

PERS Public Safety Employee Major Medical Insurance Gap in Coverage

Prepared by Alaska Professional Fire Fighters Association

We have identified a serious problem in the PERS II & III retirement plans as they relate to major medical coverage for disabled public safety employees. If a public safety employee is disabled in their 20th to 25th year of service, they and their family would not receive major medical coverage until they are 60 years old.

This problem was first brought to our attention on November 26, 2007 by PERS Counselor, Kathy Carson. She was addressing a PERS Retirement seminar for public safety employees sponsored by the Fairbanks Fire Fighters Association. This revelation led to a presentation by PERS Counselor Larry Davis at the Alaska Professional Fire Fighters Annual Convention held later that week in Juneau. Mr. Davis repeated the assertion that public safety employees disabled in their 20 – 25 years of employment do not receive major medical coverage for themselves and their families until age 60. A follow up conversation with PERS Disability Specialist, Patricia Bower, confirmed the information. Ms. Bower also confirmed that this problem had not affected any employees to date. This only affects PERS tier II & III employees hired on or after July 1, 1986, so the earliest this would have effect is July 1, 2006.

Alaska Statutes provide that disabled employees receive major medical coverage prior to reaching their normal retirement and continue to receive coverage when appointed to normal retirement. At first glance it would appear that all PERS Tier II & III employees disabled on the job receive major medical coverage at time of disability and on into retirement. That is true for non public safety employees. However, according to PERS administrators, such is not the case with public safety employees.

The explanation given for this gap in coverage is that in statute under definitions, “disabled member” is defined as an employee receiving a disability benefit from the plan. PERS II & III public safety employees are eligible for normal retirement at 20 years of service, but do not receive retiree major medical coverage until 25 years of service. A public safety employee disabled in their 20th to 25th year of service has attained their normal retirement date and therefore not technically disabled, but instead retired. Under definitions they must be receiving a disability benefit to be technically disabled – they never receive a disability benefit.

A public safety employee with 19 years of service, disabled on the job, would be eligible for PERS disability benefits which include major medical coverage for self and family. Upon reaching their normal retirement at what would have been 20 years of service they would be “appointed to normal retirement” and be eligible for medical coverage.

A public safety employee with 26 years of service, disabled on the job, would be “appointed to normal retirement” and since that employee had 25+ years of service they would receive major medical coverage.

A public safety employee with 21 years of service, disabled on the job, would be “appointed to normal retirement” and since they had fewer than 25 years of service they would not be eligible for major medical coverage until they reach age 60.

It should be noted that no such gap in disability/retiree major medical coverage exists for non public safety employees; be they 19, 21, or 26 year employees.

One would hope there was never any intent to exclude employees engaged in high risk occupations, which regularly risk their own live in service to others, from the benefits afforded other public employees. This situation must be corrected. To correct this gap in coverage, as applied by the PERS administration, the present statutes must be carefully examined. The prefacing language in AS 39.35.680(13) “definitions” states “unless the context otherwise requires” (*underline added*) . It could be argued that in the context of major medical coverage for disabled and retired, “disabled member” defines an employee that can no longer work due to a disability. This deserves a thorough legal analysis and a possible review and opinion from the State Attorney General.

Should a legal analysis confirm the position of the PERS administration, a statutory change must be sought at the earliest opportunity. A legislative change will probably require a fiscal note to accompany proposed legislation. The fiscal note may entail an analysis from the actuarial consultant. This begs the question: was this five year gap ever taken into consideration when original analysis was developed? The actuarial may have assumed seamless coverage, as many have for years since PERS II and III were enacted. Nevertheless, the cost should be minimal and should have no bearing on the need to pass legislation to correct this wrong.

Applicable Alaska Statutes (*underlining added*)

Sec. 39.35.535. Medical Benefits.

(a) Except as provided in (d) of this section, the following persons are entitled to major medical insurance coverage under this section:

39.35.535(c)

(2) a person is not required to make premium payments for retiree major medical coverage if the person

(A) is a disabled member;

(B) is a disabled member who is appointed to normal retirement;

(C) is 60 years of age or older and has at least 10 years of credited service; or

(D) has at least

(i) 25 years of credited service as a peace officer under AS 39.35.360 and 39.35.370;

or

(ii) 30 years of credited service under AS 39.35.360 and 39.35.370 not as a peace officer.

Sec. 39.35.680. Definitions.

In AS 39.35.095 - 39.35.680, unless the context otherwise requires,
39.35.680

(13) "disabled member" means an employee who is terminated, who has not received a refund from the plan and is receiving a disability benefit from the plan;

Mark Drygas, President
Alaska Professional Fire Fighters Association
drygas@alaskapffa.org
907-3222-7808