DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Amendments to Chapters 14-11 and 14-51
Hawaii Administrative Rules

July 29, 1998

SUMMARY

1. ~~§14-11-4 is amended.~~ (not applicable)

2. §14-51-1 is amended.

3. §14-51-2 is amended.

4. §14-51-12 is amended.

5. §14-51-22 is amended.

6. §14-51-23 is amended.

7. §14-51-24 is amended.

8. A new §14-51-24.1 is added.

9. §14-51-33 is amended.

10. §14-51-41 is amended.

11. §14-51-44 is amended.

§14-51-1 Purpose. The purpose of this chapter is to implement and administer the State of Hawaii cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986, as amended, for the exclusive benefit of eligible employees of the State.

The cafeteria plan will allow eligible state employees an election to reduce their pretax compensation in return for payment by the employer of expenses of eligible benefits. The value of some, but not necessarily all, such employer paid eligible benefits shall be excluded from the employees' gross income for federal and state tax purposes, as provided by law. Participation in this plan shall not be considered as an employment contract between the employer and the employee, nor as giving the employee any right to continued employment. [Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-2 Definitions. ***

"Component plan" means:

(1) Any health benefit plan contracted for by the Hawaii public employees health fund under chapter 87, HRS, which is an "accident or health plan" within the meaning of section 105(e) of the Code and requires employee contributions; and

(2) Any employee organization health benefit plan approved by the Hawaii public employees health fund board of trustees for employer contribution transfers, provided that such plan provides to the plan administrator such information and documentation as the plan administrator may determine to be necessary or desirable, at any time and from time to time, to establish to the plan administrator's satisfaction that each of the following requirements has been met by such plan:

(A) The component plan is an "accident or health plan" within the meaning of section 105(e) of the Code;

(B) Any other requirements applicable to the determination of whether benefits provided under the plan constitute "qualified benefits" within the meaning of regulations promulgated under section 125 of the Code are satisfied.

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[Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62, 87-1)

§14-51-12 Enrollment. (a) An employee may enroll in this premium conversion plan by completing a benefit election form(s) in accordance with subchapter 3, benefit elections, or by any other process authorized by the plan administrator.

(b) While an employee is a participant in this plan, any required employee monthly contributions for eligible expenses will be paid by the employer.

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[Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-22 Periods during which elections may be made; effective date of coverage. Subject to the conditions and limitations of this plan and the component plans, an employee may elect to have compensation reduced and to have the employer pay eligible expenses by submitting the benefit election form(s) required under section 14-51-21 to the plan administrator, or the delegated representative(s), as follows:

(1) During an enrollment period designated by the plan administrator held prior to the beginning of the plan year to which the benefit election form applies, in which case coverage shall become effective on the first day of the plan year; or

(2) In the case of a newly eligible employee, within ninety days of the date such employee is eligible under a component plan. Coverage shall become effective as soon as administratively possible thereafter, but in no event shall it be later than the first day of the month following the date the employee files the benefit election form(s) with the plan administrator or the delegated representatives.

[Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-23 Duration of elections. An employee's benefit election shall remain in effect for the duration of the person's employment or the duration of this plan unless canceled or changed as provided below:

(1) An employee may voluntarily cancel or change a benefit election during a designated enrollment period by filing the required form(s) with the delegated representative, in which case the cancellation or change shall become effective at the beginning of the following plan year.

(2) An employee may voluntarily make a new benefit election, or may cancel or change an existing benefit election pursuant to the conditions and limitations specified in section 14-51-24. The new benefit election, cancellation, or change shall become effective as soon as administratively possible, on a prospective basis, after the employee files a benefit election form with the delegated representative. However, the cancellation shall be effective no later than the last day of the month, and the new benefit election or change shall be effective no later than the first day of the month following the filing of the benefit election form(s).

(3) An employee's benefit election may be administratively canceled if the employee ceases to be eligible for benefits under a component plan, in which case the cancellation shall become effective as of the same date on which the component plan coverage is canceled.

(4) An employee's benefit election shall be canceled and such employee's participation in this plan shall cease at the end of the plan year in which the termination of employment occurred.

(5) Upon termination of this plan pursuant to section 14-51-61, all benefit elections

shall be canceled as provided for by section 14-51-63.

[Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-24 Voluntary changes in elections. (a) A benefit election may be voluntarily canceled or changed prior to the end of a period of coverage, if both of the following conditions are met:

(1) The cancellation or change is on account of and is consistent with a change in status, which includes such events as: marriage, divorce, or annulment of marriage; employment or loss of employment of a spouse which results in a change in health care coverage available from the spouse's employer; birth or adoption of a child, or addition of a foster child; death of the employee's spouse or dependent child; loss of eligibility of the last dependent child for coverage under the employee's health care plan; termination or commencement of employment; reduction or increase in hours of employment by the employee, spouse, or dependent; commencement or return from an unpaid leave of absence; transfer to a non-eligible employment classification; moving from the geographic area covered by the employee's carrier's plan or moving into an area where other component plans are available; a change to a new employment classification where other component plans are available or where the employee's carrier's plan is not available; and the joining of eligible dependents to the employee's household.

(2) A corresponding cancellation or change in the employee's component plan enrollment is acceptable under the administrative rules of the Hawaii public employees health fund.

(b) Any voluntary cancellation or change in benefit election shall remain in effect until a subsequent allowable change is properly made by the employee.

(c) A participating employee must notify the plan administrator or delegated representative(s) by submitting the required form(s) within ninety days of

a change in status if the employee wishes to enroll, cancel, or otherwise change a benefit election under the provisions of this section. The enrollment, cancellation, or change shall become effective as specified in section 14-51-23(2).

(d) Employee organizations and their employee organization plan representatives shall be responsible for ensuring that cancellations or changes are permitted in accordance with the provisions of this section. [Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-24.1 Administrative changes in elections. (a) The plan administrator may make certain administrative cancellations or changes in coverage, as allowed under section 125 of the Code.

(b) Any cancellation or change in election shall remain in effect until a subsequent allowable cancellation or change is properly filed by the employee.

(c) Cancellations or changes shall take effect as specified in section 14-51-23(3).

[Eff. OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-33 Payment of benefits. Subject to the conditions and limitations of this plan and the employee's available compensation, the employer shall pay the eligible expenses for the component plan(s) in compliance with the employee's election. The plan administrator shall designate the comptroller or the finance officer to reduce the employee's compensation by the amount authorized by the employee and disburse the same amount as payment for the selected component plan premium(s) in accordance with the compensation reduction election authorized by the employee. [Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-41 Plan administrator. The director of human resources development of the State of Hawaii shall be the administrator of this plan.
[Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

§14-51-44 Powers and duties. The plan administrator shall administer this plan and shall have the powers and duties specified in this plan to take all action and make all decisions necessary or proper to carry out this plan. The determination of the plan administrator as to any questions involving the general administration and interpretation of this plan shall be conclusive as to all parties thereto. Any discretionary action to be taken under this plan by the plan administrator with respect to employee eligibility, benefits, election cancellations or changes, and reimbursements, shall be uniform in their nature and applicable to all persons similarly situated. Without limiting the generality of the forgoing, the plan administrator shall have the following powers and duties:

(1) To require any person to furnish such information as the plan administrator may reasonably request for the purpose of the proper administration of this plan as a condition to receiving any benefit under this plan;

(2) To make and enforce rules and prescribe the use of forms as the plan administrator deems necessary for the administration of this plan;

(3) To interpret this plan, and to resolve ambiguities, inconsistencies, and omissions;

(4) To decide on questions concerning this plan, including eligibility, enrollments, and benefit elections;

(5) To select and/or hire advisors and appoint qualified parties to handle the day-to-day administrative requirements of this plan; and

(6) To delegate to any or each state agency responsibility for the day-to-day administration of this plan.

[Eff. 12/15/89; am OCT 26 1998] (Auth: HRS §78-62) (Imp: HRS §§78-61, 78-62)

DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Amendments to chapters 14-11 and 14-51, Hawaii Administrative Rules, on the Summary page dated July 29, 1998, were adopted on July 29, 1998, following a public hearing held on July 29, 1998, after public notice was given in the Honolulu Star Bulletin, the Maui News, the Garden Island News, and the Hawaii Tribune Herald, on June 29, 1998.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

JAMES H. TAKUSHI
Director
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APPROVED AS TO FORM:

Deputy Attorney General

BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 10/13/98

OCT 15 1998

Filed

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