(C)

CC: Mayor & Council
Adm. + Christie
Sherry

MM

Masser, Michelle

From: egg@dca.state.nj.us
Sent: Tuesday, August 02, 2016 1:48 PM
To: Masser, Michelle
Subject: Guidance on Health Benefit Payment Waivers

Dear Municipal Clerk:

It has come to the attention of the Division of Local Government Services that certain local units and their governing bodies may not be aware of statutes and regulations pertaining to health benefit waiver payments. Local Finance Notice 2016-10 has been issued to remind local units of existing law on payments made to employees who elect to waive locally provided health benefits. Municipal Clerks, County Freeholder Board Clerks and secretaries to the governing bodies of other local units are encouraged to distribute this Notice to members of their respective governing body members. Local Finance Notice 2016-10 can be found on the DLGS website and is accessible by clicking http://www.nj.gov/dca/divisions/dlgs/lfns/16/2016-10.pdf.

THIS NOTICE HAS BEEN SENT TO THE FOLLOWING OFFICIALS: Municipal Clerk, Chief Financial Officer / County Freeholder Board Clerk, Chief Financial Officer / Authority Officials / Fire District Officials

new jersey
department of community affairs
people.places.progress
division of local government services

LFN 2016-10

August 2, 2016

Local Finance Notice

Chris Christie, *Governor* | Kim Guadagno, *Lt. Governor* | Charles A. Richman, *Commissioner* | Timothy J. Cunningham, *Director*

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Distribution
Chief Financial Officers
Municipal and County Freeholder Bd. Clerks
Local Authority Officials
Fire District Officials
Auditors (RMAs)
Governing Body Members

Guidance on Health Benefit Waiver Payments

It has come to the attention of the Division of Local Government Services that certain local units and their governing bodies may not be aware of statutes and regulations pertaining to health benefit waiver payments. This notice serves to remind local units of existing law on payments made to employees who elect to waive locally provided health benefits. Municipal Clerks, County Freeholder Board Clerks and secretaries to the governing bodies of other local units are encouraged to distribute this Notice to members of their respective governing bodies.

Payments to Employees in lieu of Receiving Health Benefits

N.J.S.A. 52:14-17.31a and 40A:10-17.1 authorize local units providing employee health benefits through the State Health Benefits Program (SHBP) or non-SHBP coverage, respectively, to make annual payments to employees in exchange for waiving health coverage provided by the local unit. **Local units have sole discretion as to whether or not to offer employees payments for waiver of health benefits. Health benefit waiver payments are statutorily prohibited from being subject to the collective bargaining process.**

In order to be eligible for an annual waiver payment, the employee must be eligible for other healthcare coverage in addition to the local unit's coverage (e.g. through a spouse or domestic partner). Please note that if the local unit is in SHBP, and the alternate coverage is also under SHBP or the School Employees Health Benefits Program (SEHBP), the employee cannot receive a waiver payment. If the local unit permits, an employee may waive all employer-provided health benefits or a select benefit; for example, an employee may elect to waive all other health coverage except for the local unit's dental benefit.

Health benefit waiver payments are calculated based on what the employer saves as a result of the employee not receiving the benefit being waived, and are capped by statute. This means that, when calculating an employee's waiver payment, the local unit must deduct the employee's healthcare contribution obligation from the total premium cost. The calculation must be updated annually based on changes to the total premium cost and the employee's healthcare contribution obligation.

Payments for waivers filed before May 21, 2010, and maintained continuously since, cannot exceed fifty percent (50%) of the amount saved by the local unit as a result of the employee's waiver of coverage. For waivers filed on or after May 21, 2010, which is the effective date of P.L. 2010, c. 2, payments cannot exceed the lesser of twenty-five percent (25%) of the amount saved by the local unit as a result of the waiver, or $5,000. See Local Finance Notice 2010-12 for further discussion of P.L. 2010, c. 2, its impact on health benefit waiver payments, and restrictions on eligibility for SHBP coverage.

Take for example an employee that waives all employer health coverage, and for whom as of July 1, 2016 the total premium cost for all health coverage was $20,000 while the employee's healthcare contribution obligation for said coverage was $7,500. Here, the local unit would save $12,500 by the employee waiving health benefits. The maximum waiver amount is as follows:

- Waiver filed before May 21, 2010: $6,250 (50% of employer savings)
- Waiver filed on or after May 21, 2010: $3,125 (lesser of 25% of employer savings or $5,000)

The amount of the waiver payment, so long as it does not exceed the statutory maximum, is subject to the sole discretion of the local unit and cannot be subject to the collective bargaining process.

An employee that no longer wants to waive health benefit coverage must file a declaration with the local unit (and the Division of Pensions and Benefits in the case of SHBP) revoking the waiver. Upon revoking the waiver and resuming coverage, the employee shall repay on a pro rata basis any amount received from the employer which represents an advance payment for a period of time during which coverage is resumed.

Local Units Encouraged to Review Existing Policy on Healthcare Waiver Payments

Prior to municipal officers and employees being required to substantially share in the cost of their health benefits, there was less incentive to waive the local unit's coverage even if alternative coverage existed. Offering payments in lieu of health benefits often functioned as the only practical means by which local units could achieve a waiver of coverage and thus save taxpayer dollars. However , the increased amount that employees must now contribute under the law will often be a sufficiently strong incentive for them to waive coverage through the local unit without the need for a waiver payment in situations where alternative coverage, for example through a spouse's coverage, is available. Therefore, the Division strongly recommends that the governing body of each local unit authorizing payments in lieu of health benefits annually review, and have a thorough discussion about, their policy, its impact on the local unit's budget, and whether such waiver payments remain fiscally prudent.

Approved: Timothy J. Cunningham, Director

Document	Internet Address
P.L. 2010, c.2	http://www.njleg.state.nj.us/2010/Bills/PL10/2_.PDF
Local Finance Notice 2010-12	http://www.nj.gov/dca/divisions/dlgs/lfns/10/2010-12.doc

Appendix A

52:14-17.31a Employee permitted to waive benefits coverage under SHBP.

36. a. Notwithstanding the provisions of any other law to the contrary, an employer other than the State which participates in the State Health Benefits Program, established pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), may allow any employee who is eligible for other health care coverage to waive coverage under the State Health Benefits Program to which the employee is entitled by virtue of employment with the employer. The waiver shall be in such form as the Director of the Division of Pensions and Benefits shall prescribe and shall be filed with the division. After such waiver has been filed and for so long as that waiver remains in effect, no premium shall be required to be paid by the employer for the employee or the employee's dependents. Not later than the 180th day after the date on which the waiver is filed, the division shall refund to the employer the amount of any premium previously paid by the employer with respect to any period of coverage which followed the filing date.

b. Notwithstanding the provisions of any other law to the contrary, the State as an employer, or an employer that is an independent authority, commission, board, or instrumentality of the State which participates in the State Health Benefits Program, may allow any employee who is eligible for other health care coverage that is not under the State Health Benefits Program to waive the coverage under the State Health Benefits Program to which the employee is entitled by virtue of employment with the employer. The waiver shall be in such form as the Director of the Division of Pensions and Benefits shall prescribe and shall be filed with the division.

c. In consideration of filing a waiver as permitted in subsections a. and b. of this section, an employer may pay to the employee annually an amount, to be established in the sole discretion of the employer, which shall not exceed 50% of the amount saved by the employer because of the employee's waiver of coverage, and, for a waiver filed on or after the effective date of P.L.2010, c.2, which shall not exceed 25%, or $5,000, whichever is less, of the amount saved by the employer because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to immediately resume coverage if the employee ceases to be eligible for other health care coverage for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received from the employer which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall notify the employer in writing and file a declaration with the division, in such form as the director of the division shall prescribe, that the waiver is revoked. The decision of an employer to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

L.1995, c.259, s.36; amended 2001, c.189; 2003, c.3, s.2; 2007, c.92, s.48; 2008, c.89, s.2; 2010, c.2, s.11.

Appendix B

40A:10-17.1 County, municipal, contracting unit employee permitted to waive healthcare coverage.

37. Notwithstanding the provisions of any other law to the contrary, a county, municipality or any contracting unit as defined in section 2 of P.L.1971, c.198 (C.40A:11-2) which enters into a contract providing group health care benefits to its employees pursuant to N.J.S.40A:10-16 et seq., may allow any employee who is eligible for other health care coverage to waive coverage under the county's, municipality's or contracting unit's plan to which the employee is entitled by virtue of employment with the county, municipality or contracting unit. The waiver shall be in such form as the county, municipality or contracting unit shall prescribe and shall be filed with the county, municipality or contracting unit. In consideration of filing such a waiver, a county, municipality or contracting unit may pay to the employee annually an amount, to be established in the sole discretion of the county, municipality or contracting unit, which shall not exceed 50% of the amount saved by the county, municipality or contracting unit because of the employee's waiver of coverage, and, for a waiver filed on or after the effective date of P.L.2010, c.2, which shall not exceed 25%, or $5,000, whichever is less, of the amount saved by the county, municipality or contracting unit because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county, municipality or contracting unit, in such form as the county, municipality or contracting unit shall prescribe, that the waiver is revoked. The decision of a county, municipality or contracting unit to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

L.1995, c.259, s.37; amended 2000, c.126, s.25; 2001, c.342, s.11; 2003. c.3, s.1; 2010, c.2, s.18.