, or misleading facts, or information, OR DOCUMENT ~~on any~~ IN WRITTEN OR ELECTRONIC FORM, INCLUDING THE BENEFITS ADMINISTRATION SYSTEM ~~state group benefit enrollment form, affidavit, claim, or other document~~ for the purpose of defrauding or attempting to defraud the State of Colorado. THE DIRECTOR SHALL INVESTIGATE WHEN THERE IS REASON TO BELIEVE AN ~~Any~~ employee or dependent IS COMMITTING OR ATTEMPTING TO COMMIT FRAUD AGAINST ~~who provides false, incomplete, or misleading facts or information on any benefit enrollment form, affidavit, claim, or other document for the purpose of defrauding or attempting to defraud~~ any state group benefit plan. ~~shall be reviewed by the Director.~~ If the Director FINDS EVIDENCE OF FRAUD OR ATTEMPTED FRAUD, THE EMPLOYEE, DEPENDENT, OR BOTH MAY BE SUBJECT TO ANY OR ALL OF THE FOLLOWING SANCTIONS. ~~has reasonable suspicion to believe that an employee or dependent has defrauded or attempted to defraud any state group benefit plan,~~
- A. IMMEDIATE TERMINATION OF coverage. ~~shall be terminated, and the employee or dependent may be~~
 - B. DENIAL OF ~~denied~~ future enrollment.

- C. REQUIREMENT TO REIMBURSE THE STATE CONTRIBUTIONS AND CLAIMS COSTS DURING THE TIME OF INELIGIBLE COVERAGE.
- D. FILING OF CRIMINAL CHARGES.
- E. NOTICE TO THE EMPLOYEE'S DEPARTMENT, WHICH MAY TAKE EMPLOYMENT ACTION, SUCH AS CORRECTIVE OR DISCIPLINARY ACTION ~~and may be subject to other action.~~

ELIGIBILITY

- 11-11. ~~Once enrolled in the state group benefit plans, employees must verify the accuracy of employee contributions and enrollment elections for each plan selected and must notify their departments of any verifiable administrative error. Such notice must be in writing and within 10 days of the first payroll deduction in case of an error in contribution or within 10 days of learning of an error. in elections. When an employee fails to notify the department of the error within the specified time period, the employee and dependents must maintain enrollment in the existing state group benefit plans selected until the next annual open enrollment period or until the employee or dependents no longer meet eligibility criteria.~~ EMPLOYEES AND THEIR DEPENDENTS MUST MEET THE ELIGIBILITY REQUIREMENTS AS DEFINED IN STATE LAW, PLAN DOCUMENTS, AND RULES TO QUALIFY FOR ENROLLMENT IN THE STATE GROUP BENEFIT PLANS.
- 11-12. ~~Once enrolled, employees and dependents are responsible for knowing and adhering to written directives regarding enrollment and requirements governing group benefits plans.~~ ELIGIBLE DEPENDENTS INCLUDE ONLY THOSE LISTED BELOW. ADDITIONAL CRITERIA AND DOCUMENTATION REQUIREMENTS ARE CONTAINED IN PLAN DOCUMENTS AND WRITTEN DIRECTIVES. DEPENDENTS MAY BE FEDERAL TAX DEPENDENTS (QUALIFIED) OR NON-TAX DEPENDENTS (NON-QUALIFIED). NON-QUALIFIED DEPENDENTS' COVERAGE IS SUBJECT TO TAXABLE INCOME REGULATIONS.
 - A. AN EMPLOYEE'S SPOUSE, COMMON LAW SPOUSE, OR SAME GENDER DOMESTIC PARTNER.
 - 1. SAME GENDER DOMESTIC PARTNER MEANS AN ADULT, AT LEAST 18 YEARS OF AGE:
 - a. WITH WHOM THE EMPLOYEE HAS SHARED AN EXCLUSIVE, COMMITTED RELATIONSHIP WITH THAT SAME PERSON FOR AT LEAST ONE YEAR PRIOR TO ENROLLMENT WITH THE INTENT FOR THE RELATIONSHIP TO LAST INDEFINITELY; AND
 - b. WHO IS NOT RELATED TO THE EMPLOYEE BY BLOOD TO A DEGREE THAT WOULD PROHIBIT MARRIAGE; AND
 - c. WHO IS NOT MARRIED TO ANOTHER PERSON.
 - B. AN EMPLOYEE'S, SPOUSE'S, OR SAME GENDER DOMESTIC PARTNER'S UNMARRIED CHILDREN, INCLUDING BIOLOGICAL, LEGALLY ADOPTED, STEP, LEGALLY PLACED IN FOSTER CARE OR FOR ADOPTION, OR A MINOR CHILD FOR WHOM THE EMPLOYEE HAS A COURT ORDER GRANTING ALLOCATION OF PARENTAL RESPONSIBILITY (LEGAL CUSTODY) THAT SPECIFIES RESPONSIBILITY FOR HEALTH INSURANCE. EACH DEPENDENT CHILD MUST BE:
 - 1. A TAX-QUALIFIED DEPENDENT, AS DEFINED BY LAW, THROUGH THE END OF THE MONTH IN WHICH THE CHILD TURNS 24;
 - 2. A TAX-QUALIFIED DEPENDENT ANY AGE WITH A PERMANENT PHYSICAL OR MENTAL DISABILITY; OR

3. A NON TAX-QUALIFIED DEPENDENT UNDER AGE 25 WHO EITHER HAS THE SAME LEGAL RESIDENCE AS THE EMPLOYEE OR IS FINANCIALLY DEPENDENT UPON THE EMPLOYEE.
 - C. EXCLUDED ARE EX-SPOUSES AND SAME GENDER DOMESTIC EX-PARTNERS AND THEIR CHILDREN, OPPOSITE GENDER DOMESTIC PARTNERS, PARENTS, GRANDPARENTS AND GRANDCHILDREN, SIBLINGS, AUNTS AND UNCLES, NIECES AND NEPHEWS, COUSINS, AND ANY OTHER RELATIVES OR NON-RELATIVES IN THE HOUSEHOLD.
- 11-13. ~~Any eligible event that permits enrollment, modification, or termination of enrollment must be accompanied by supporting documentation within 31 days of the event. The effective date of the change is the first of the month following receipt of the documentation unless otherwise specified by law or regulations. If notification of the eligible event is not made on or before the 31st day, such enrollment or modification of enrollment is permitted only during the next annual open enrollment period or when the employee or dependents no longer meet eligibility criteria. AN AFFIDAVIT OR COURT DOCUMENT IS REQUIRED AS DOCUMENTATION TO ADD ANY DEPENDENT. LEGAL SPOUSE REQUIRES A MARRIAGE LICENSE OR CERTIFICATE; AND BIOLOGICAL CHILD REQUIRES A BIRTH CERTIFICATE. ANY OTHER ACCEPTABLE DOCUMENTATION WILL BE IN ACCORDANCE WITH WRITTEN DIRECTIVES.~~

Effective Date of Coverage OF BENEFITS

- 11-14. Coverage in group benefit plans is effective on the first day of the month following the date of hire or initial eligibility unless otherwise specified by the contracts, law, or regulations.

OPTION Coverage in group benefit plans is effective on the first day of the month following A 30-DAY WAITING PERIOD, WHICH STARTS ON THE DATE OF HIRE. ~~the date of hire or initial eligibility unless otherwise specified by the contracts, law, or regulations.~~

Termination Of Coverage

- 11-15. ~~Coverage in state group benefit plans is terminated on the last day of the month of employment.~~ ALL COVERAGE IS PROSPECTIVE FROM THE DATE OF ENTRY INTO THE OFFICIAL BENEFIT ADMINISTRATION SYSTEM OR DATE OF THE QUALIFYING EVENT, WHICHEVER IS LATER, EXCEPT FOR INITIAL COVERAGE FOR NEW EMPLOYEES AND NEWBORN CHILDREN.
- 11-16. ELECTIONS MADE DURING OPEN ENROLLMENT ARE EFFECTIVE THE FIRST DAY OF THE NEW PLAN YEAR.
- 11-17. TERMINATION OF COVERAGE IS SUBJECT TO LAW AND REGULATION, PLAN DOCUMENTS, AND CONTRACTS, AS WELL AS THE FOLLOWING RULES.
- A. IF AT ANY TIME DURING THE PLAN YEAR ANY DEPENDENT CEASES TO MEET THE ELIGIBILITY CRITERIA, COVERAGE ENDS ON THE LAST DAY OF THE MONTH IN WHICH THAT DEPENDENT BECOMES INELIGIBLE.
 - B. COVERAGE IN STATE GROUP BENEFIT PLANS IS TERMINATED ON THE LAST DAY OF THE MONTH THAT EMPLOYMENT ENDS.

Employee and State PAYMENT OF Contributions

- 11-18. DEPARTMENTS SHALL MAKE PROMPT MONTHLY PAYMENTS BASED ON ENROLLMENT IN THE OFFICIAL BENEFIT ADMINISTRATION SYSTEM.

- A. THE EMPLOYEE'S CURRENT DEPARTMENT AS OF THE LAST DAY OF THE MONTH IS RESPONSIBLE FOR PAYMENT.
 - B. A DEPARTMENT IS LIABLE FOR BOTH STATE AND EMPLOYEE CONTRIBUTIONS WHEN FAILING TO PROMPTLY ENTER AN EMPLOYEE TERMINATION.
- 11-1619. ~~To enroll in certain state group benefit plans, e~~ Employees must MAKE AN IRREVOCABLE ELECTION FOR THE PLAN YEAR ~~elect~~ to have contributions deducted on a pre-tax or after-tax basis as defined by the State of Colorado Salary Reduction Plan, law and regulations, rule, and written directives. The employee's contribution is deducted from the employee's paycheck or, under certain circumstances, PAID by personal payment for the selected state group benefit plans. ~~The state contribution is added to the employee contribution to complete the total premium for the selected state group benefit plans as defined in law, rule, and written directives.~~
- 11-4720. An enrolled employee who works or is on paid leave one or more regularly scheduled, FULL workdays in a month is eligible for the full state benefit contribution.
- 11-21. AN EMPLOYEE WHO FAILS TO REMOVE AN INELIGIBLE DEPENDENT BY THE END OF THE MONTH IN WHICH THE DEPENDENT CEASES TO MEET ELIGIBILITY REQUIREMENTS IS LIABLE FOR THE TOTAL PREMIUM (EMPLOYEE AND EMPLOYER CONTRIBUTIONS) AND COST OF PAID CLAIMS FOR THE PERIOD BETWEEN THE DATE OF INELIGIBILITY AND THE DATE THE EMPLOYEE REMOVES THE DEPENDENT FROM THE PLAN.
- 11-22. WHEN AN EMPLOYEE IS ON LEAVE, DEPARTMENTS SHALL CONTINUE TO PAY THE STATE CONTRIBUTION FOR NON-CONTRIBUTORY, FULLY PAID BENEFITS (E.G., LIFE AND SHORT-TERM DISABILITY) AS LONG AS THE EMPLOYEE REMAINS ON THE PAYROLL, REGARDLESS OF STATUS.
- A. DURING PAID LEAVE OR MANDATORY FURLOUGH, THE EMPLOYEE CONTRIBUTION CONTINUES TO BE PAID THROUGH PAYROLL DEDUCTION AND THE DEPARTMENT CONTINUES TO PAY THE STATE CONTRIBUTION.
 - B. DURING UNPAID LEAVE, THE EMPLOYEE SHALL PAY THE TOTAL PREMIUM (EMPLOYEE AND EMPLOYER CONTRIBUTIONS) TO THE DEPARTMENT WITHIN THE MONTH OF COVERAGE, EXCEPT AS FOLLOWS.
 - 1. DURING UNPAID FAMILY/MEDICAL LEAVE, THE DEPARTMENT SHALL CONTINUE TO PAY THE STATE CONTRIBUTION AS LONG AS THE EMPLOYEE CONTINUES TO PAY THE EMPLOYEE CONTRIBUTION BY THE DUE DATE SPECIFIED IN THE FAMILY/MEDICAL LEAVE NOTICE. IF THE EMPLOYEE FAILS TO PAY THE EMPLOYEE CONTRIBUTION WHEN DUE, COVERAGE WILL BE TERMINATED BUT IT SHALL BE REINSTATED UPON RETURN TO WORK. IN THE EVENT ANY CONTRIBUTIONS ARE OWED UPON THE EMPLOYEE'S RETURN TO WORK, SUCH CONTRIBUTIONS SHALL BE COLLECTED FROM THE EMPLOYEE. IF THE EMPLOYEE FAILS TO RETURN AFTER THE LEAVE, ANY CONTRIBUTIONS DUE WILL BE RECOVERED AS SPECIFIED BY FEDERAL REGULATIONS.
 - 2. WHILE AN EMPLOYEE IS ON VOLUNTARY FURLOUGH, THE DEPARTMENT SHALL CONTINUE TO PAY THE STATE CONTRIBUTION AS LONG AS THE EMPLOYEE CONTINUES TO PAY THE EMPLOYEE CONTRIBUTION IN A TIMELY MANNER. IF THE EMPLOYEE FAILS TO PAY THE EMPLOYEE CONTRIBUTION BY THE DUE DATE, COVERAGE SHALL BE TERMINATED AND THE EMPLOYEE MUST WAIT FOR THE NEXT ANNUAL OPEN ENROLLMENT.

11-1823. Refunds for employee and state contributions are subject to plan limitations and as defined in law and regulations, rule, and written directives.

Pay Back Requirements

11-1924. When there is a difference BETWEEN in the ~~employee's~~ contribution PAID BY THE EMPLOYEE ~~compared to~~ AND the actual contribution due, the difference is paid by the employee (E.G., CHANGE IN COVERAGE TIER).

Flexible Spending Accounts

~~11-20. Employees enrolled in the health care or dependent day care flexible spending accounts are required to comply with the Internal Revenue Code, State of Colorado Salary Reduction Plan, law, rule, and written directives, including the irrevocability requirements.~~

Leave

~~11-21. While on unpaid leave, employees may continue enrollment in certain state group benefit plans for a period of up to six months in accordance with criteria defined in written directives. The total premium is paid by the employee to the employing department by no later than the time period established in written directives. If the employee fails to pay the total premium by the due date while on unpaid leave, coverage will be terminated in the affected state group benefit plans. Reenrollment is subject to conditions of the annual open enrollment period, law, rule, and written directives.~~

~~11-22. While on voluntary furlough, employees may continue enrollment in certain state group benefit plans in accordance with criteria defined in written directives. the employee contribution is paid to the employing department by no later than the time period as established in written directives. the state contribution is paid in accordance with state law. If the employee fails to pay the employee contribution by the due date while on voluntary furlough, coverage will be terminated in the affected state group benefit plans. Re-enrollment is subject to conditions of the annual open enrollment period, law, rule, and written directives.~~

~~11-23. While on family/medical leave, employees may continue enrollment in certain state group benefit plans in accordance with criteria defined in law and written directives. the employee contribution is paid to the employing department no later than the time period as established in written directives. the state contribution is paid in accordance with state law. If an employee fails to pay the employee contribution by the due date while on family/medical leave, coverage may be terminated. In the event any contributions are owed upon the employee's return to work, such contributions shall be collected from the employee. If the employee fails to return after the leave, any contributions due will still be recovered except for some circumstances beyond the employee's control.~~

~~11-24. While on short term disability leave, employees may continue enrollment in certain state group benefit plans in accordance with criteria defined in written directives. The employee contribution is paid to the employing department by no later than the time period established in written directives. The state contribution is paid in accordance with state law. If an employee fails to pay the employee contribution by the due date while on short term disability leave, coverage will be terminated in the affected state group benefit plans. Re-enrollment is subject to conditions of the annual open enrollment period, law, rule, and written directives.~~

~~11-25. The rules in this section regarding leave do not apply to those benefits paid fully by the state, e.g., basic life and short term disability. The department continues to pay the full contribution for such benefits.~~

Consolidated Omnibus Budget Reconciliation Act (COBRA) Continuation Coverage

~~11-26. The COBRA election to continue enrollment in a state group medical plan, dental plan, and the health care flexible spending account must be offered by each department to eligible enrolled employees or dependents losing coverage due to COBRA Qualifying Events as defined in law, rule, and written directives. All departments shall distribute the appropriate COBRA election materials to eligible enrolled employees and dependents losing coverage as defined in law and regulations, rules, and written directives.~~

Medicare

~~11-27. Employees and dependents of active employees reaching age 65 must follow the criteria as defined in regulations, statutes, and written directives.~~

Conversion to Non-Group Coverage

~~11-28. Upon termination of enrollment in certain state group benefit plans, employees or their dependents may convert from a group plan to a non-group plan as defined in law and regulations, rule, plan documents, group master contracts, and written directives.~~

Complaint and Appeal Procedures

~~11-29.~~ 25. complaints and APPEALS appeals concerning eligibility OF ELIGIBILITY for state group benefit plans must be submitted in writing to the Director, AT THE ADDRESS BELOW, within ~~20~~ 31 days of the ineligibility decision.

DEPARTMENT OF PERSONNEL AND ADMINISTRATION
DIVISION OF HUMAN RESOURCES
1313 SHERMAN STREET, FIRST FLOOR
DENVER, CO 80203

~~Refer to the Director's dispute resolution processes section of the "Dispute Resolution" chapter for the mailing address.~~ The Director will issue a final WRITTEN decision in writing within 45 90 days of receipt of the complaint or appeal. THE INELIGIBILITY DECISION IS OVERTURNED ONLY IF FOUND TO BE ARBITRARY, CAPRICIOUS OR CONTRARY TO RULE OR LAW.

~~11-30~~ 26. APPEALS OF DENIED CLAIMS UNDER ANY OF THE STATE GROUP BENEFIT PLANS SHALL FOLLOW THE SPECIFIC APPEAL PROCESS DEFINED IN THE SPECIFIC CONTRACT, PLAN DOCUMENT, SUMMARY PLAN DESCRIPTION, OR REGULATED ENTITY. THE PROVIDER WILL ISSUE A FINAL WRITTEN DECISION IN ACCORDANCE WITH ITS PROCESS.

- ~~A.~~ The resolution of complaints and appeals concerning claims under those state group benefit plans that are regulated by the State of Colorado Division of Insurance (fully insured) must follow that group benefit plan's complaint and appeal review process. APPEALS OF DENIED CLAIMS UNDER FULLY INSURED PLANS ARE REGULATED BY THE STATE OF COLORADO DIVISION OF INSURANCE, AND FOLLOW THE PLAN'S APPEAL PROCESS AS DEFINED IN THE CONTRACT AND PLAN DOCUMENT.
- ~~11-31.~~ B. APPEALS OF DENIED CLAIMS UNDER SELF-FUNDED PLANS ARE NOT REGULATED BY THE STATE OF COLORADO DIVISION OF INSURANCE, AND FOLLOW THE THIRD PARTY ADMINISTRATOR'S APPEAL PROCESS AS DEFINED IN THE CONTRACT AND PLAN DOCUMENT. ~~Complaints and appeals concerning claims under those state group benefit plans that are not regulated by the State of Colorado Division of Insurance (self-funded) must be submitted in writing to the third~~

~~party administrator (refer to the plan document for address) within 60 days of the action. The administrator will issue a final written decision in accordance with its process.~~

~~11-32. Complaints and appeals concerning claims under the state's flexible spending accounts, must be submitted in writing to the Director within 60 days of action. Refer to the Director's dispute resolution processes section of the "Dispute Resolution" chapter for the mailing address. The Director will issue a final written decision within 90 days from receipt of the complaint or appeal.~~

COLORADO STATE Employee Assistance Program

~~11-3327. Services provided The Colorado State Employee Assistance Program (CSEAP) is intended to address workplace issues and personal problems created by or associated with those workplace issues faced by state employees and employers, which may include but are not limited to counseling services, crisis intervention, consultations with supervisors and managers, facilitated groups, trainings, and workshops.~~

~~11-3428. Eligibility Guidelines. Any state employee and any department may participate in the program.~~

- ~~A. The program may request the participation of other persons if necessary to provide effective assistance to the employee.~~
- ~~B. The limit per employee is one six-session course of counseling in a 12-month period. At the discretion of the counselor, additional sessions may be authorized.~~

~~11-35. Funding Sources. The program shall be funded by the state group benefit plans reserve fund, the risk management fund, or both, and any interest derived from the investment of said funds.~~