WEST VIRGINIA CODE: §5-16-13

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan; limiting employer contribution.

(a) Cost-sharing. — The director shall provide plans that shall be paid by the employer and employee.

(b) Spouse and dependent coverage. —(1) An employee is entitled to have his or her spouse and dependents included in any plan to which the employee is entitled to participate.

(2) The spouse and dependent coverage is limited to excess or secondary coverage for each spouse and dependent who has primary coverage from any other source. If an employee's spouse has health insurance available through an employer not defined in §5-16-2 of this code, then the employer may not cover any portion of premiums for the employee's spouse coverage, unless the employee adds his or her spouse to his or her coverage by paying the cost of the actuarial value of the plan: *Provided*, That this does not apply to spouses of retired employees or employers subject to §5-16-22 of this code. For purposes of this subsection, "actuarial value" means the value as recommended by healthcare actuaries under §5-16-5 of this code.

The director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance, and resumption of any employee's coverage for his or her spouse and dependents.

(c) Continuation after termination. — If an employee participating in the plan is terminated from employment involuntarily or in reduction of work force, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee and the employer shall continue to contribute the employer's share of plan premiums for the coverage. An employee discharged for misconduct shall not be eligible for extended benefits under this section. Coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge of misconduct are pursued. If the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within 12 months of his or her prior termination, he or she shall not be considered a new enrollee and may not be required to again contribute his or her share of the premium cost if he or she had already fully contributed such share during the prior period of employment.

(d) Conversion of accrued annual and sick leave for extended insurance coverage upon

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retirement for employees who elected to participate in the plan before July, 1988. — Except as otherwise provided in subsection (g) of this section, when an employee participating in the plan, who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: The insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her spouse and dependents, the insurance coverage shall continue one additional month for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.(e) Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for employees who elected to participate in the plan after June, 1988. — Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this section, when an employee participating in the plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of 65, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her spouse, and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining premium cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an employee who has been a participant under spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

(f) In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days' retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee's retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system: *Provided*, That for a person who first becomes a member of the Teachers Retirement System as provided in §18-7A-1 *et seq*. of this code on or after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not be applied for retirement service credit: *Provided, however*, That the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education employees. Except as otherwise provided in subsection (k) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for 12 months, is compelled or required by law to retire before reaching the age of 65, or when such a participating employee voluntarily retires as provided by law, that employee's insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for 12 months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the University of West Virginia Board of Trustees and the Board of Directors of the State College System, for individual coverage, or one additional year for each five years of teaching service for family coverage.

(h) Retiree participation. —All retired employees are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

(i) Surviving spouse and dependent participation. — A surviving spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any comprehensive group health insurance coverage provided under this article to which the deceased employee was entitled, and the spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

(j) Elected officials. — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now, nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave, or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave, or personal leave to elected public officials, and the very nature of those positions preclude the arising or accumulation of any leave so as to be thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.

(k) Participation of certain former employees. — An employee, eligible for coverage under the provisions of this article who has 20 years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for 20 years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays 105 percent of the cost of retiree coverage: *Provided*, That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

(l) Prohibition on conversion of accrued annual and sick leave for extended coverage upon

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retirement for new employees who elect to participate in the plan after June, 2001. — Any employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: *Provided*, That any person who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she becomes reemployed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her reemployment.

(m) Prohibition on conversion of accrued years of teaching service for extended coverage upon retirement for new employees who elect to participate in the plan July, 2009. —Any employee hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of teaching service toward the cost of premiums for extended insurance coverage upon his or her retirement.

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