

**WAC 357-31-375 What provisions exist for employees to participate in medical expense plans?** (1) Employers may provide a medical expense plan to eligible employees that provides for reimbursement of medical expenses. Instead of cash out of sick leave at retirement as provided in WAC 357-31-150(2), employers may deposit equivalent funds in a medical expense plan for eligible employees. The medical expense plan must meet the requirements of the Internal Revenue Code.

(2) Medical expense plans must be implemented only after consultation with affected groups of employees.

(3) As a condition of participation, the medical expense plan must require that each covered eligible employee sign an agreement with the employer. The agreement must include the following provisions.

(a) A provision to hold the employer harmless should the United States government find that the employer or the employee is indebted to the United States as a result of:

(i) The employee not paying income taxes due on the equivalent funds placed into the plan, or

(ii) The employer not withholding or deducting a tax, assessment, or other payment on funds placed into the plan as required by federal law.

(b) A provision to require each covered eligible employee to forfeit remuneration for accrued sick leave at retirement if the employee is covered by a medical expense plan and the employee refuses to sign the required agreement.

(4) Each medical expense plan offered by an agency must apply to all eligible employees in any one of the following groups:

(a) Employees in a state agency or higher education institution;

(b) Employees in a major organizational subdivision of a state agency or higher education institution;

(c) Employees at a major operating location of a state agency or higher education institution;

(d) Classified employees in a bargaining unit established by the Public Employees Relations Commission;

(e) Another group of employees defined by the employer that is not designed to provide an individual-employee choice regarding participation in a medical expense plan.

(5) The following definitions are used for the medical expense plan:

(a) "Eligible employees" means all employees in a designated group in (4) of this section.

(b) "Covered eligible employee" means an eligible employee who is in a group for which the employer has established a medical expense plan.

(6) An established medical expense plan must be applicable to all retirements of covered eligible employees within a calendar year. The medical expense plan may be discontinued in any future year, but once discontinued it may not be reinstated for the same group of eligible employees within the same calendar year as it was discontinued.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-375, filed 4/6/05, effective 7/1/05.]