

Case Notes

Continuation of health benefits to school psychologist after reduction in work week to 18 hours denied; board of education's policy limiting health benefits to full time employees, that is, to those working more than 20 hours per week, held reasonable in view of State health program rules. *Janus v. Maywood Bd. of Educ., Bergen Cty.*, 4 N.J.A.R. 105 (1982).

17:9-4.4 State; ineligible employees defined

(a) For purposes of State coverage, "employee" shall not mean any person who is paid:

1. An hourly rate (payroll compensation code 7) except that a full-time employee with a Civil Service title assigned an hourly salary range is eligible;

2. A daily rate (payroll compensation code 8);
3. A rate per meeting, session (payroll compensation code 8);
4. A salary based on a percentage of full-time (payroll compensation code 6);
5. Any employee who is on a Federal payroll or combination of Federal and State payrolls;
6. Any person who is not on a State payroll;
7. Any person who is on the payroll of another state, whether or not such person is also on a New Jersey State payroll;

8. Any otherwise eligible employee for whom the State, directly or indirectly, provides benefits under any other plan, which benefits have a value equal to or in excess of the benefits payable under the State Employees Health Benefits Act.

17:9-4.5 Local; employee defined

For purposes of local coverage, "employee" shall mean an appointive or elected officer or full-time employee of the local employer, including an employee who is compensated on a fee basis as a convenient method of payment of wages or salary, but who is not a self-employed, independent contractor compensated in a like manner.

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Under statute requiring the minimum level of coverage for health benefits for local government employees to be substantially equivalent to the level available to State employees, Health Benefits Commission held able to increase health benefits available to participating local government employees when benefits available to State employees were increased as a result of negotiated agreement between the State and its employees. *New Jersey School Boards Ass'n v. Ewing Tp. Bd. of Educ., Mercer Cty.*, 183 N.J.Super. 215, 443 A.2d 761 (App.Div.1982).

17:9-4.6 Local; full time defined

(a) For purposes of local coverage, "full-time" shall mean:

1. Employment of any eligible employees who appear on a regular payroll and who receive a salary or wages for an average of the number of hours per week as prescribed by the governing body of the participating employer. Each participating employer shall, by resolution, determine the number of hours worked which shall be considered to be "full-time." In no case shall the number of hours for "full-time" be less than 20.

2. Sabbaticals where the compensation paid is 50 percent or more of the salary granted just prior to the leave and the period of eligibility terminates with the end of the fiscal year.

Amended by R.1983 d.43, effective March 7, 1983.
See: 14 N.J.R. 1296(a), 15 N.J.R. 343(c).

Minimum hours per week changed to an average of hours per week.
Amended by R.1995 d.644, effective December 18, 1995.
See: 27 N.J.R. 2680(a), 27 N.J.R. 5040(a).

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Permanent school based substitute teachers; sick leave and benefits. *East Orange Education Association v. East Orange Board of Education*, 94 N.J.A.R.2d (EDU) 366.

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17:9-4.7 Multiple positions

For purposes of State and local coverage, "full-time" shall mean employment of an employee who holds multiple public positions at the same time, if the employee would otherwise be eligible for coverage in any one of such positions.

Amended by R.1973 d.8, effective January 4, 1973.
See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

SUBCHAPTER 5. CHARGES

17:9-5.1 Separate experience; State and local

The experience of local employers should be considered separately from that of the State.

As amended, R.1973 d.8, eff. January 4, 1973.
See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

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Under statute requiring the minimum level of coverage for health benefits for local government employees to be substantially equivalent to the level available to State employees, Health Benefits Commission held able to increase health benefits available to participating local government employees when benefits available to State employees were increased as a result of negotiated agreement between the State and its employees. *New Jersey School Boards Ass'n v. Ewing Tp. Bd. of Educ., Mercer Cty.*, 183 N.J.Super. 215, 443 A.2d 761 (App.Div.1982).

Petitioner not entitled to refund of premiums paid during period of time he was ineligible for SHBP coverage. *Izzo v. State Health Benefits Commission*, 94 N.J.A.R.2d (TYP) 219.

17:9-5.2 Waiting period

There shall be a two-month waiting period for local employer participation.

As amended, R.1973 d.8, eff. January 4, 1973.
See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

17:9-5.3 Advance charges; interest charges

(a) For the purpose of local coverage, in the traditional program, the employer must remit to the Division of Pensions charges covering a one-month period in advance of the coverage date whereas charges for HMO coverage are remitted directly to the HMO in which the employee is enrolled.

(b) If the transmittal report and full payment of health benefits charges are not received within 15 days of the due date, as cited on the monthly transmittal mailed from the Division of Pensions, interest at the rate of one percent per annum above the average annualized daily rate of return on the State Cash Management Fund as published by the Division of Investment for the most recent fiscal year shall be applied to the total transmittal of health benefits charges from the 16th day until the payment is received. The interest penalty will also be applied if payment is received by

the Health Benefits Bureau without the transmittal report for proper distribution.

As amended, R.1978 d.442, eff. December 26, 1978.

See: 10 N.J.R. 456(a), 11 N.J.R. 105(b).

As amended, R.1983 d.44, eff. March 7, 1983.

See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word "premiums" was changed to "charges".

Amended by R.1986 d.28, effective February 18, 1986.

See: 17 N.J.R. 2868(a), 18 N.J.R. 427(b).

(b) added.

17:9-5.4 Local employer payment of dependent charges

(a) The statute requires the employer to pay the employee's cost of the coverage and may pay any portion of the cost for the dependent coverage.

(b) Any employer who elects to pay any portion of the cost for dependent coverage shall pay the same proportion of the cost of such dependent coverage for all employees covered in the program.

(c) However, when a local employer agrees to pay all of the cost for dependent coverage, all employees must be resolicited with respect to coverage for themselves and their dependents.

(d) The employer shall give all of his employees an opportunity for completing, and forwarding a new enrollment form within 60 days following the employer's assumption of the dependent premium charges.

(e) Any employee who fails to complete and forward the required form within the time limits which have been prescribed, may effect such change of enrollment only during the annual enrollment period.

As amended, R.1973 d.8, eff. January 4, 1973.

See: 4 N.J.R. 282(a), 5 N.J.R. 59(b).

As amended, R.1974 d.229, eff. August 19, 1974.

See: 6 N.J.R. 123(b), 6 N.J.R. 360(d).

17:9-5.5 Local employer resolution; Chapter 88, P.L. 1974; Chapter 54, P.L. 1979

(a) A local employer will satisfy the requirements of Chapters 88, P.L. 1974 by adopting a resolution designed to:

1. Apply to all eligible present and future pensioners of the employer and their dependents;
2. Continue as long as the State is paying the cost of its eligible pensioners and their dependents in accordance with the provisions of Chapter 75, P.L. 1972;
3. Provide for local employer reimbursement of Federal Medicare charges for eligible pensioners and/or their spouses, as well as the payment of health insurance charges required by the program, on a basis comparable to the reimbursement made by the State to its eligible pensioners and their spouses in accordance with the provisions of Chapter 75, P.L. 1972 (see N.J.A.C. 17:9-5.8);

4. Require the local employer to pay the full cost of such charges;

5. Provide for an effective date not earlier than the first day of the month at least 90 days following receipt of the local employer's resolution on forms approved by the division.

(b) A local employer may also adopt an additional resolution designed to apply to all eligible pensioners and their dependents who retired on or after July 1, 1964, in accordance with the provisions of Chapter 54, P.L. 1979. Such resolution shall meet the prescriptions of subsection (a) of this section.

As amended, R.1971 d.177, eff. October 5, 1971.

See: 3 N.J.R. 138(a), 3 N.J.R. 236(a).

As amended, R.1973 d.285, eff. October 2, 1973.

See: 5 N.J.R. 243(a), 5 N.J.R. 393(a).

As amended, R.1975 d.65, eff. March 13, 1975.

See: 6 N.J.R. 495(a), 7 N.J.R. 180(c).

As amended, R.1979 d.396, eff. October 4, 1979.

See: 11 N.J.R. 303(d), 11 N.J.R. 595(c).

As amended, R.1983 d.44, eff. March 7, 1983.

See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word "premiums" was changed to "charges".

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Statute calls for uniformity in coverage to all eligible employees with respect to contracts made on prospective basis. *Weiner v. County of Essex*, 262 N.J.Super. 270, 620 A.2d 1071 (L.1992).

County, which was successor to county welfare board, was collaterally estopped from asserting defenses that it did not specifically assume obligation to pay postretirement medical benefits. *Weiner v. County of Essex*, 262 N.J.Super. 270, 620 A.2d 1071 (L.1992).

Requirement of paragraph (a)1 held valid as reasonable and necessary for the administration of the Health Benefits Program Act; denial of implementation of negotiated health benefits plan by Commission upheld due to discrimination between eligible employees. *New Jersey Policemen's Benevolent Ass'n Local # 42 v. New Jersey State Health Benefits Commission*, 153 N.J.Super. 152, 379 A.2d 285 (App.Div. 1977).

17:9-5.6 Health maintenance organization charges

For purposes of State and local coverage, the employer who pays any portion of the cost for the employee and for dependent coverage cannot pay any more for the same type of coverage if the employee enrolls himself or herself and his or her dependents in a health maintenance organization as an alternative program. If the cost of the coverage in the alternative plan exceeds the cost of the State program, the additional charge would be collected by payroll deductions from the employee.

Amended by R.1974 d.228, eff. August 19, 1974.

See: 6 N.J.R. 156(a), 6 N.J.R. 360(c).

Amended by R.1983 d.44, eff. March 7, 1983.

See: 14 N.J.R. 1293(b), 15 N.J.R. 343(b).

The word "premiums" was changed to "charges" and "his" to "his or her".

Administrative Correction.

See: 24 N.J.R. 4068(b).