

TITLE 17

TREASURY—GENERAL

CHAPTER 1

GENERAL ADMINISTRATION

Authority

N.J.S.A. 52:18A-96 et seq.

Source and Effective Date

R.2003 d.323, effective August 4, 2003.
See: 35 N.J.R. 1854(a), 35 N.J.R. 3594(a).

Chapter Expiration Date

Chapter 1, General Administration, expires on August 4, 2008. See: 35 N.J.R. 3594(a).

Chapter Historical Note

Chapter 1, General Administration, was adopted and became effective prior to September 1, 1969.

Subchapter 6, Judicial Pension Fund, was repealed by R.1973 d.258, effective September 12, 1973. See: 5 N.J.R. 292(d), 5 N.J.R. 358(b).

Subchapter 10, Prescription Drug Program, was adopted as R.1977 d.117, effective April 1, 1977. See: 9 N.J.R. 142(c), 9 N.J.R. 243(a).

Subchapter 11, Dental Expense Program, was adopted as R.1978 d.99, effective March 15, 1978. See: 10 N.J.R. 38(b), 10 N.J.R. 175(d).

Subchapter 12, Administrative Practices, was adopted as R.1982 d.350, effective October 18, 1982. See: 14 N.J.R. 329(a), 14 N.J.R. 1164(a).

Pursuant to Executive Order 66(1978), Chapter 1, General Administration, was readopted as R.1983 d.174, effective May 16, 1983. See: 15 N.J.R. 523(a), 15 N.J.R. 930(b).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, was readopted as R.1988 d.243, effective May 6, 1988. See: 20 N.J.R. 636(a), 20 N.J.R. 1208(a). Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, expired on May 6, 1993.

Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, was adopted as new rules by R.1993 d.376, effective August 2, 1993. See: 25 N.J.R. 1955(a), 25 N.J.R. 3506(a).

Subchapter 13, New Jersey State Employees Cafeteria Plan was adopted as R.1996 d.345, effective August 5, 1996. See: 28 N.J.R. 1942(a), 28 N.J.R. 3808(b).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, was readopted as R.1998 d.240, effective April 22, 1998. See: 30 N.J.R. 1023(a), 30 N.J.R. 1847(a).

Subchapter 2, Alternate Benefit Program, was recodified as N.J.A.C. 17:7 by R.2001 d.159, effective May 21, 2001. See: 33 N.J.R. 988(a), 33 N.J.R. 1601(a).

Chapter 1, General Administration, was repealed and new rules adopted as R.2003 d.323, effective August 4, 2003. See: Source and Effective Date.

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SUBCHAPTER 1. ADMINISTRATIVE PRACTICES

17:1-1.1 Description of the Division of Pensions and Benefits

(a) The Division of Pensions and Benefits is the successor to the former Bureau of Public Employees' Pensions created in June 1952. Under the general reorganization acts of 1948, the pension funds were located within the State Division of Budget and Accounting. In 1950 they were transferred to the Division of Investment under the statute creating that division.

(b) The Division of Pensions and Benefits, under the Department of the Treasury, was created by Chapter 70, P.L. 1955. All administrative functions of the State pension funds, except for the investment of the assets retained in the Division of Investment, were assigned to the Division of Pensions and Benefits.

(c) The Division of Pensions and Benefits is responsible for one of the largest public employee benefits program in the nation. It administers a comprehensive benefit program that enables public employers throughout the State to attract and retain skilled and talented employees. These include State employees, teachers, police officers, fire fighters, correction officers, judges, and many other local employees whose jobs are fundamental to the safety and well being of all New Jersey residents. The Division administers nine separate pension systems.

(d) The Division also administers the State Health Benefits Program (SHBP) that includes health plans, dental plans, and a prescription drug card plan. This program provides coverage for employees, retirees, and their dependents, of the State and participating local employers.

(e) The Division's benefits programs include the following three supplemental retirement savings programs; the New Jersey State Employees Deferred Compensation Plan, Supplemental Annuity Collective Trust (SACT) and the Additional Contributions Tax Sheltered Program (ACTS). The Division also administers the IRC Section 125 program, termed Tax\$ave, for State employees.

(f) The following Boards and Commissions provide oversight and direction to the benefits programs:

1. Public Employees' Retirement System Board;
2. Teachers' Pensions and Annuity Fund Board;
3. Police and Firemen's Retirement System Board;
4. State Police Retirement System Board;
5. Consolidated Police and Firemen's Pension Fund Commission;
6. State House Commission for the Judicial Retirement System;
7. State Health Benefits Commission;
8. New Jersey State Employees Deferred Compensation Board;
9. Supplemental Annuity Collective Trust Council;
10. Pension and Health Benefits Review Commission; and
11. The Investment Council.

17:1-3.12 Interfund transfers; accumulated interest

(a) Notwithstanding the provisions of N.J.A.C. 17:2-7.1, 17:3-7.1, 17:4-7.1 and 17:10-6.1 concerning interfund transfers of members between State-administered retirement systems, accumulated interest credited to the member's account in the former system will only be transferred as part of such member's contributions to the new system if the new system likewise credits interest to its member accounts.

(b) If the new system does not credit interest to its member accounts then only the contributions actually made by the member to the former system will be transferred to the new system when an interfund transfer occurs.

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE
17:1-4.1 Purchases; cancellation, interest on outstanding purchases or cash discount requested

(a) A member who authorizes a purchase of service credit may cancel that purchase at any time on a prospective basis only. No refunds will be made of any lump sum payments, partial payments or installment payments. The member will receive a pro rata credit for the service purchased to the date installment payments cease. Any subsequent requests to purchase the remaining service credit shall be based on the laws and rules in effect on the date that the subsequent request is received.

(b) No more than one request received from a member for the cash discount value of an outstanding arrearage or a purchase quotation for previous service will be honored in a calendar year.

(c) A member who authorizes a purchase which requires installment payments, but who has not had installment payments made toward that purchase for two years due to inactivity in the account, shall be informed by the Division that the remainder of the purchase will be canceled. The member shall receive a pro rata credit for the service purchased to the date that the installment payments ceased. The member may request to pay the cash discount value of the outstanding arrearage for the purchase in full within 60 days of the Division notice. Any subsequent requests to purchase the remaining service credit shall be based on the laws and rules in effect on the date that the subsequent request is received.

(d) A member returning from an approved leave of absence after two years may request that the original purchase be resumed. Such purchase shall be recalculated to include additional regular interest accrued between two years after the date of the last installment payment and the date the purchase is resumed.

(e) For a member who has authorized a purchase of service credit prior to September 8, 1998 and who is inactive, or becomes inactive, the purchase shall remain outstanding. The outstanding balance on the purchase shall include additional regular interest beginning September 8, 2000, or the date of inactivity, whichever is later.

17:1-4.2 Purchase terms; grace period

A member who receives a written optional purchase cost quotation is given a 90-day grace period to confirm that he or she wishes to make the purchase of credit. If the confirmation of the purchase is not received from the member within 90 days, the cost of purchase must be recalculated to determine if any change in the cost is warranted as a result of change in age or salary.

As amended, R.1981 d.85, effective March 6, 1981.
See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).

(b): "certifying officer" was "certifying agent".
Amended by R.2004 d.45, effective February 2, 2004.
See: 35 N.J.R. 4830(a), 36 N.J.R. 661(a).
Substituted "90" for "60".

17:1-4.3 Final compensation; salaries to be used for a period of purchased service

(a) If a period of purchased New Jersey service may be included in the period for the calculation of final compensation, actual base salaries paid during such period will be certified and used in the computation.

(b) The period of a purchased leave of absence will not be included in the calculation of final compensation.

17:1-4.4 Purchase of service credit; continuation of death benefits coverage; maternity leaves of absence

In the event of an unpaid leave of absence for maternity, no leave of absence period granted by any public employer can be approved for the subsequent purchase of credit for a period in excess of three months unless the Division of Pensions and Benefits receives a certification from a physician that such member was disabled due to pregnancy and resulting disability for the period in excess of three months. During the first three months of an unpaid leave of absence for maternity, the member shall be presumed to be disabled from the performance of her job duties because of her pregnancy and its resulting disabilities.

As amended, R.1971 d.16 effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

Amended by R.1987 d.76, effective February 2, 1987.
See: 18 N.J.R. 2320(a), 19 N.J.R. 304(a).

Deleted text "unless otherwise specified by the employee."

Case Notes

New Jersey pension credit; working from 17th of month to end of month. *Thompson v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 166.

SUBCHAPTER 5. INSURANCE AND DEATH BENEFITS

17:1-5.1 Multiple beneficiaries

Where a member has designated more than one beneficiary, in the absence of a specific request, the payment will be made to the beneficiaries on a "share and share alike, survivor or survivors" basis.

As amended, R.1982 d.491, effective January 17, 1983.
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

Hearings conducted by Office of Administrative Law.

Case Notes

Policeman was not entitled to reopen denied application for accidental disability retirement benefits. *Obsuth v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 175.

17:1-5.2 Optional settlements; group life insurance

As the statutes provide that death benefits under the group life insurance contracts may be paid under any optional settlement made available by the insurance company, the beneficiary will be informed of such opportunity in the correspondence when such optional settlements are possible. If the beneficiary requests advice concerning such settlements, the claim shall be forwarded to the carrier for contact with the beneficiary. The Division will be advised of the final settlement for the recording of the data with the retirement system.

17:1-5.3 Accrued increase; limitations

Upon the death of a retiree or a beneficiary receiving a pension, any payments which were due to the deceased shall be paid to a named beneficiary as established in the records of the State-administered retirement system, or if none is named, to the deceased's estate.

SUBCHAPTER 6. HONORABLE SERVICE

Authority

52:18A-96 et seq.

Source and Effective Date

R.2001 d.388, effective November 5, 2001.
See: 33 N.J.R. 1872(a), 33 N.J.R. 3754(a).

17:1-6.1 Honorable service

(a) The receipt of a public pension or retirement benefit is expressly conditioned upon the rendering of honorable service by a public officer or employee. Pursuant to N.J.S.A. 43:1-3, the Boards of Trustees of the State-administered retirement systems are authorized to order the forfeiture of all or part of the pension or retirement benefit of a member of the fund or system for misconduct occurring during the member's public service which render the member's service or part thereof, dishonorable.

(b) Whenever the Board of Trustees determines that a partial forfeiture of pension or retirement benefits is warranted, it shall order that benefits be calculated as if the accrual of pension rights terminated as of the date the misconduct first occurred unless (c) below applies.

(c) In the limited circumstances where the termination of pension rights as of the date of the misconduct results in no reduction, or a minimal reduction of pension or retirement benefits, or in an excessive forfeiture, as compared to the nature and extent of the misconduct and the years of honorable service, the Board may, in its sole discretion, provide a more equitable relief. Alternate methods available to the Board when a forfeiture of service renders an unreasonable or unjust result include, but are not limited to:

1. Forfeiture of salary credit upon which retirement benefits are based;
2. Forfeiture of system-paid retired State Health Benefits;
3. Forfeiture of right to participate in the retired State Health Benefits Program;
4. Reduction in monthly retirement allowance;
5. Forfeiture of service and/or salary credit in a specific title or rank;
6. Forfeiture of service in excess of that needed to qualify for a specific retirement benefit; or
7. Forfeiture of a percentage of the retirement benefit based on the calculation of the percentage of time which was dishonorable service as compared to the total years and months of service credit.

(b) The resolution must be accompanied by a certified death certificate of the volunteer emergency-worker, a copy of the accident or police report, and an application for the survivor's pension. The application must be completed in all respects and filed with the Division on or before the date benefits are to begin. The application must include a copy of the marriage certificate in the case of a widow or widower, a copy of the birth certificate(s) in the case of a child or children, or a copy of the volunteer emergency worker's tax return indicating the dependency of the parent(s). The child's birth certificate must name the volunteer emergency worker as the child's parent, unless the child was legally adopted, in which case, a copy of legal documentation evidencing the adoption is required.

(c) The Division shall provide for payment of the survivor's pension, starting in January of the calendar year following the year of death of the volunteer emergency worker or the year next following the year in which P.L. 2003, c.134 (N.J.S.A. 43:12-28.1) was enacted, whichever is later.

(d) If the municipal governing body determines, by resolution, the eligibility of a widow, widower, children or parent for a survivor's pension, after the January of calendar year in which the benefit should have started, the Volunteer Emergency-Workers Survivors Pension shall be paid on a prospective basis only. Eligibility for benefits shall begin with the first month following the receipt of the resolution.

17:1-11.5 Ineligibility to receive two survivor's benefits

A survivor who is eligible for accidental death benefits under another State-administered retirement system cannot receive a survivor's pension through the Volunteer Emergency-Workers Survivors Pension for the same event.

17:1-11.6 Survivor pension benefits

(a) Payment of benefits to eligible survivors shall become effective February 1st, which is payment for January, of the calendar year following the year of the date of death of the volunteer emergency worker. Payment in the amount of $\frac{1}{2}$ of the annual benefit shall be made on a monthly basis. Payment shall terminate on the first of the month subsequent to the date in which the survivor no longer qualifies for the benefit.

(b) Eligibility for the payment of benefits to eligible children or parents after the remarriage or death of the widow or widower shall begin on the first of the month subsequent to the date of the widow or widower's death or remarriage. A new application must be filed with the Division before benefits may begin.

SUBCHAPTER 12. CENTRAL PENSION FUND

17:1-12.1 Application required

For retirement of State employees under the Veterans Retirement Act, N.J.S.A. 43:4-1 et seq., or the Heath Act,

N.J.S.A. 43:5-1 et seq., an application on a form provided by the Division of Pensions and Benefits must be prepared by the employee, certified by the employing agency and filed with the Division.

17:1-12.2 Disability certification form

Where disability is the cause for the pension, a certification of the disability by a physician on a form provided by the Division of Pensions and Benefits must be filed with the Division.

R.1982 d.469, effective January 3, 1983.

See: 14 N.J.R. 1201(b), 15 N.J.R. 36(c).

17:1-12.3 Withholding forms

A W-4P, "Withholding Certificate for Pension or Annuity Payments," must be filed with the Division of Pensions and Benefits.

R.1983 d.39, effective February 22, 1983.

See: 14 N.J.R. 1447(b), 15 N.J.R. 245(a).

17:1-12.4 Surrogate's certification

(a) When a pensioner dies and a residual benefit is payable, the claimant shall file an appropriate certification from the Surrogate's Office with the Division of Pensions and Benefits.

(b) No such certification will be necessary in the case of the Heath Act where there is a named beneficiary surviving the pensioner.

(c) A death certificate and a form for payment will also be required.

R.1983 d.216, effective June 20, 1983.

See: 15 N.J.R. 525(a), 15 N.J.R. 1037(d).

SUBCHAPTER 13. NEW JERSEY STATE EMPLOYEES TAX SAVINGS PROGRAM (TAX\$AVE)

17:1-13.1 Establishment of plan

State employees eligible to participate in the State Health Benefits Program, except those part-time employees participating due to the provisions of P.L. 2003, c.172 (N.J.S.A. 52:14-17.33a), are eligible to participate in the New Jersey State Employees Tax Savings Program (Tax\$ave) set forth in

this subchapter. In each calendar year, each employee may participate in one or more of the plan options described in this subchapter.

Repeal and New Rule, R.2003 d.323, effective August 4, 2003.

See: 35 N.J.R. 1854(a), 35 N.J.R. 3594(a).

Amended by R.2004 d.104, effective March 15, 2004.

See: 35 N.J.R. 5349(a), 36 N.J.R. 1358(a).

Substituted "Employees Tax Savings Program (Tax\$ave)" for "Employees' Cafeteria Plan".

17:1-13.2 Unreimbursed medical spending account

(a) Each employee may elect to reduce his or her salary, through regular payroll deductions, by a specified dollar amount to create an unreimbursed medical spending account (UMSA) to provide for the direct payment or reimbursement by the State, or its plan administrator, of any or all medical and dental expenses not reimbursed, or only partially reimbursed, under the employee's health benefit plan or any other benefit plan, and considered by the Internal Revenue Service (IRS) to be a tax deductible medical expense. Also eligible for reimbursement are certain expenses for medical care, that is, costs for diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, that the IRS determines may be reimbursed by an UMSA even though these expenses are not deductible for the purpose of itemizing medical expenses for Federal taxes.

1. Examples of eligible tax deductible medical expenses are orthodontia, surgery (including cosmetic surgery), and the deductible portion of medical and dental expenses under the employee's health benefits plan, as well as coinsurance amounts.

2. Eligible expenses include those incurred by the employee's eligible dependents.

3. Note that premium contributions required for any medical or dental coverage are paid through premium conversion and not from the unreimbursed medical spending account.

Repeal and New Rule, R.2003 d.323, effective August 4, 2003.

See: 35 N.J.R. 1854(a), 35 N.J.R. 3594(a).

Amended by R.2004 d.104, effective March 15, 2004.

See: 35 N.J.R. 5349(a), 36 N.J.R. 1358(a).

In (a), rewrote the introductory paragraph and inserted "tax deductible medical" preceding "expenses are orthodontia" in 1.

17:1-13.3 Premium option plan

If an employee selects medical or dental coverage requiring the payment of a premium contribution, the employee's salary will be reduced by the amount of the required premium contribution as part of the plan, and the employee will not have to request this benefit. If, however, an employee does not wish to participate in the premium option plan, the employee must file a declination of premium option plan form with the employee's benefits administrator. An employee's participation in the premium option plan terminates on the employee's last day of employment.

17:1-13.4 Dependent care spending account

Each employee may elect to reduce his or her salary, through regular payroll deductions, by a specified dollar amount to create a dependent care spending account to provide for the direct payment or reimbursement by the State, or its plan administrator, of any or all dependent care expenses as provided in § 129 of the Internal Revenue Code, 26 U.S.C. § 129. Examples of eligible expenses are expenses incurred by the employee for the care of dependents under the age of 13 and dependents, including the employee's spouse, who are physically or mentally incapable of self-care.

17:1-13.5 Salary reduction elections

(a) The plan shall operate on a calendar-year basis, with each employee permitted to make a one-time salary-reduction election for the calendar year. The initial plan year shall commence on June 28, 1996, and shall conclude on December 31, 1996.

(b) Salary-reduction elections shall be made during enrollment periods announced by the Division of Pensions and Benefits and shall be submitted to the plan administrator. Information about the plan administrator and election forms shall at all times be available from the Division of Pensions and Benefits.

(c) In each calendar year, an employee establishing an unreimbursed medical spending account must elect a salary reduction amount of at least \$100 but not more than \$2,000 for this account.

(d) In each calendar year, an employee establishing a dependent care spending account must elect a salary reduction amount of at least \$250 but not more than \$5,000 (\$2,500 if married, filing separately) for this account.

(e) Once made, a salary-reduction election for a given calendar year is irrevocable; provided, however, that modification or revocation of an election will be permitted if allowable under § 125 of the Internal Revenue Code, 26 U.S.C. § 125, as in certain circumstances involving a change in family status.

17:1-13.6 Claims for payment from plan accounts

(a) Claims for payment of expenses eligible for payment from plan accounts shall be submitted to the plan administrator. Information about the plan administrator and claim forms shall at all times be available from the Division of Pensions and Benefits.

(b) In each calendar year, the total payments from a plan account shall not exceed the total salary reduction amount elected by the employee for that account for that calendar year.

(c) Participation in each plan account will terminate on December 31 of each year. The employee, however, may continue to submit claims for expenses incurred in that calendar year through March 31 of the following year.

(d) Plan accounts may not be used to pay expenses incurred prior to the employee's participation in the account or for periods that an employee is not contributing to the plan.

17:1-13.7 Forfeiture of account balances

In the event that the amount elected by an employee to fund a plan account in a given calendar year exceeds the employee's total claims for expenses incurred in that calendar year (as submitted no later than March 31 of the following calendar year) and eligible for payment from the plan account, the balance in the plan account shall be forfeited to the State.

17:1-13.8 Compliance with Internal Revenue Code

The plan is intended to comply in all respects with the provisions of § 125 of the Internal Revenue Code, 26 U.S.C. § 125.