

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1286

Chapter 143, Laws of 2005

59th Legislature
2005 Regular Session

MEDICAL FLEXIBLE SPENDING ACCOUNT

EFFECTIVE DATE: 7/24/05

Passed by the House March 4, 2005
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2005
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 22, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1286** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 22, 2005 - 3:38 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1286

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

2005 Regular Session

By Representatives Cody, Simpson, Morrell and Kenney; by request of Office of Financial Management

Read first time 01/20/2005. Referred to Committee on Appropriations.

1 AN ACT Relating to creating the medical flexible spending account;
2 amending RCW 41.05.011 and 41.05.120; and adding new sections to
3 chapter 41.05 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 41.05.011 and 2001 c 165 s 2 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section shall apply throughout this chapter.

9 (1) "Administrator" means the administrator of the authority.

10 (2) "State purchased health care" or "health care" means medical
11 and health care, pharmaceuticals, and medical equipment purchased with
12 state and federal funds by the department of social and health
13 services, the department of health, the basic health plan, the state
14 health care authority, the department of labor and industries, the
15 department of corrections, the department of veterans affairs, and
16 local school districts.

17 (3) "Authority" means the Washington state health care authority.

18 (4) "Insuring entity" means an insurer as defined in chapter 48.01

1 RCW, a health care service contractor as defined in chapter 48.44 RCW,
2 or a health maintenance organization as defined in chapter 48.46 RCW.

3 (5) "Flexible benefit plan" means a benefit plan that allows
4 employees to choose the level of health care coverage provided and the
5 amount of employee contributions from among a range of choices offered
6 by the authority.

7 (6) "Employee" includes all full-time and career seasonal employees
8 of the state, whether or not covered by civil service; elected and
9 appointed officials of the executive branch of government, including
10 full-time members of boards, commissions, or committees; and includes
11 any or all part-time and temporary employees under the terms and
12 conditions established under this chapter by the authority; justices of
13 the supreme court and judges of the court of appeals and the superior
14 courts; and members of the state legislature or of the legislative
15 authority of any county, city, or town who are elected to office after
16 February 20, 1970. "Employee" also includes: (a) Employees of a
17 county, municipality, or other political subdivision of the state if
18 the legislative authority of the county, municipality, or other
19 political subdivision of the state seeks and receives the approval of
20 the authority to provide any of its insurance programs by contract with
21 the authority, as provided in RCW 41.04.205; (b) employees of employee
22 organizations representing state civil service employees, at the option
23 of each such employee organization, and, effective October 1, 1995,
24 employees of employee organizations currently pooled with employees of
25 school districts for the purpose of purchasing insurance benefits, at
26 the option of each such employee organization; and (c) employees of a
27 school district if the authority agrees to provide any of the school
28 districts' insurance programs by contract with the authority as
29 provided in RCW 28A.400.350.

30 (7) "Board" means the public employees' benefits board established
31 under RCW 41.05.055.

32 (8) "Retired or disabled school employee" means:

33 (a) Persons who separated from employment with a school district or
34 educational service district and are receiving a retirement allowance
35 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

36 (b) Persons who separate from employment with a school district or
37 educational service district on or after October 1, 1993, and

1 immediately upon separation receive a retirement allowance under
2 chapter 41.32, 41.35, or 41.40 RCW;

3 (c) Persons who separate from employment with a school district or
4 educational service district due to a total and permanent disability,
5 and are eligible to receive a deferred retirement allowance under
6 chapter 41.32, 41.35, or 41.40 RCW.

7 (9) "Benefits contribution plan" means a premium only contribution
8 plan, a medical flexible spending arrangement, or a cafeteria plan
9 whereby state and public employees may agree to a contribution to
10 benefit costs which will allow the employee to participate in benefits
11 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the
12 internal revenue code.

13 (10) "Salary" means a state employee's monthly salary or wages.

14 (11) "Participant" means an individual who fulfills the eligibility
15 and enrollment requirements under the benefits contribution plan.

16 (12) "Plan year" means the time period established by the
17 authority.

18 (13) "Separated employees" means persons who separate from
19 employment with an employer as defined in:

- 20 (a) RCW 41.32.010(11) on or after July 1, 1996; or
- 21 (b) RCW 41.35.010 on or after September 1, 2000; or
- 22 (c) RCW 41.40.010 on or after March 1, 2002;

23 and who are at least age fifty-five and have at least ten years of
24 service under the teachers' retirement system plan 3 as defined in RCW
25 41.32.010(40), the Washington school employees' retirement system plan
26 3 as defined in RCW 41.35.010, or the public employees' retirement
27 system plan 3 as defined in RCW 41.40.010.

28 (14) "Emergency service personnel killed in the line of duty" means
29 law enforcement officers and fire fighters as defined in RCW 41.26.030,
30 and reserve officers and fire fighters as defined in RCW 41.24.010 who
31 die as a result of injuries sustained in the course of employment as
32 determined consistent with Title 51 RCW by the department of labor and
33 industries.

34 (15) "Employer" means the state of Washington.

35 (16) "Employing agency" means a division, department, or separate
36 agency of state government and a county, municipality, school district,
37 educational service district, or other political subdivision, covered
38 by this chapter.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW
2 to read as follows:

3 (1) The medical flexible spending account is created in the custody
4 of the state treasurer. All receipts from the following must be
5 deposited in the account: (a) Revenues from employing agencies for
6 costs associated with operating the program; and (b) unclaimed moneys
7 at the end of the plan year after all timely submitted claims for that
8 plan year have been processed. Expenditures from the account may be
9 used only for administrative and other expenses related to operating
10 the medical flexible spending account program. Only the administrator
11 or the administrator's designee may authorize expenditures from the
12 account. The account is subject to allotment procedures under chapter
13 43.88 RCW, but an appropriation is not required for expenditures.

14 (2) Program claims reserves and money necessary for start-up costs
15 transferred from the public employees' and retirees' insurance account
16 established in RCW 41.05.120 may be deposited in the account. Moneys
17 in excess of the amount necessary for administrative and operating
18 expenses of the medical flexible spending account program may be
19 transferred to the public employees' and retirees' insurance account.

20 (3) The authority may periodically bill employing agencies for
21 costs associated with operating the medical flexible spending account
22 program.

23 **Sec. 3.** RCW 41.05.120 and 1994 c 153 s 9 are each amended to read
24 as follows:

25 (1) The public employees' and retirees' insurance account is hereby
26 established in the custody of the state treasurer, to be used by the
27 administrator for the deposit of contributions, the remittance paid by
28 school districts and educational service districts under RCW
29 (~~(28A.400.400)~~) 28A.400.410, reserves, dividends, and refunds, (~~and~~)
30 for payment of premiums for employee and retiree insurance benefit
31 contracts and subsidy amounts provided under RCW 41.05.085, and
32 transfers from the medical flexible spending account as authorized in
33 section 2 of this act. Moneys from the account shall be disbursed by
34 the state treasurer by warrants on vouchers duly authorized by the
35 administrator. Moneys from the account may be transferred to the
36 medical flexible spending account to provide reserves and start-up

1 costs for the operation of the medical flexible spending account
2 program.

3 (2) The state treasurer and the state investment board may invest
4 moneys in the public employees' and retirees' insurance account. All
5 such investments shall be in accordance with RCW 43.84.080 or
6 43.84.150, whichever is applicable. The administrator shall determine
7 whether the state treasurer or the state investment board or both shall
8 invest moneys in the public employees' insurance account.

9 NEW SECTION. Sec. 4. A new section is added to chapter 41.05 RCW
10 to read as follows:

11 (1) Every employing agency shall fully cooperate with the authority
12 and shall carry out all actions necessary for the operation of benefit
13 plans, education of employees, claims administration, and other
14 activities that may be required by the authority for administration of
15 this chapter.

16 (2) Employing agencies shall report all data relating to employees
17 eligible to participate in benefits or plans administered by the
18 authority in a format designed and communicated by the authority.

Passed by the House March 4, 2005.
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