State of Alaska

PERS Regulations

Including the:

- Public Employees' Retirement System,
- Supplemental Benefits System,
- Group Health and Life Insurance Plan, and the
- Deferred Compensation Plan for State Employees.

January
2007

This edition of the regulations contains items that were repealed, repealed and readopted, and some that were deleted. These regulations may not apear under the same citation as previously, as they have been renumbered.

The regulations in this handbook
are current as of January 2007.
Amendments occurring after that date may
be found in the Alaska Statutes and
Alaska Administrative Code.

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Chapter 35
Public Employees' Retirement System

Article

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15. Miscellaneous. (2 AAC 35.800 - 2 AAC 35.990)

Editor's note: This table shows the source of provisions in 2 AAC 35 for the Public Employees' Retirement Board's reorganization, recodification and amendment of the Public Employees' Retirement System regulations.

PARALLEL REFERENCE TABLE

AAC Section	Regulations	Effective Date of Regulation
2 AAC 35.010	70-3	9-21-70
2 AAC 35.020	66-1	1967
2 AAC 35.030	66-2	1967
	70-4	9-21-70
2 AAC 35.040	70-2	9-21-70
2 AAC 35.050	66-4 (Repealed)	1967
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2 AAC 35.070	82-5	10-1-82
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2 AAC 35.130	80-6 (Repealed)	8-25-80
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2 AAC 35.140	80-6 (Repealed)	8-25-80
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2 AAC 35.150	80-6 (Repealed)	8-25-80
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2 AAC 35.170	80-6 (Repealed)	8-25-80
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2 AAC 35.180	80-6 (Repealed)	8-25-80
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2 AAC 35.200	79-7	11-1-79
2 AAC 35.210	66-11	1967
2 AAC 35.220	78-5	10-26-78
2 AAC 35.240	66-9 (Repealed)	1967
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2 AAC 35.250	79-8	11-1-79
2 AAC 35.260	80-4	5-5-80
2 AAC 35.27	83-1	4-11-83
2 AAC 35.280	70-5 (Repealed)	9-21-70
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2 AAC 35.295	79-3	3-13-79
2 AAC 35.310	80-3 (Repealed)	5-5-80
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2 AAC 35.330	66-6	1967
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2 AAC 35.340	66-6	1967
2 AAC 35.350	78-3 (Repealed)	10-26-78
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2 AAC 35.360	79-2 (Repealed)	3-13-79
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2 AAC 35.840	79-9 (Repealed)	11-1-79
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2 AAC 35.850	79-1	3-13-79
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2 AAC 35.870	80-11	7-1-80
2 AAC 35.880	80-14	11-25-80
2 AAC 35.890	2 AAC 30.010	3-21-82

ARTICLE 1
BOARD

Section

10. [Deleted 10/05] Election of public employees retirement board members.
15. [Deleted 10/05] Board member election procedures.
20. [Deleted 10/05] Election of officers.
30. [Deleted 10/05] Quorum.
35. [Deleted 10/05] Teleconferencing.
40. [Repealed 1/7/01] Vacancy in term of elected board member.
50. [Deleted 10/05] Meetings.

Editor's note: As of Register 175 (October 2005), the regulations attorney deleted 2 AAC 35.010 - 2 AAC 35.035, and 2 AAC 35.050, to recognize the establishment of the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board. The changes were made by the regulations attorney in accordance with ch. 9, FSSLA 2005 and AS 44.62.125(b)(6).

2 AAC 35.010. [DELETED 10/05] ELECTION OF PUBLIC EMPLOYEES RETIREMENT BOARD MEMBERS

A public employees retirement board member elected under AS 39.35.030 or a person voting in that election must be a member as defined in AS 39.35.680(21). The term of an elected member of the public employees retirement board will begin the first day the position is vacant or the date the election is certified, whichever is later. The winner of an election will be the member polling the most votes cast in the election for a particular seat as described in 2 AAC 35.015.

History: In effect before 10/21/83, Register 93; am 11/9/89, Register 114; am 1/7/2001, Register 159; deleted as of Register 175, October 2005

Authority: AS 39.35.030 AS 39.35.040 AS 39.35.042

2 AAC 35.015. [DELETED 10/05] BOARD MEMBER ELECTION PROCEDURES

(a) The administrator shall conduct the board member elections.

(b) If there are two vacancies at one election, the vacancies shall be designated as seat A or seat B. Each candidate may declare for only one seat. All members may vote for each seat.

(c) The administrator shall provide notice of a vacancy on the board to members at least 70 days before an election. The notice of election shall be distributed to state personnel officers and other PERS employers for posting, and to other interested parties. The notice of vacancy shall be posted on the Alaska Online Public Notice System, and shall be published in newspapers in three major cities and in the division's newsletter. The notice must contain information and procedures for the election, including the effective date of the vacancy, the designated seats if there is more than one vacancy, the length of the term, the date for filing nominating petitions, the deadline for submitting ballots, the date the ballots will be counted, and any other necessary details.

(d) Nomination for the vacancy is made by petition on a form prescribed by the administrator and must include

(1) the nominee's name and address, a statement of willingness to serve, and a short biographical sketch not to exceed 150 words; and

(2) the printed names, signatures, and addresses of 25 members.

(e) A nominating petition may be mailed or delivered in person. Either way, it must be received in an office of the division of retirement and benefits by the published deadline. A mailed nominating petition should be sent by certified mail early enough to assure delivery and to allow time for the nominee to make any necessary corrections noted by the administrator in the verification of the petition.

(f) The administrator shall verify the petitions and prepare the ballots. Nominees whose petitions are incomplete or received after the deadline may not be included on the ballot. Reasons for exclusion include: the nominee is not a member; there are less than 25 petitioners who are members; petitioners cannot be identified as members because of illegible names or non-matching addresses. The administrator shall advise an excluded nominee of the reason why the nominee's name will not appear on the ballot. If a petition was received and verified in sufficient time before the petition deadline, the nominee may make any necessary identified corrections by the petition deadline.

(g) Voting must be by secret ballot. The ballots shall be mailed to members at least 30 days before the date on which ballots will be counted.

(h) The administrator shall have the vote tallied. Each candidate may be present or have a representative present.

(i) Any candidate or board member may challenge the eligibility of any person to vote in the election on the basis of information supplied with, or independent of the confidential ballot. Challenged ballots shall be held separately. If the challenged ballots could not change the outcome of the election, the ballots shall be disregarded. If the challenged ballots could affect the outcome of the election, the administrator shall after considering the objections, make a determination whether to accept and tally, or reject, the ballots or take other appropriate action, including a new election.

(j) The administrator shall notify the board and all participating candidates of the results of a tally.

(k) **[Repealed 7/1/01]** If a vacancy cannot be filled because no candidate receives a majority of the votes cast, the administrator shall, within 20 working days after the ballots are tallied, mail out ballots for a runoff election between the two candidates receiving the most votes. A runoff election shall be conducted under (g) through (n) of this section.

(l) Within five working days after notice of the tally of ballots has been publicly announced by the administrator, any candidate may file with the administrator an objection to the manner in which the election was conducted or to conduct affecting the results of the election. The administrator shall investigate any objections and, based on the administrator's findings, will certify the results of the election or order any other appropriate action, including a runoff or new election.

(m) In an appeal of an administrator's decision under AS 39.35.040(4), a board member who is also a candidate or nominee in an election challenged under this section will not participate in any decision of the board.

(n) All ballots and petitions may be destroyed 30 days after the board's certification of the election.

History: Eff. 11/9/89, Register 114; am 7/12/90, Register 122; am 1/7/2001, Register 159; deleted as of Register 175, October 2005

Authority: AS 39.35.030 AS 39.35.040 AS 39.35.042

Editor's note: As of Register 155 (October 2000), and acting under sec. 8, ch. 54, SLA 2000 and AS\n 44.62.125(b)(6), the regulations attorney made a technical revision to 2 AAC 35.015(c), to reflect the enactment of ch. 54, SLA 2000, which replaced the Alaska Administrative Journal with the Alaska Online Public Notice System.

2 AAC 35.020. [DELETED 10/05] ELECTION OF OFFICERS

The public employees retirement board established under AS 39.35.030 will elect a chairperson and vice-chairperson. The election will be held at the board's first regular meeting each year. The chairperson and vice-chairperson serve for a term of one year and may succeed themselves in office.

History: In effect before 10/21/83, Register 93; deleted as of Register 175, October 2005

Authority: AS 39.35.030 AS 39.35.040

2 AAC 35.030. [DELETED 10/05] QUORUM

(a) Three board members, none of whom is a physician appointed under AS 39.35.030(d), constitute a quorum of the board for the transaction of business other than hearing of appeals to determine medical eligibility for disability benefits.

(b) Four board members, at least one of whom is a physician appointed under AS 39.35.030(d), constitute a quorum of the board for hearing of appeals to determine medical eligibility for disability benefits.

History: In effect before 10/21/83, Register 93; am 8/25/90, Register 122; deleted as of Register 175, October 2005

Authority: AS 39.35.040

2 AAC 35.035. [DELETED 10/05] TELECONFERENCING

(a) A board member may participate in a meeting by teleconference if teleconference facilities are available at the meeting site. A board member may vote on a matter by teleconference if the board member has had the opportunity to evaluate all evidence and testimony regarding the matter.

(b) A person may participate in a board meeting or hearing by teleconference if the person arranges in advance with the administrator to participate telephonically and if teleconference facilities are available at the meeting site. However, if a board member or a party to an appeal objects to telephonic participation by a party or witness, the board may, in its discretion, postpone the hearing and order that the testimony of the party or witness will be excluded unless the party or witness is made available in person at a future hearing or at a videotaped deposition.

(c) The administrator may require a person who requests to participate or present witnesses telephonically at a meeting or hearing to pay the charges for telephonic participation.

History: Eff. 8/25/90, Register 122; deleted as of Register 175, October 2005

Authority: AS 39.35.040

2 AAC 35.040. [REPEALED 1/7/01] VACANCY IN TERM OF ELECTED BOARD MEMBER

If an elected position on the board becomes vacant before the completion of his term, the administrator shall hold an election to fill the office within 120 days from the date the vacancy occurs.

History: In effect before 10/21/83, Register 93; repealed 1/7/01, Register 159

Authority: AS 39.35.030 AS 39.35.040

2 AAC 35.050. [DELETED 10/05] MEETINGS

The board will conduct two regular meetings every year and may conduct special meetings to carry out its duties under AS 39.30, AS 39.35, or AS 39.45. The location and date of a meeting must be approved by a majority of board members who serve as appointed or elected members under AS 39.35.030(b) and AS 39.35.030(c).

History: In effect before 10/21/83, Register 93; am 8/25/90, Register 122; deleted as of Register 175, October 2005

Authority: AS 39.35.040

ARTICLE 2
ADMINISTRATION

Section

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2 AAC 35.070. REGULATIONS

(a) Public notice, under AS 39.35.005, of the proposed adoption, amendment, or repeal of a system regulation will include an informative summary of the action proposed to be taken; a date through which written comments on the proposed action will be accepted from the public; and the time and place of any hearings at which oral comments from the public will be accepted, if the commissioner decides to schedule such hearings. Upon request from any person, the commissioner will provide that person with the text of any regulation or proposed regulation whose adoption, amendment or repeal is being considered. The commissioner will consider all comments presented under this subsection before adopting, amending, or repealing a regulation, but is not required to respond to comments. if a hearing is held under this subsection, the commissioner may continue or postpone the hearing to a time and place that the commissioner determines to be suitable. The commissioner may take an action that varies from the proposed action set out in the notice required by this subsection if the subject matter of a regulation adopted, amended, or repealed remains the same as that included in the public notice.

(b) If the commissioner adopts, amends, or repeals a regulation as an emergency regulation under AS 39.35.005(h), the commissioner's action will be accompanied by a written finding that the action meets the standards set out in AS 39.35.005(h) for an emergency action to be valid. This written finding will include a summary of the facts constituting the emergency. The public notice that is required by AS 39.35.005(h) after the emergency action will comply with (a) of this section. An emergency regulation adopted, amended, or repealed under AS 39.35.005(h) and this subsection remains in effect only 30 days after its effective date, unless the emergency regulation is proposed for adoption, amendment, or repeal on a permanent basis under AS 39.35.005 and this section.

(c) **[Repealed 7/20/2006.]** A regulation becomes effective 30 days after adoption, not counting the date of adoption. If the 30th day falls on a Saturday, Sunday, or holiday, then the regulation becomes effective on the next business day following the Saturday, Sunday, or holiday.

(d) The commissioner will make copies of adopted regulations available to the public upon request.

History: In effect before 10/21/83, Register 93; am 5/10/85, Register 99; am/readopt 7/20/2006, Register 179)

Authority: AS 39.35.003 AS 39.35.005

Editor's note: This regulation was adopted by the public employees retirement board before AS 39.35.042 was amended by Ch. 35, SLA 1984. AS 39.35.042(f), which supercedes 2 AAC 35.070(c), provides that regulations adopted by the board take effect 30 days after adoption. Additional requirements for publication of notice of adoption, amendment or repeal of regulations by the board are provided by AS 39.35.042(c).

2 AAC 35.080. NOTICE OF APPEAL RIGHTS

(a) If a final decision by the administrator is in whole or in part adverse to the person seeking the decision, the division will include with that decision an outline of the procedures necessary for filing an administrative appeal of the decision and the notice of appeal form necessary to initiate the appeal. The outline or notice will include a statement that the person, if filing an appeal, has a right to counsel at the person's own expense in the appeal. A final decision of the administrator includes a final determination of eligibility for benefits, a reduction in benefits, or the denial of a review of a decision by a division supervisor, but does not include a decision on a request for a waiver of an adjustment made by the commissioner of administration under AS 39.35.522.

(b) If a decision made by the commissioner of administration under AS 39.35.522 on a request for a waiver of an adjustment is adverse in whole or in part to the person seeking the waiver, the commissioner will notify the person that the person may appeal the decision to the superior court, and that

a notice of appeal must be filed with the superior court within 30 days of the date of the commissioner's decision.

History: In effect before 10/21/83, Register 93; am 7/12/90, Register 122; am 9/27/96, Register 150; am 11/25/99, Register 151; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.522

Editor's note: Even though 2 AAC 35.080 was repealed and readopted effective 9/27/96, it was not published until Register 150, July 1999.

Even though the 1998 amendment to 2 AAC 35.080 was effective 11/25/98, it was not published until Register 151, October 1999.

2 AAC 35.090. [REPEALED 7/20/06] APPEALS

Appeals to the board under AS 39.35.040 and requests for waivers of benefit adjustment under AS 39.35.522 are governed by the procedures established in this chapter, except where different procedures are established by 2 AAC 39.500 - 39.590.

History: In effect before 10/21/83, Register 93; am 5/28/99, Register 151; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.522

2 AAC 35.100. FILING OF NOTICE OF APPEAL

(a) A person who wishes to appeal a decision of the division under AS 39.35 shall file a notice of appeal with the division within 30 days after the date that the person receives notice of the decision. A person who is dissatisfied with a decision of the commissioner of administration on a request for a waiver of an adjustment under AS 39.35.522 may not appeal to the office of administrative hearings, but must appeal to the superior court under the rules applicable to that court.

(b) **[Repealed 7/20/2006.]** The effective date of filing is the day the notice of appeal is received by the division, or, if mailed, the day the notice of appeal is postmarked.

(c) **[Repealed 7/20/2006.]** If a mailed notice of appeal has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed

to be five working days before the day the notice of appeal was received in the division.

(d) A person who fails to file a notice of appeal within the time established by this section forfeits the right to appeal, unless the person demonstrates to the satisfaction of the administrator that there are extraordinary circumstances that prevented the person from meeting the deadline. Extraordinary circumstances may include being adjudged as incompetent or confined to a hospital, but do not include lack of information or mere neglect.

(e) If a person files an untimely notice of appeal, including a notice of appeal to the commissioner of administration under AS 39.35.522, without explanation of why the filing is untimely, the division shall return the notice of appeal to the person, and inform the person that the person may resubmit the notice with an explanation of why it was not timely filed. If the person resubmits the notice of appeal with an explanation or if the original untimely notice of appeal contained an explanation of untimeliness, and the administrator in either situation found that the explanation did not establish extraordinary circumstances excusing the untimeliness under (d) of this section, the person may file a new notice of appeal within 30 days of the date that the person receives notice of the decision refusing to accept the untimely first appeal.

History: In effect before 10/21/83, Register 93; am 5/5/89, Register 111; am 1/7/2001, Register 159; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.522

2 AAC 35.110. DIVISION TO NOTIFY OFFICE OF ADMINISTRATIVE HEARINGS

Upon receipt of a timely notice of appeal, the division shall date stamp the receipt and promptly send a copy of that notice to the office of administrative hearings. If the only timely notice of appeal relates to the decision of the administrator not to accent an untimely notice of appeal under 2 AAC 35.100(d), the administrator shall send to the office of administrative hearings only the notice of appeal relating to the decision not to accept the untimely notice of appeal.

History: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003

2 AAC 35.120. FORM OF NOTICE

A notice of appeal must include the following information:

(1) the action by the division which the appellant is appealing and the relief the appellant seeks;

(2) the grounds for the appeal; and

(3) whether the appellant requests an informal conference with the division during the pendancy of the appeal before the office of administrative hearings.

History: In effect before 10/21/83, Register 93; am 12/9/85, Register 99; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003

2 AAC 35.130. INFORMAL CONFERENCE

If an appellant requests an informal conference with the division under 2 AAC 35.120(3), the division will convene an informal conference in the office of the division, or at another location or by another means, such as by telephone, that is convenient for the appellant and the division, and at a time that does not delay the appellant's hearing before the office of administrative hearings. If the informal conference resolves the issues being appealed, in whole or in part, the division will notify the office of administrative hearings, and the appellant may withdraw or modify the appeal.

History: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003

2 AAC 35.132. PLACE FOR FILING WITH THE DIVISION OR THE COMMISSIONER OF ADMINISTRATION

(a) When a person is required to make a filing with the division under AS 39.35 or this chapter, including a notice of appeal, the person may make that filing by hand-delivering or mailing the filing to any office of the division. When a person is required to make a filing with the commissioner of administration under AS 39.35.522, the person may make that filing by hand-delivering or mailing the filing to office of the commissioner in Juneau.

(b) A filing made by a person to the person's employer does not constitute a valid filing with the division or with the commissioner of administration. If the employer forwards the filing to the division, if that is the appropriate place of filing, or to the commissioner of administration, if the commissioner's office is the appropriate place of filing, a valid filing is then effected.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.522

2 AAC 35.134. TIME OF ACTION

(a) When a person is required to make a filing with the division, including a notice of appeal, or with the commissioner of administration within a certain time period under AS 39.35 or this chapter, the effective date of that filing is the day it is received by the division or the commissioner, as appropriate, or, if mailed to the appropriate entity, the day it is postmarked.

(b) If a mailed filing has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day the filing is received by the division or the commissioner of administration.

(c) If a person makes a filing required to be made to the division or to the commissioner of administration to the person's employer instead, and the employer forwards the filing to the division or to the commissioner, the effective date of the filing is the date that it is received by the division or the commissioner, or the date of the postmark or other proof of sending by the employer.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.522

2 AAC 35.136. DEFINED CONTRIBUTION PLAN COMPLIANCE WITH THE INTERNAL REVENUE CODE

For purposes of compliance with the Internal Revenue Code, the defined contribution plan (AS 39.35.700 - 39.35.990) will be treated as an Internal Revenue Code sec. 414(k) (26 U.S.C. 414(k)) plan in which savings are accumulated in an individual retirement account for the exclusive benefit of the member or beneficiaries, certain fixed occupational death and disability benefits are paid, and certain fixed retirement and survivor benefits for peace officers and fire fighters are paid.

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.710 AS 39.35.890 AS 39.35.892

2 AAC 35.138. TRANSFER INTO DEFINED CONTRIBUTION PLAN BY NONVESTED MEMBERS OF DEFINED BENEFIT PLAN

(a) A nonvested member of the defined benefit plan (AS 39.35.095 - 39.35.680) who wishes to participate in the defined contribution plan (AS 39.35.700 - 39.35.990) under AS 39.35.940 must make that election within 12 months of the effective date of the member's employer's election to participate in the defined contribution plan. The member must also certify in writing to the administrator that the member has carefully reviewed the information sent to the member under AS 39.35.940(h) and that the member understands that the member had the right to review the decision to transfer with a qualified employee of the division before the member made the decision.

(b) A matching employer contribution made on behalf of a member of the defined contribution plan under AS 39.35.940(c) may not exceed the limits set out in sec. 415(c) of the Internal Revenue Code (26 U.S.C. 415(c)) during the applicable limitation year, as defined in AS 39.35.990. If the matching employer contribution would exceed the limits during the limitation year in which the transfer occurs, the remaining amount of the matching employer contribution shall be made in the next limitation year, if the limits would not be exceeded.

(c) Membership service previously earned in the defined benefit plan by a former member of that plan who has elected to become a member of the defined contribution plan shall be credited for purposes of determining vesting in the matching employer contribution under AS 39.35.940(c) and in subsequent employer contributions under AS 39.35.790(b).

(d) An employer participating in the defined benefit plan that elects to consent to transfers of its nonvested employees in that plan to the defined contribution plan must make that election through amendment of the employer's participation agreement and through a resolution of the employer's governing body.

(e) For purposes of this section and AS 39.35.940, "membership service" means service with a participating employer under AS 39.35.095 - 39.35.680 for which contributions have been paid and does not include any service for which reinstatement indebtedness has not been fully paid.

History: Eff. 6/22/2006, Register 179; am 9/13/2006, Register 180

Authority: AS 39.35.003 AS 39.35.710 AS 39.35.780 AS 39.35.790 AS 39.35.940

2 AAC 35.140. [REPEALED 7/20/06] SCHEDULING APPEAL

(a) It is the intent of the board to hear all matters in an appeal no earlier than 90 days but no later than 12 months of the date of receipt of the appeal, except as provided in (b) - (e) of this section.

(b) An appeal will be scheduled for a hearing before the board at a meeting of the board held 90 days or more following the receipt by the division of a notice of appeal unless the division and the appellant agree to an earlier date and the board does not object to the earlier date.

(c) An appellant or the division may obtain a continuance

(1) for good cause shown, if the appellant or division makes the request more than ten days before the date scheduled for hearing; however, in the case of genuine emergency the board may grant an appropriate continuance. In this paragraph, "good cause" includes the pendency of contested workers' compensation or judicial proceedings involving the appellant and the appellant's current or former employer that raise issues similar to those presented to the board in the appeal;

(2) for any reason, if the appellant or division makes the request more than 30 days before the date scheduled for hearing and states the reasons for requesting the continuance.

(d) **[Repealed 1/7/01]** The board will rule on an appeal for waiver of adjustment within 120 days after receipt by the division of a notice of appeal unless the appellant agrees to have the appeal heard at a later meeting of the board. An appellant may waive the right to have the appeal ruled upon within 120 days by submitting a written waiver to the division.

(e) An appellant may not request extensions under (c)(2) of this section that total more than 18 months. The division shall advise an appellant of this limit, and shall advise an appellant each time an extension is requested of the time remaining in which the appeal must be held. If an appellant is not prepared to proceed with an appeal after exhausting the extensions permitted by (c)(2) of this section, the board will dismiss the appeal, unless the appellant establishes extraordinary circumstances warranting a further extension. For purposes of this subsection, "extraordinary circumstances" do not include the desire of an appellant to have the appeal held at a geographic location convenient to the appellant, the appellant's attorneys, or the appellant's witnesses.

(f) The chair of the board may act on behalf of the board on matters involving scheduling of appeals including requests for continuance or objections to continuance. In the event a party objects to a continuance request made under this section, the objecting party may submit an objection in writing to the chair of the board by sending the objection to the chair at the address of the division within three working days after the service of the request for continuance, and at the same time serving the objection on the opposing party or the party's counsel, if the party is represented by counsel. Within three working days after the receipt of the objection, the chair or, if the chair is not available, the vice chair shall determine whether the continuance request should be granted, modified, or denied.

(g) A notice required by this section is considered served when mailed.

History: In effect before 10/21/83, Register 93; am 12/9/85, Register 99; am 7/12/90, Register 122; am 11/26/92, Register 126; am 9/27/96, Register 150; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.522

Editor's note: Even though 2 AAC 35.140 was repealed and readopted effective 9/27/96, it was not published until Register 150, July 1999.

2 AAC 35.150. [REPEALED 7/20/06] PRESENTATION OF EVIDENCE

(a) Except as provided in (c) of this section, all documentary evidence, written arguments, and a list of witnesses to be presented to the board must be submitted according to the following schedule, unless otherwise agreed to by the appellant and the division:

(1) appellant's materials must be sent to the division at least 60 days before the hearing;

(2) the division's materials must be sent to the appellant not later than 15 days before the hearing; and

(3) the division shall send its material and the appellant's material to all board members not later than 15 days before the hearing.

(b) Material previously submitted by the appellant under (a) of this section may be supplemented at the hearing if the appellant demonstrates to the satisfaction of the board that there is good reason why the material was not submitted in a timely fashion. A supplementary submission of material that constitutes a substantial and detrimental surprise to the division's case is grounds for the board to delay or postpone the hearing.

(c) The board will, in its discretion, schedule, require, or allow pre-hearing procedures established by (b) of this section, post-hearing briefs, memoranda, or written argument.

(d) If the appellant submits materials to the division under (a)(1) of this section, the appellant shall submit eight copies of the materials in an appeal other than an appeal concerning disability benefits, and ten copies in an appeal concerning disability benefits. Even if requested by the appellant, the division will not send to the board materials from the appellant's file submitted before the appellant filed the notice of appeal, or materials not submitted with the requisite number of copies.

(e) Absent a submission by the appellant that complies with this section, the board may proceed to hear the appeal on only those documents submitted by the administrator. The administrator is not required to submit the appellant's file to the board.

History: In effect before 10/21/83, Register 93; am 12/9/85, Register 99; am 7/12/90, Register 122; am 11/26/93, Register 126; am 9/27/96, Register 150; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.522

Editor's note: Even though the 1996 amendments to 2 AAC 35.150(a) and (e) were effective 9/27/96, they were not published until Register 150, July 1999.

2 AAC 35.155. [REPEALED 7/20/06] PHYSICIAN BOARD MEMBERS IN APPEALS TO DETERMINE MEDICAL ELIGIBILITY FOR DISABILITY BENEFITS

(a) In an appeal to determine medical eligibility for disability benefits, a physician board member appointed under AS 39.35.030(d) shall participate as a board member in the decision of all issues raised in the appeal. However, physician board members will not participate in a disability appeals hearing where medical eligibility is not at issue.

(b) **[Repealed 1/7/01]** If a physician board member located in the judicial district in which a disability hearing is to be conducted is not able to participate in the hearing, or if there is a vacancy, including a conflict of interest, in the position of a physician board member in the judicial district, the administrator may select another physician board member to participate in the hearing. The selection must be random, to meet quorum, beginning among physician board members who are located in the city nearest to the location of the hearing.

History: Effective 08/25/90, Register 122; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042

2 AAC 35.157. [REPEALED 7/20/06] SUBPOENAS AND PRESERVATION OF TESTIMONY

(a) The board shall issue subpoenas on its own initiative or at the request of a party before the board, including subpoenas duces tecum. Requests for subpoenas made before a hearing begins must be directed to the secretary of the board, who shall sign the subpoena. Requests for subpoenas made after a hearing begins must be directed to the board chair, who shall sign the subpoena.

(b) A subpoena issued by the board will be signed and sealed but will otherwise be blank. The party requesting the subpoena is responsible for filling out the subpoena, including the name of the witness and the documents or other physical items that the witness must bring, and for serving the subpoena. Service of the subpoena is governed by the terms of Rule 45 of the Alaska Rules of Civil Procedure and Rule 9 of the Alaska Rules of Administration.

(c) A person served with a subpoena or a subpoena duces tecum under this section may seek to quash the subpoena, in whole or in part, or to impose conditions on a subpoena duces tecum, by filing a written request to quash or to impose conditions with the secretary of the board if the written request is made before the commencement of the hearing, or by filing a written request with the board chair, or by appearing before the board, if the request is made after the commencement of the hearing. Grounds for seeking to quash a subpoena include lack of reasonable time for compliance and unreasonable or oppressive request for documents or other physical items. A request to impose conditions on a subpoena duces tecum may ask that the person issuing the subpoena bear part or all of the costs of producing the documents or other physical items. The board may allow the person requesting the subpoena to respond to the request to quash or to impose conditions, either in writing or orally, and may order that any response be in writing. The board will consider the request to quash or to impose conditions at the board's earliest convenience, and may consider the request at a telephonic meeting. If the request and any response are both in writing, the board may elect not to allow oral argument on the request. A meeting to consider a request to quash or to impose conditions is not subject to AS 44.62.310 because of AS 44.62.310(d)(1).

(d) Upon a showing of good cause, including a showing that the board is not likely to compel a person to attend and testify at a hearing through the issuance of a subpoena, the board will issue an order compelling that person to appear for a deposition. The provisions of AS 44.62.440(b), Rule 45 of the Alaska Rules of Civil Procedure, and Rule 9 of the Alaska Rules of Administration apply to orders issued under this subsection, except that the superior court order required by AS 44.62.440(b) shall be obtained by the party seeking to take the deposition.

(e) In this section, "subpoenas duces tecum" means subpoenas that require a person to bring with the person documents or other physical items specified in the subpoena.

History: Eff. 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.047

2 AAC 35.160. [REPEALED 7/20/06] APPEAL PROCEDURES

(a) At the hearing of the appeal, unless otherwise provided by the board

(1) the division shall briefly state its position on appeal;

(2) the appellant shall briefly state his or her position on appeal;

(3) each party, commencing with the appellant, shall present its case in chief and may

(A) utilize oral testimony taken under oath or affirmation;

(B) examine witnesses;

(C) introduce exhibits;

(D) cross-examine opposing witnesses on matters relevant to the issues even though that matter was not covered in the direct examination;

(E) discredit a witness regardless of which party first called the witness to testify;

(F) rebut the evidence against that party; and

(G) make closing arguments.

(b) The board may, in its discretion, ask questions of any party or witness at any point during the hearing.

(c) The hearing will not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence, including hearsay evidence, will be admitted if it is evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence will be excluded or curtailed.

(d) In order to expedite resolution of an appeal the board may, in its discretion, seek additional evidence. All parties to the appeal must be duly notified and given an opportunity to participate in the consideration of additional evidence. Parties to the appeal and witnesses shall remain available to assist in the event the board seeks additional evidence.

(e) All phases of the hearing except the board's deliberations will be recorded. The board's deliberations will be recorded unless the deliberations are closed under 2 AAC 35.170.

(f) Teleconferencing will be in accordance with 2 AAC 35.035.

History: In effect before 10/21/83, Register 93; am 8/25/90, Register 122; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.522

2 AAC 35.170. [REPEALED 7/20/06] DELIBERATIONS ON APPEAL

(a) The deliberations of the board on an appeal will follow as soon after the hearing is concluded as is possible. These deliberations, in the discretion of a majority of the board, will be closed to all other persons. The legal counsel for the board will, in the board's discretion, be included in otherwise closed deliberations. If the deliberations are to be open, they will occur only after notice to all interested parties to the appeal and will be held on record.

(b) A majority in a board vote shall be determined based upon those members present and voting.

(c) If the board's vote in an appeal is a tie vote of those members present and voting, the administrator's decision is affirmed.

History: In effect before 10/21/83, Register 93; am 9/27/96, Register 150; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.522

Editor's note: Even though the additions of subsections (b) and (c) to 2 AAC 35.170 were effective 9/27/96, they were not published until Register 150, July 1999.

2 AAC 35.180. [REPEALED 7/20/06] DECISION ON APPEAL TO BE WRITTEN

Within 30 days after the record on appeal has been closed, the board will issue a written decision containing its findings of fact and conclusions of law. That decision will identify each board member who voted, how the board member voted, and whether the board member participated in the decision in person or by teleconference, and will be mailed to the appellant and the administrator. The written decision of the board is the final administrative decision required for purposes of appeal to the superior court.

History: In effect before 10/21/83, Register 93; am 08/25/90, Register 122; repealed 7/20/2006, Register 179

Authority: AS 39.35.040

2 AAC 35.190. [REPEALED 7/20/06] RECONSIDERATION

(a) On its own motion or at the request of a party, the board may order reconsideration of all or part of a decision or order issued in connection with an appeal. A party requesting reconsideration of a decision or order of the board must file that request with the board's secretary. If the administrator of the system is the party requesting reconsideration, the administrator must furnish proof that a copy of the request has been sent to the appellant. A request must be postmarked or delivered in person to the secretary within 30 days of the date that the decision or order is sent to the parties, unless the board finds good cause for a later filing.

(b) A request for reconsideration may not exceed five pages in length, exclusive of exhibits. Reconsideration will not be granted if it is sought merely for the purpose for obtaining a reargument of matters that have already been fully considered by the board. Rather a party seeking reconsideration must show that the board

(1) has overlooked, misapplied, or failed to consider a statute, decision, or principle that is directly controlling;

(2) has overlooked or misconceived some material fact or proposition of law; or

(3) has overlooked or misconceived a material question in the appeal.

(c) Any party may submit written opposition to a request for reconsideration. The opposition may not exceed five pages, exclusive of exhibits, and must be postmarked or delivered in person to the secretary of the board within 30 days of the date that the request for reconsideration is mailed or delivered to the other parties, unless the board finds good cause for a later filing.

(d) The board will schedule a time during a future meeting to consider a request for reconsideration. The board may allow the parties to present oral argument on the request, regardless of whether written opposition has been filed, or may elect to decide the request on the written request and any opposition. If the board decides to grant reconsideration, the board may

(1) reconsider the matter at the same meeting; or

(2) decide to take up the reconsideration at a future meeting.

(e) All decisions by the board with regard to a request for reconsideration will be reduced to writing and served upon the parties to an appeal.

History: Eff. 9/29/2000, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.047

2 AAC 35.200. DEFINITION OF COMPENSATION FOR EMPLOYEES OF THE STATE OF ALASKA STATIONED IN FOREIGN COUNTRIES

With respect to State of Alaska employees stationed in foreign countries, compensation for retirement purposes will be considered to be the compensation which that employee would receive if the employee were working and holding the same position in Juneau, Alaska.

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.200, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.210. VOLUNTARY CONTRIBUTIONS

(a) An employee may elect to make voluntary contributions to the employee savings account under AS 39.35.180, or may suspend or change the amount of voluntary contribution at the beginning of a payroll period. The employee shall give the administrator 30 days' notice of the election, suspension, or change of voluntary contribution.

(b) Subject to the receipt of a favorable private letter ruling by the Internal Revenue Service, a member of the defined contribution plan (AS 39.35.700 - 39.35.990) who wishes to make additional contributions to the member's individual account under AS 39.35.730(b) must make the election to make additional contributions within 24 months of the date that the member is employed or reemployed under that plan. An election under AS 39.35.730(b) and this subsection is irrevocable and remains in effect until the termination of the member's employment in a position with the employer covered by the plan.

History: In effect before 10/21/83, Register 93; am 6/22/2006, Register 179; readopt 7/20/2006, Register 179; am 9/13/2006, Register 180

Authority: AS 39.35.003 AS 39.35.180 AS 39.35.710 AS 39.35.730

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.210, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.220. EMPLOYERS TO SUPPLY EMPLOYMENT RECORDS

(a) The employer shall transmit Notification of Employment forms or Notification of Termination forms to the administrator within 10 days of the date that the employee is hired or terminated.

(b) The administrator may impose a penalty of $100 on an employer for each violation of (a) of this section.

History: In effect before 10/21/83, Register 93; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.070

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.220, except for 2 AAC 35.220(b), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also amended 2 AAC 35.220(b). Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.221. LIMITATION ON FIXED BENEFITS IN DEFINED CONTRIBUTION PLAN

All of the fixed benefits in the defined contribution plan (AS 39.35.700 - 39.35.990) are subject to the limitation on benefits in sec. 415(b) of the Internal Revenue Code (26 U.S.C. 415(b)), including monthly disability payments under AS 39.35.890, monthly survivor pension payments under AS 39.35.890(k) and 39.35.892, and monthly retirement pension payments of a disabled peace officer or fire fighter under AS 39.35.890(h)(2).

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.710 AS 39.35.780 AS 39.35.890 AS 39.35.892

2 AAC 35.222. CERTAIN PERIODS TO COUNT TOWARD VESTING IN THE DEFINED CONTRIBUTION PLAN AND THE HEALTH REIMBURSEMENT ARRANGEMENT PLAN

(a) A period during which a member of the defined contribution plan (AS 39.35.700 - 39.35.990) is receiving an occupational disability benefit under AS 39.35.890 constitutes membership service for the purposes of determining vesting in employer contributions under AS 39.35.790(b) and

eligibility for retirement and medical benefits under AS 39.35.700 - 39.35.990 and under the health reimbursement arrangement plan (AS 39.30.300 - 39.30.495).

(b) If a member of the defined contribution plan receiving or entitled to receive an occupational disability benefit under AS 39.35.890 dies while receiving that benefit or before the commencement of the benefit, the period during which the member was eligible for the benefit and the period during which a survivor's benefit was paid to a survivor of the member constitute membership service for the purposes of determining vesting in employer contributions under AS 39.35.790(b) and eligibility for retirement and medical benefits under AS 39.30.300 - 39.30.495 and AS 39.35.700 - 39.35.990.

(c) If a member of the defined contribution plan suffers an occupational death under AS 39.35.892, the period during which a survivor's benefit is paid to a survivor of the member constitutes membership service for the purposes of determining vesting in employer contributions under AS 39.35.790(b) and eligibility for retirement and medical benefits under AS 39.30.300 - 39.30.495 and AS 39.35.700 - 39.35.990.

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.890 AS 39.35.892

2 AAC 35.223. PROHIBITIONS ON ELECTIONS OF DISTRIBUTIONS FROM INDIVIDUAL ACCOUNTS OF MEMBERS OF THE DEFINED CONTRIBUTION PLAN

A member of the defined contribution plan (AS 39.35.700 - 39.35.990) may not elect distributions from the member's individual account under AS 39.35.810 while the member is receiving or entitled to receive occupational disability benefits under AS 39.35.890. A beneficiary of a deceased member of the plan may not elect distributions from the deceased member's individual account under AS 39.35.810 while the beneficiary is receiving survivor benefits under AS 39.35.890(k) or AS 39.35.892.

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.810 AS 39.35.890 AS 39.35.892

2 AAC 35.224. VESTING IN EMPLOYER CONTRIBUTIONS FOR MEMBERS OF THE DEFINED CONTRIBUTION PLAN RECEIVING DISABILITY BENEFITS

Notwithstanding AS 39.35.790(b), a member of the defined contribution plan (AS 39.35.700 - 39.35.990) who is appointed to occupational disability under AS 39.35.890 becomes fully vested in the employer contributions made under AS 39.35.890(d)(2) as those contributions are made.

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.780 AS 39.35.790 AS 39.35.890

2 AAC 35.225. DATE OF END OF PAYMENT OF SURVIVOR BENEFITS UNDER THE DEFINED CONTRIBUTION PLAN TO DEPENDENT CHILDREN

Survivor benefits under AS 39.35.890(k) and AS 39.35.892 that are being paid to a dependent child of a member of the defined contribution plan (AS 39.35.700 - 39.35.990) shall terminate on the last day of the month in which the dependent child ceases to be a dependent child as defined in AS 39.35.990. If a survivor who has ceased to be a dependent child subsequently becomes a dependent child again as defined in AS 39.35.990, survivor benefits to that person shall resume.

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.890 AS 39.35.892

2 AAC 35.226. DATE OF TERMINATION OF EMPLOYER CONTRIBUTIONS TO THE INDIVIDUAL ACCOUNT OF A DECEASED MEMBER OF THE DEFINED CONTRIBUTION PLAN

An employer under the defined contribution plan (AS 39.35.700 - 39.35.990) shall make contributions under AS 39.35.892(c) to the individual account of a member of the plan who has suffered an occupational death under AS 39.35.892(a) only through the last month of the limitation year, as defined in AS 39.35.990, of the member's death.

History: Eff. 6/22/2006, Register 179

Authority: AS 39.35.003 AS 39.35.780 AS 39.35.892 AS 39.35.990

ARTICLE 3
BENEFITS UNDER THE DEFINED BENEFIT PLAN
(AS 39.35.095 - 39.35.680)

Section

240. Alaska cost-of-living allowance.
250. Designation of beneficiary under joint and survivor option.
253. Waiver of survivor benefit by a spouse in favor of another dependent.
255. Revokes a revocable disposition.
260. Eligibility for benefits.
270. Verification of benefits for earlier federal service.
275. Benefit adjustments.
280. Benefits for service under more than one membership category.
285. Actuarial cost of public service benefit.
290. Application for disability benefits.
291. Recovers from disability.
293. [Repealed 7/20/06] Reaches normal retirement age.
295. Application for retirement.
297. [Repealed 1/7/01] Application for retirement incentive program.
300. Refunds of payments applied toward indebtedness.
310. Post-retirement pension adjustments.
313. Determination of PRPA eligibility after disability or death.
315. Level income option.
320. Calculation of retirement benefits after reemployment.
321. Calculation of early and LIO retirement benefits after reemployment.
322. Reemployed retired employee coverage.
325. Qualified domestic relations orders (QDROs).
329. Actuarial adjustment factor basis.

2 AAC 35.240. ALASKA COST-OF-LIVING ALLOWANCE

(a) The Alaska cost-of-living allowance established under AS 39.35.480 accrues from the first day of the month after written application from the member, on a form prescribed by the administrator, is either hand delivered to the division of retirement and benefits, or is mailed to the division of retirement and benefits and postmarked from within Alaska. If a mailed application has a postmark on which the date is missing or illegible, the

postmark day is rebuttably presumed to be five working days before the day the application is received by the division.

(b) Except as otherwise provided by AS 39.35.480, a member must be domiciled and physically present in Alaska to receive a cost-of-living allowance under AS 39.35.480.

(c) For the purposes of this chapter, a person domiciled in the state is a person who

(1) maintains his or her principal place of residence in the state of Alaska;

(2) demonstrates at all times during an absence an intent to return to Alaska and remain a resident of Alaska; and

(3) does not claim residency outside the state or obtain benefits of residency in another state or nation.

(d) The administrator's determination of an applicant's residency will be based on the totality of relevant circumstances. Intent is demonstrated by establishing and maintaining customary ties indicative of Alaska residency. Acts that are required by law or contract or that are routinely performed by temporary residents of the state are not sufficient to demonstrate residency. The burden is on the applicant or recipient to provide the administrator with documentation or other information necessary to support eligibility for the Alaska cost-of-living allowance. The following may be used as evidence of domicile:

(1) the applicant's written or oral statements at the time in question, including statements made to obtain a license to drive, fish, hunt, or engage in another activity regulated by a governmental entity;

(2) the affidavits of other persons who had reason to know of the applicant's intent;

(3) voter registration and voting records;

(4) proof of a substantial ownership or leasehold interest in applicant's residence in Alaska;

(5) proof such as the presence of household goods owned by applicant, that the residence referred to in (4) of this subsection is inhabited by and used as a primary residence by applicant;

(6) an Alaskan telephone listing in the applicant's or the applicant's spouse's name;

(7) the duration of continuous residence in the state;

(8) employment and unemployment records;

(9) permanent fund dividend or longevity bonus records;

(10) travel records;

(11) other information that the applicant deems relevant.

(e) In the event a recipient's eligibility for the Alaska cost-of-living allowance is in question, the division will notify the recipient by certified mail that evidence of domicile is required. The recipient must provide evidence as outlined in (d) of this section within 30 days of receipt of the division's notice. Failure of the recipient to provide evidence of domicile by either hand delivering or mailing evidence, which must be received or postmarked within 30 days after the recipient's receipt of the division's notice, will result in the removal of the Alaska cost-of-living allowance.

(f) Upon receipt of evidence confirming that the recipient satisfies the requirements under (a) - (d) of this section, the Alaska cost-of-living allowance will be reinstated retroactively to the date it was removed, if the recipient has not been out of state for a continuous period that exceeds 90 days from the date of the recipient's departure.

History: In effect before 10/21/83, Register 93; am 11/9/89, Register 114; am 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.480

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.240, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.250. DESIGNATION OF BENEFICIARY UNDER JOINT AND SURVIVOR OPTION

An employee who elects to designate a spouse or dependent as contingent beneficiary may not change that designation after the date of appointment to retirement unless the employee makes written application and receives approval in writing from the administrator.

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.450

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.250, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.253. WAIVER OF SURVIVOR BENEFIT BY A SPOUSE IN FAVOR OF ANOTHER DEPENDENT

The only dependent other than a spouse whom the administrator will approve as a contingent beneficiary for a joint and survivor benefit under AS 39.35.450(a) is a disabled child of the employee who is principally dependent upon the employee for support and who is totally and presumably

permanently disabled. An employee who wishes to name a disabled child as the employee's beneficiary under AS 39.35.450(a) must file an application on a form provided by the administrator requesting the administrator's approval of the appointment of beneficiary.

History: Eff. 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.450 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.253, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.253 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.255. REVOKES A REVOCABLE DISPOSITION

For purposes of AS 39.35.490(a) and in accordance with AS 13.12.804(a)(1)(A), a divorce, a dissolution of a marriage, or an annulment of a marriage revokes a revocable disposition or appointment of property. If a member designates a spouse as a beneficiary and is subsequently divorced or a dissolution or annulment of marriage is granted, the beneficiary designation is void unless the member, in writing after the divorce, dissolution, or annulment, specifically reaffirms the former spouse as a beneficiary.

History: Eff. 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.490

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.255, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.260. ELIGIBILITY FOR BENEFITS

To be eligible for retirement benefits under AS 39.35.370(a)(1) and (b), nonoccupational disability benefits under AS 39.35.400(a) and nonoccupational death benefits under AS 39.35.420(b), an employee must have at least five years of credited service for which no indebtedness is owed at the time of retirement, disability, or death. An employee retiring under AS 39.35.370(a)(2) or (3) must have 20 years of credited service and 30 years of credited service, respectively, for which no indebtedness is owed at the time of retirement, unless the employee claims credited service as a peace officer under AS 39.35.370(g) or (h). To be eligible for retirement benefits under AS 39.35.385(f), an employee must have at least 60 days of credited service in each of five legislative sessions for which no indebtedness exists at the time of retirement.

History: In effect before 10/21/83, Register 93; am 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.370 AS 39.35.385 AS 39.35.400 AS 39.35.420

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.260, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.270. VERIFICATION OF BENEFITS FOR EARLIER FEDERAL SERVICE

A member who has been credited with service under AS 39.35.360 may be required to provide the administrator with proof of the benefit amount the member is receiving from the United States Government for that same period of service, or proof that the member is not entitled to receive a benefit from the United States Government for that same period of service. The administrator may require a member credited with earlier federal service under AS 39.35.360 to submit proof under this section before appointment to retirement and once a year after appointment to retirement.

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.360

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.270, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.275. BENEFIT ADJUSTMENTS

(a) A benefit overpayment other than one described in AS 39.35.520(b) or waived under AS 39.35.522 must be recovered by applying a lifetime actuarial reduction to the benefit recipient's future monthly benefits, unless the benefit recipient elects to pay the overpayment in a lump sum.

(b) A benefit underpayment must be paid to the recipient

(1) by applying a lifetime actuarial increase to the recipient's future monthly benefits if the underpayment exceeds $3,500, unless the recipient elects to receive a lump sum payment; or

(2) by lump sum if the underpayment is $3,500 or less.

(c) The division will notify the recipient by certified mail of the overpayment or underpayment amount. The recipient must irrevocably elect a payment option under (a) or (b)(1) of this section within 90 days after receipt of the division's notice. Failure of the recipient to notify the division of a payment option election and to pay the lump sum overpayment, if applicable,

by either hand delivering or mailing written notification and payment, which must be received or postmarked within 90 days after the recipient's receipt of the division's notice, will result in a lifetime actuarial reduction or increase to the recipient's monthly benefit.

(d) The lifetime actuarial monthly benefit reduction or increase is calculated by multiplying the amount of the overpayment or underpayment, including interest if applicable, by the appropriate actuarial factor for the recipient's age at the time of the adjustment. The most advantageous table of factors adopted during the member's PERS employment will be used to calculate the actuarial reduction or increase to the recipient's future monthly benefits.

(e) The administrator will require a member or beneficiary to submit evidence to support the claim of hardship, including a copy of the member's or beneficiary's most recent federal tax return if the member or beneficiary requests a waiver of overpayment under AS 39.35.522(a)(1) because of undue hardship. If the member or beneficiary is married and files a tax return separate from the member's beneficiary's spouse, copies of the spouse's tax return may also be required.

History: Eff. 12/9/85, Register 99; am 3/2/88, Register 108; am 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.520 AS 39.35.522

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.275, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.275(e) was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.280. BENEFITS FOR SERVICE UNDER MORE THAN ONE MEMBERSHIP CATEGORY

Benefits and credited service accrue on the basis of the employee's occupational category. If an employee has credited service both as a peace officer or fireman and as an elected official or regular employee, the portion of that employee's benefit attributable to each category of service will be

calculated separately under the benefit provision applicable to each occupational category. Average monthly compensation will be determined once to apply to all categories of service in accordance with AS 39.35.680.

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.370

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.280, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.285. ACTUARIAL COST OF PUBLIC SERVICE BENEFIT

For the purpose of calculating the actuarial cost of a public service benefit, interest earned on contributions and indebtedness payments means total investment returns as reported by the plan's financial statements in each relevant annual financial report of the system.

History: Eff. 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.375

Editor's note: Effective 7/20/2006, the Register 179, Department of Administration readopted 2 AAC 35.285, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.290. APPLICATION FOR DISABILITY BENEFITS

(a) The administrator shall determine eligibility for disability benefits under AS 39.35. The administrator may require the employee to provide additional information and to submit to an examination by one or more physicians of the administrator's choosing at the division's expense.

(b) An employee may apply to the administrator for a determination of eligibility for disability benefits before employment is terminated. A determination by the administrator finding disability is void if the employee fails to terminate employment within 30 days of the date of the determination.

(c) When a determination is made under this section before termination, notice of the determination will be mailed to the employee's employer.

(d) A person who fails to file an application for disability benefits within the time established by this section forfeits the right to apply, unless the person demonstrates to the administrator that there are extraordinary circumstances that prevented the person from meeting the deadline. Extraordinary circumstances may include being adjudged as incompetent or confined to a hospital, but do not include lack of information or mere neglect.

History: Eff. 3/28/84, Register 93; am 1/7/2001, Register 159; am 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.400 AS 39.35.410 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.290, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the amendments to 2 AAC 35.290(d) were effective 2/13/2004, they were not published until Register 172, January 2005.

2 AAC 35.291. RECOVERS FROM DISABILITY

(a) Occupational disability benefits cease when a member recovers from an injury or illness. Proof of such recovery may include, among other things, medical evidence or proof of capability to work in a comparable position offered to the member by an employer as defined in AS 39.35.680. A "comparable position" may include a position that requires similar strengths and abilities to the position held by the member at the time of termination of employment or a position that provides compensation of 75 percent or more of the salary used to calculate the member's Public Employees' Retirement System of Alaska (PERS) occupational disability benefit, adjusted for inflation. The adjustment for inflation is effective July 1 of each year and is the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as

determined by the United States Department of Labor, Bureau of Labor Statistics.

(b) Nonoccupational disability benefits cease when a member recovers from an injury or illness or is capable of working in any full-time position.

(c) The administrator may, in the administrator's discretion, require a member to submit evidence of the member's recovery to work, including a copy of the member's most recent federal tax return to determine if a member receiving nonoccupational disability benefits has returned to work or a member receiving occupational disability benefits has returned to work and is earning wages comparable to the gross monthly compensation used to calculate the member's occupational disability benefit.

History: Eff. 1/7/2001, Register 159; am 2/13/2004, Register 172; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.400 AS 39.35.410 AS 39.35.890

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.291, except for 2 AAC 35.291(a) and (b), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also amended 2 AAC 35.291(a) and (b). Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of amendments and new sections (b) and (c) were effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.293. REACHES NORMAL RETIREMENT AGE

(a) In AS 39.35.400(b), "reaches normal retirement age" means

(1) for a member first joining the system before July 1, 1986, reaches age 55 with 5 years of credited service for which no indebtedness is due; and

(2) for a member first joining the system on or after July 1, 1986, reaches age 60 with 5 years of credited service for which no indebtedness is due.

(b) In AS 39.35.410(b), "reaches normal retirement age" means

(1) for a member first joining the system before July 1, 1986, reaches age 55 with 5 years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the occupational disability, to entitle the member to retire under AS 39.35.370(a)(2) or (3), whichever occurs earlier; and

(2) for a member first joining the system on or after July 1, 1986, reaches age 60 with 5 years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the occupational disability, to entitle the member to retire under AS 39.35.370(a)(2) or (3), whichever occurs earlier.

History: Eff. 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.410

2 AAC 35.295. APPLICATION FOR RETIREMENT

(a) It is the responsibility of the member to make application for retirement in writing on a form prescribed by the administrator. The effective date of application is the day the application is received by the division; or, if mailed, the day the application is postmarked. A member requesting appointment to retirement should apply 30 days before the requested retirement date.

(b) Repealed 7/20/2006. If a mailed application has an illegible postmark or an undated postmark, the postmark day is rebuttably presumed to be five working days before the day the application is received by the division.

(c) Repealed 7/20/2006. The amendment to (a) of this section, regarding postmark, and (b) of this section, apply to applications pending or mailed on or after December 12, 1988.

History: In effect before 10/21/83, Register 93; am 12/12/88, Register 109; am 2/23/89, Register 109; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.370 AS 39.35.385

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.295, except for 2 AAC 35.295(b) and (c), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. 2 AAC 35.295(b) and (c) were repealed. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.297. [REPEALED 1/7/01] APPLICATION FOR RETIREMENT INCENTIVE PROGRAM

(a) A member of the Public Employees' Retirement System who is designated as eligible for participation in the retirement incentive program under sec. 3, 4, or 5, ch. 89, SLA 1989, as amended by secs. 4 and 5, ch. 18, SLA 1990, is deemed to have applied on a form provided by the administrator under sec. 2(c), ch. 89, SLA 1989 if the member files with the administrator

(1) a Retirement Incentive Program (RIP) Application for Retirement Benefits on or before the applicable deadline for filing of an application established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended by secs. 4 and 5, ch. 18, SLA 1990; or

(2) proof that the member provided notice of intent to retire under the program to the member's employer, which must include certification by the employer that the notice of intent was

(A) provided to the employer on or before the applicable deadline for filing of an application established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended by secs. 4 and 5, ch. 18, SLA 1990;

(B) accepted by the employer; and

(C) not subsequently revoked or denied.

(b) For purposes of (a)(2)(C) of this section, a member's notice of intent to retire under the retirement incentive program is revoked if the member

(1) provides the employer with written or oral notice of revocation;

(2) does not pursue retirement and continues employment after the applicable retirement deadline established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended by secs. 4 and 5, ch. 18, SLA 1990; or

(3) acts or fails to act in such a manner that the employer reasonably relies on a belief that the act or failure to act constitutes revocation of the notice of intent.

(c) This section applies to a member appointed to retirement

(1) before or after the effective date of this section; and

(2) on or before the applicable retirement deadline established by sec. 3, 4, or 5, ch. 89, SLA 1989, as amended by secs. 4 and 5, ch. 18, SLA 1990.

History: Eff. 11/16/90, Register 118; repealed 1/7/01, Register 159

Authority: AS 39.35.040

Sec. 2, ch. 89, SLA 1989

2 AAC 35.300. REFUNDS OF PAYMENTS APPLIED TOWARD INDEBTEDNESS

When computing a retirement benefit for a member who has an outstanding indebtedness balance, if the division of retirement and benefits determines that the adjusted retirement benefit using the credited service gained from establishing the indebtedness is less than the benefit would have been had the additional service not been claimed, the division shall refund all indebtedness payments, plus accrued interest, upon payment of benefits only.

History: Eff. 12/3/84, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.200

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.300, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.310. POST-RETIREMENT PENSION ADJUSTMENTS

(a) Repealed 7/20/2006. The board will annually recommend to the administrator a PRPA for purposes of the version of AS 39.35.475 in effect before July 1, 1986.

(b) The amount of the post-retirement pension adjustment will be calculated under AS 39.35.475 for each full year in which benefits have been received, and a proportionately reduced amount calculated for each partial year depending on the number of months in which benefits have been received.

(c) A retired employee who first joined the system before July 1, 1986 and who is eligible for a PRPA under AS 39.35.475 will receive either the PRPA calculated under the current version of AS 39.35.475 or the adjustment calculated under the version of AS 39.35.475 in effect before July 1, 1986, whichever is greater.

History: In effect before 10/21/83, Register 93; am 1/7/2001, Register 159; am 2/13/2004, Register 172; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.475

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.310, except for 2 AAC 35.310(a) and (b), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also repealed 2 AAC 35.310(a) and amended 2 AAC 35.310(b). Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.310(c) was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.313. DETERMINATION OF PRPA ELIGIBILITY AFTER DISABILITY OR DEATH

(a) The number of years and partial years a member has spent as a disability benefit recipient will be included when determining eligibility for benefit increases under AS 39.35.475 for a member previously receiving a disability benefit whose benefit has been converted to a normal retirement benefit.

(b) When determining eligibility for PRPA increases for a person receiving survivor benefits, the age that the member would have attained had they lived and the total number of years both the member and the survivor have received benefits under this system will be included.

History: Eff. 2/13/2004, Register 172

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.475

Editor's note: Even though the adoption of 2 AAC 35.313 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.315. LEVEL INCOME OPTION

A retirement benefit adjustment at age 65 for a member who has selected the level income option applies to post-retirement pension adjustments (PRPA) and the Alaska cost-of-living allowance (COLA). Except as provided in 2 AAC 35.320, the COLA percentage and the percentage of PRPAs accrued at the time of the adjustment are applied to the after age 65 base retirement benefit to determine the adjusted COLA and PRPA amounts.

History: Eff. 2/23/2001, Register 159

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.460

2 AAC 35.320. CALCULATION OF RETIREMENT BENEFITS AFTER REEMPLOYMENT

(a) Upon subsequent retirement after a period of reemployment in a PERS covered position, retirement benefits are recalculated under this section for those members who were first enrolled in PERS before July 1, 1977. The recalculation shall combine all periods of employment, and shall use the average of the highest three consecutive year's earnings over the member's entire career. The appropriate percentage specified under AS 39.35.370(c) are applied to the member's entire credited service for the calculation of the subsequent retirement benefit amount.

(b) The subsequent retirement benefit becomes effective under AS 39.35.370(e), and the effective date of a subsequent retirement benefit supercedes former retirement effective dates.

(c) On subsequent retirement after a period of reemployment, a member may elect any of the retirement options for which the member qualifies. All future benefits are paid based on that option regardless of the benefit option initially elected on previous retirement segments.

(d) A member who was receiving a reduced early retirement benefit is indebted to the system for benefits received from the date of early retirement through the date of reemployment or through the end of the month in which the member becomes 55 years of age whichever is sooner. The member may elect an actuarial reduction of subsequent benefits to cancel the indebtedness.

(e) If the member had previously selected a level income option (LIO),

(1) for members who returned to work before age 65, an actuarial adjustment shall be made to reduce future benefits paid; the adjustment is the difference of the amount that was paid under the LIO and the amount that would have been paid had the member elected a normal or early retirement benefit;

(2) for members who returned to work after age 65, an actuarial adjustment shall be made to adjust future benefits paid; the adjustment is based on the difference of (X) the amount that was paid before age 65 under the LIO less the amount that would have been paid had the member elected a normal or early retirement benefit and (Y) the amount the member would have been paid from age 65 to the date of reemployment if the member elected a normal or early benefit less the amount the member received during that time.

(f) Interest from the date of the previous retirement through the end of the month preceding the subsequent retirement is added to any indebtedness owed at the time of the previous retirement. Former retirees may make payments on indebtedness before the subsequent retirement effective date or may elect to have the indebtedness cancelled by accepting an actuarially reduced benefit.

(g) PRPA monetary amounts awarded during one or more previous retirement segments are reinstated upon subsequent retirement. The percentages previously granted will not be applied to the new base benefit amount. The subsequent retirement date becomes the beginning date for future PRPAs.

(h) The Alaska cost-of-living allowance (COLA) is based on the recalculated base benefit.

History: Eff. 2/23/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.320, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.321. CALCULATION OF EARLY AND LIO RETIREMENT BENEFITS AFTER REEMPLOYMENT

(a) If a member has elected either a reduced early retirement benefit or a level income option (LIO) and then returns to work in a PERS designated position, retirement benefits are suspended during the period of reemployment, and recalculated upon subsequent retirement under to this section.

(b) Effective the first day following termination of the period of reemployment, the initial benefit is reinstated with the same options and in the same amount as immediately preceding its suspension; and an adjustment will be made to the initial retirement benefit to reimburse the retiree for the portion of benefits missed during the period of reemployment. The adjustments are retroactive to the effective date of the subsequent retirement benefit under AS 39.35.370(c), and an additional benefit is calculated based on the option elected for the new segment, the supplementary credited service during the period of reemployment, the earnings during the period of reemployment, and the appropriate percentage specified by AS 39.35.370(e).

(c) For members who elected an early retirement benefit, the total adjustment for benefits missed during the period of reemployment equals the difference between the early base benefit that the member was receiving before returning to work and the normal benefit that the member would have received had the member been eligible for normal benefits. The total adjustment will then be actuarially prorated and distributed to the member monthly.

(d) For members who elected a LIO, the total adjustment for benefits missed during the period of reemployment equals the difference between the LIO base benefit that the member was receiving before returning to work and the normal benefit that the member would have received had the member elected the normal option. The total adjustment amount will then be actuarially prorated and distributed to the member monthly. This adjustment does not apply if the member is age 65 or older on returning to work.

History: Eff. 2/23/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.150

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.321, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.322. REEMPLOYED RETIRED EMPLOYEE COVERAGE

(a) A retired member who is otherwise eligible to make an election to waive coverage under AS 39.35.150(b) must have been terminated from PERS employment for a minimum of 30 calendar days in order to exercise the waiver option.

(b) If a retired member returns to employment with an employer, it is the responsibility of the member to file an election under AS 39.35.150(b) with the administrator within 30 calendar days after reemployment in order to continue receiving benefit payments during the period of reemployment.

(c) The 30-day election period in (b) of this section is determined from the member's date of reemployment to the date of election.

(d) The date of postmark of the election or the actual date of receipt of the election by the administrator, whichever is earlier, is the date of election.

(e) If a mailed election has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day the election is received by the administrator.

(f) Failure to make timely election as provided in (a) - (e) of this section will result in the member being subject to AS 39.35.120 and 39.35.160.

(g) Once the administrator receives an election, the election is irrevocable for the period of reemployment.

(h) A member who is eligible and makes an election under AS 39.35.150(b) is a retired member under AS 39.35.680(35) for the purposes of this chapter.

History: Eff. 7/2/2001, Register 167; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.120 AS 39.35.150 AS 39.35.160 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.322, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Although 2 AAC 35.322 took effect 7/2/2001 by emergency order, and was made permanent on 9/17/2001, it did not appear in print in the Alaska Administrative Code until Register 167.

2 AAC 35.325. QUALIFIED DOMESTIC RELATIONS ORDERS (QDROS)

(a) After a member is divorced or the member's marriage is dissolved, the member's former spouse has no individual rights or entitlements to benefits from the system, but may, under a qualified domestic relations order, share in the stream of benefit payments paid to the member. To be valid and enforced by the administrator, a qualified domestic relations order must conform to both the requirements of AS 39.35 and the requirements of the United States Internal Revenue Code that the system must comply with in order to maintain its federal tax-qualified status.

(b) An alternate payee

(1) may only be the former spouse of a member who has been named by an order of a court of competent jurisdiction to receive all or a portion of the member's retirement benefit;

(2) may not elect benefit options, but may only share in benefit options elected by the member;

(3) may not name survivors or beneficiaries to the alternate payee's portion of the member's benefit;

(4) will not be provided medical or insurance benefits at the system's expense but may purchase coverage from the system at the full calculated cost to the system; the alternate payee must elect to purchase the coverage within 60 days after appointment to benefits.

(c) The administrator shall review all domestic relations orders that the administrator receives, and shall reject a domestic relations order that does not meet the requirements of AS 39.35 or this chapter. A qualified domestic relations order that is accepted by the administrator is effective on the first day of the month following the month in which the order is accepted, or on the date of retirement, whichever is later. The administrator will accept only a domestic relations order that is prospective. The administrator will reject an order that

(1) purports to have a retroactive effective date;

(2) orders payment of the alternate payee's benefits to someone other than the member upon the death of the alternate payee;

(3) orders payment of benefits to an alternate payee, other than survivor benefits, after the death of the member.

(d) The administrator will approve a domestic relations order that orders payment of a monthly benefit to an alternate payee only if the alternate payee's portion of the member's monthly stream of benefit payments is expressed as a set monthly dollar amount, as a percentage of the monthly benefit payment, or as a monthly formula based on a defined period of time divided by the member's total years of credited service.

(e) Unless a qualified domestic relations order specifically states otherwise, the administrator will follow the following rules in implementing qualified domestic relations orders:

(1) no death or survivor benefits shall be paid to the alternate payee if the member dies before retirement;

(2) a member may not elect a survivor option at the time of retirement naming an alternate payee as a beneficiary;

(3) if a survivor option must be elected by the member at the time of retirement, and the member does not, and is not required to, elect a specific option, the member shall be deemed to have elected the 50 percent joint and survivor option under AS 39.35.450(a)(2);

(4) any Alaska cost-of-living allowance that is payable under AS 39.35.480 and all post-retirement pension adjustments under the current or any former versions of AS 39.35.475 shall be divided between the member and the alternate payee in the same proportion as the base benefit is divided;

(5) the cost of providing a joint and survivor benefit for the alternate payee will be equally shared by the member and the alternate payee, regardless of the split of the benefit entitlement; in this paragraph; "the cost of providing a joint and survivor benefit" means the monthly difference between what the member's regular retirement benefit would be, without the actuarial reduction for a joint and survivor benefit and the member's actual benefit, after the actuarial reduction necessitated by the joint and survivor option;

(6) the average monthly compensation determined using a member's entire career will be used to calculate the alternate payee's entitlement, whether or not the member and the alternate payee were married during the entire time;

(7) remarriage of the alternate payee does not in any way reduce or eliminate the alternate payee's entitlement to benefits.

(f) If a member divorces after the member has retired or if a member's marriage is dissolved after the member has retired,

(1) the benefit selections made by the member at the time of retirement remain in force;

(2) the member's spouse at the time of retirement will retain sole rights to survivor benefits after the member's death if a survivor option was elected at retirement, except to the extent that a qualified domestic relations order approved before the member's retirement requires payment of survivor benefits to an alternate payee and

(3) the administrator will not accept a domestic relations order that purports to alter the benefit selections made by the member at the time of retirement.

(g) A lump sum payment to an alternate payee under a qualified domestic relations order may be made only if the member elects a full withdrawal from membership in the Public Employees' Retirement System. Lump sum entitlements in a qualified domestic relations order must be stated either as a specific dollar amount or as a specific percentage of the member's contribution account.

(h) A qualified domestic relations order affecting disability benefits under AS 39.35.400 and AS 39.35.410 shall be accepted by the administrator only after the member has been appointed to disability.

History: Eff. 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.455 AS 39.35.480 AS 39.35.500 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.325, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.325 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.329. ACTUARIAL ADJUSTMENT FACTOR BASIS

(a) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1973 through June 30, 1975 are

(1) for the 50 percent or 75 percent joint and survivor option, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with

(A) annual interest rates for female members age 50 and a male spouse age 48, through female member age 60 with a male spouse age 62, that varies from 1.43 percent through 0.00 percent, respectively, with varying rates in between for other ages, or

(B) annual interest rates for male members age 50 and a female spouse age 48, through male member age 60 with a female spouse age 62, varies from 4.14 percent through 4.19 percent respectively, with varying rates in between for other ages.

(2) for the 66 2/3 last survivor option,

(A) a factor set for male members with a female spouse using

(i) the 1971 Group Annuity Mortality Table, GA71M for male members and GA71F for female spouses; and

(ii) annual interest rates for male members age 50 with a female spouse age 48, through male member age 60 with a female spouse age 62, that varies from 4.67 percent through 5.34 percent respectively, with varying rates in between for other ages;

(B) a factor set for female members with a male spouse using

(i) the 1971 Group Annuity Mortality Table, GA71F set back six years for female members and GA71M setback four years for male spouses; and

(ii) annual interest rates for female members age 50 with a male spouse age 48, through female member age 60 with a male spouse age 62, that varies from 4.53 percent through 0.00 percent, respectively, with varying rates in between for other ages;

(3) for the level income option, a factor set using separate male and female rates from the 1951 Group Annuity Mortality Table, table GA51M for males and table GA51F for females, with an annual interest rate of 3.7 percent;

(4) for an indebtedness amount owed, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with an annual interest rate of 7.0 percent;

(5) for an early retirement benefit,

(A) a factor set for male members using the 1971 Group Annuity Mortality Table, table GA71M, with an annual interest rate for a whole age of 50 through 54 at 4.l7 percent;

(B) a factor set for female members using the 1971 Group Annuity Mortality Table, table GA71F, with an annual interest rate for a whole age of 50 through 54 that varies from 4.47 percent to 4.49 percent, respectively.

(b) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1975 through August 31, 1978 are

(1) for the 50 percent or 75 percent joint and survivor option, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with

(A) annual interest rates for female members age 50 and a male spouse age 48, through female member age 60 with a male spouse age 62, that varies from 1.43 percent through 0.00 percent, respectively, with varying rates in between for other ages; or

(B) annual interest rates for male members age 50 and a female spouse age 48, through male member age 60 with a female spouse age 62, varies from 4.14 percent through 4.19 percent respectively, with varying rates in between for other ages;

(2) for the 66 2/3 percent last survivor option,

(A) a factor set for male members with a female spouse using

(i) the 1971 Group Annuity Mortality Table, GA71M for male members and GA71F for female spouses; and

(ii) annual interest rates for male members age 50 with a female spouse age 48, through male member age 60 with a female spouse age 62, that varies from 4.67 percent through 5.34 percent respectively, with varying rates in between for other ages;

(B) a factor set for female members with a male spouse using

(i) the 1971 Group Annuity Mortality Table, GA71F set back six years for female members and GA71M setback four years for male spouses; and

(ii) annual interest rates for female members age 50 with a male spouse age 48, through female member age 60 with a male spouse age 62, that varies from 4.53 percent through 0.00 percent, respectively, with varying rates in between for other ages;

(3) for the level income option, a factor set using separate male and female rates from the 1951 Group Annuity Mortality Table, table GA51M for males and table GA51F for females, with an annual interest rate of 3.7 percent;

(4) for an indebtedness amount owed, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with an annual interest rate of 7.0 percent;

(5) for an early retirement benefit, a factor that reduces the normal retirement amount by 0.5 percent per month for each month that the retirement precedes the normal retirement age.

(c) The basis of the assumptions for the reduced benefit actuarial adjustment factors from September 1, 1978 through December 31, 1980 are

(1) for the 50 percent or 75 percent joint and survivor option, a factor set using separate male and female rates from the sex-distinct 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with

(A) an annual interest rate for female members with a male spouse of 6.0 percent; or

(B) an annual interest rate for male members with a female spouse of 6.0 percent;

(2) for the 66 2/3 last survivor option, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with

(A) an annual interest rate for female members with a male spouse of 6.0 percent; or

(B) an annual interest rates for male members with a female spouse of 6.0 percent.

(3) for the level income option, a factor set using separate male and female rates from the 1971 Group Annuity Mortality Table, table GA71M for males and table GA71F for females, with an annual interest rate of 6.0 percent;

(4) for an indebtedness amount owed, a factor set using sex distinct male and female rates from the 1971 Group Annuity Mortality Table, table GA71, with an annual interest rate of 6.0 percent;

(5) for an early retirement benefit, a factor that reduces the normal retirement amount by 0.5 percent per month for each month that the retirement precedes the normal retirement age.

(d) The basis of the assumptions for the reduced benefit actuarial adjustment factors from January 1, 1981 through June 30, 1983 are

(1) for the 50 percent or 75 percent joint and survivor option, a unisex factor set using a fifty percent to fifty percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U with an annual interest rate of 6.0 percent;

(2) for the 66 2/3 last survivor option, a unisex factor set using a fifty percent to fifty percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U, with an annual interest rate of 6.0 percent;

(3) for the level income option, a unisex factor set using a fifty percent to fifty percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U, set forward two years, with an annual interest rate of 6.0 percent;

(4) for an indebtedness amount owed, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate of 6.0 percent;

(5) for an early retirement benefit, a unisex factor set using a fifty percent to fifty percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U, with an annual interest rate for a member with a whole age of 50 and 54 that varies from 8.25 percent and 8.53 percent, respectively, with varying rates in between for other ages.

(e) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1983 through June 30, 1986 are

(1) for the 50 percent or 75 percent joint and survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table with, annual interest rates for a member age 50 and a spouse age 48, through member age

60 with a spouse age 62, that varies from 8.98 percent through 9.78 percent, respectively, with varying rates in between for other ages;

(2) for the 66 2/3 last survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 9.10 percent through 10.58 percent, respectively, with varying rates in between for other ages;

(3) for the level income option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one year, with an annual interest rate of 8.0 percent;

(4) for an indebtedness amount owed, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate of 8.0 percent;

(5) for an early retirement benefit, a unisex factor set using a fifty percent to fifty percent blend of male and female rates from the 1971 Group Annuity Mortality Table, table GA71U, with an annual interest rate for the whole age of 50 and 54 varying from 9.98 percent and 10.24 percent, respectively, with varying rates in between for other ages.

(f) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1986 are

(1) for the 50 percent or 75 percent joint and survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 8.98 percent through 9.78 percent, respectively, with varying rates in between for other ages;

(2) for the 66 2/3 last survivor option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, with annual interest rates for a member age 50 and a spouse age 48, through member age 60 with a spouse age 62, that varies from 9.10 percent through 10.58 percent, respectively, with varying rates in between for other ages;

(3) for the level income option, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one year, with an annual interest rate of 8.0 percent;

(4) for an indebtedness amount owed, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate of 8.0 percent;

(5) for an early retirement benefit from July 1, 1986 through June 30, 1996, a unisex factor set using the 1984 UP84 Unisex Pension Mortality Table, set back one and one-half years, with an annual interest rate for the whole age of 55 and 59 varying from 7.67 percent and 7.62 percent, respectively, with varying rates in between for other ages.

(g) The basis of the assumptions for the reduced benefit actuarial adjustment factors from July 1, 1996 are for an early retirement benefit, a factor that reduces the normal retirement amount by 0.5 percent per month for each month that the retirement precedes the normal retirement age.

History: Eff. 12/19/2003, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.329, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.329 was effective 12/19/2003, it was not published until Register 172, January 2005.

ARTICLE 4
SERVICE UNDER THE DEFINED BENEFIT PLAN
(AS 39.35.095 - 39.35.680)

Section

330. Calculation of creditable service.
333. Service used to calculate vesting and retirement eligibility.
335. Purchase of credited service for leave of absence due to on-the-job injury.
340. Service credit for authorized leave of absence.
350. Temporary employment not creditable.
351. Temporary service.
352. Election to use claimed temporary service toward eligibility for a normal service retirement.
353. Cost of claimed or converted service used for retirement eligibility.
355. Military service performed after call to active duty.
360. Service for which an indebtedness is owing for persons receiving calculated disability benefits.
370. Credited service claims filed after retirement.

2 AAC 35.330. CALCULATION OF CREDITABLE SERVICE

(a) Service credit for permanent full-time employees is granted on the basis of one calendar day of service for each day in pay status. Regularly scheduled days off and holidays are allowed as credited service, provided that the employee was held in pay status on the regularly scheduled workdays immediately preceding and following the holiday or regularly scheduled days off.

(b) Service credit for permanent part-time employees is calculated as provided in law. In no case may a permanent part-time employee earn service credit in excess of that which may be earned by a permanent full-time employee.

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.300 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.330, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.333. SERVICE USED TO CALCULATE VESTING AND RETIREMENT ELIGIBILITY

Unless a provision of AS 39.35 or of this chapter otherwise provides, only service credit that is earned by an active employee under AS 39.35.300 or AS 39.35.310 and that is paid in full can be used to determine the date that an employee

(1) attains vested member status; and

(2) becomes eligible to retire under AS 39.35.370(a)(2) or (3).

History: Eff. 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.333, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.333 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.335. PURCHASE OF CREDITED SERVICE FOR LEAVE OF ABSENCE DUE TO ON-THE-JOB INJURY

Service that has been claimed by a member under AS 39.35.330(c) and 39.35.330(d) counts towards vested member status and retirement eligibility once the cost to claim the service has been paid in full.

History: Eff. 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.300 AS 39.35.310

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.335, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.335 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.340. SERVICE CREDIT FOR AUTHORIZED LEAVE OF ABSENCE

Any period or periods of authorized leave of absence without pay totaling not more than 10 working days in a calendar year will be considered as creditable service. Once the total of any period or periods of authorized leave of absence without pay exceeds 10 working days in a calendar year, the entire period or periods of absence will be considered as an interruption of employment and no credited service will be granted. Service is credited on a daily rate basis for all full-time permanent employment with the state or a participating political subdivision. The table supplied by the consulting actuaries is used for computation purposes.

History: In effect before 10/21/83, Register 93; am 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.330

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.340, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.350. TEMPORARY EMPLOYMENT NOT CREDITABLE

An employment segment which has been designated as a temporary or nonpermanent appointment, or an employment segment for which a person has been designated as a temporary or nonpermanent employee by the employer is not creditable under this system except for temporary employment claimed under AS 39.35.345, and temporary legislative employment claimed under AS 39.35.385(f) and 39.35.680(35). For purposes of AS 39.35, Comprehensive Employment and Training Act (CETA) employees are, designated temporary employees.

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.345 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.350, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.351. TEMPORARY SERVICE

Only full-time temporary service may be applied toward a service retirement under AS 39.35.345(d).

History: Eff. 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.345

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.351, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.352. ELECTION TO USE CLAIMED TEMPORARY SERVICE TOWARD ELIGIBILITY FOR A NORMAL SERVICE RETIREMENT

An employee who has claimed temporary service under AS 39.35.345 shall make an election whether or not to use the temporary service to satisfy the credited service requirements for normal retirement at application for retirement.

History: Eff. 1/7/2001, Register 159; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.345

2 AAC 35.353. COST OF CLAIMED OR CONVERTED SERVICE USED FOR RETIREMENT ELIGIBILITY

(a) The cost for converting membership service for retirement eligibility under AS 39.35.370(g) and AS 39.35.370(h) is the difference between the present value of the benefits the employee receives after the conversion and the present value of the benefits that the employee would have received without the conversion credit.

(b) The cost for claimed temporary service to be used for retirement eligibility as provided by AS 39.35.345(d) is the difference between the present value of the benefits that the employee receives after the conversion and the present value of the benefits the employee would have received without the conversion credit.

History: Eff. 1/7/2001, Register 159; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.345 AS 39.35.370

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.353, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.355. MILITARY SERVICE PERFORMED AFTER CALL TO ACTIVE DUTY

Military service performed by an employee who is a member of a reserve or National Guard unit after a call to active duty, whether voluntary or involuntary, constitutes membership service and does not count towards the maximum number of years of military service allowed to be claimed under AS 39.35.340(a).

History: Eff. 2/13/2004, Register 172; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.340

Editor's note: Even though the adoption of 2 AAC 35.355 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.360. SERVICE FOR WHICH AN INDEBTEDNESS IS OWING FOR PERSONS RECEIVING CALCULATED DISABILITY BENEFITS

(a) A disabled member receiving a disability benefit determined under AS 39.35.370(c) may not receive a benefit based on credit for any service for which an indebtedness exists until the indebtedness has been paid in full.

(b) The indebtedness for military service for a person eligible to claim that service is calculated in accordance with AS 39.35.340(b) or (c).

History: In effect before 10/21/83, Register 93; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.340 AS 39.35.370

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.360, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

2 AAC 35.370. CREDITED SERVICE CLAIMS FILED AFTER RETIREMENT

A claim for credited service served before retirement but which is not filed until after appointment to retirement benefits is effective as of the first of the month following the date that the claim is received. The system is not liable for any benefits based upon the newly claimed service before that date.

History: Eff. 2/13/2004, Register 172; readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.330 AS 39.35.342 AS 39.35.345 AS 39.35.360

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.370, without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

Even though the adoption of 2 AAC 35.370 was effective 2/13/2004, it was not published until Register 172, January 2005.

ARTICLE 5
ALASKA STATE PENSION INVESTMENT BOARD

Section

380. [Deleted 10/2005] Election of Alaska State Pension Investment Board trustees.
385. [Deleted 10/2005] Board trustee election procedures.
390. [Deleted 10/2005] Removal and suspension of trustees.

Editor's note: As of Register 175 (October 2005), the regulations attorney deleted 2 AAC 35.380, 2 AAC 35.385, and 2 AAC 35.390, to recognize the establishment of the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board. The changes were made by the regulations attorney in accordance with ch. 9, FSSLA 2005 and AS 44.62.125(b)(6).

2 AAC 35.380. DELETED 10/2005] ELECTION OF ALASKA STATE PENSION INVESTMENT BOARD TRUSTEES

A person elected by the members of the public employees' retirement system as an Alaska State Pension Investment Board trustee under AS 37.10.210, and a person voting in an election to elect such a trustee, must be a member of the public employees' retirement system as defined in AS 39.35.680. The term of an elected trustee of the Alaska State Pension Investment Board begins the first day the position is vacant or the date the election is certified, whichever is later. The winner of an election for a trustee's seat is the candidate receiving the most votes cast in the election for that seat.

History: Eff. 8/7/92, Register 126; deleted as of Register 175, October 2005

Authority: AS 37.10.210 AS 39.35.040 2 AAC 35.385

2 AAC 35.385. [DELETED 10/2005] BOARD TRUSTEE ELECTION PROCEDURES

(a) The commissioner of revenue will conduct the elections required by AS 37.10.210 for the two trustees of the Alaska State Pension Investment Board who represent the members of the public employees' retirement system.

(b) The two trustee's seats allotted to members of the public employees' retirement system are designated as Seat A and Seat B. Election to Seat B is limited to members of the system who are also participants in the supplemental employee benefits program established under AS 39.30.150 - AS 39.30.180. The initial term of a trustee elected to Seat A is four years, and the initial term of a trustee elected to Seat B is two years.

(c) The commissioner of revenue will provide notice of a vacancy or an anticipated vacancy on the Alaska State Pension Investment Board, and of the election to fill it, to members of the public employees retirement system at least 70 days before the election is held. Notice will be made through publication in a newspaper in at least three major cities in the state, and compliance with the minimum period of notice will be measured from the date publication has been made in the three major cities. On or after the date of publication of notice and before the election, the commissioner will also distribute the notice to state personnel officers and other public employees' retirement system employers for posting, and will submit the notice for posting on the Alaska Online Public Notice System and for publication in the Public Employees' Retirement System Newsletter, if it is likely that the newsletter will be published before the election. The notice will contain information about and procedures for the election, including the effective date of the vacancy, the length of the term for the seat to be filled, the qualifications that a candidate must have, the deadline for filing nominating petitions, the deadline for submitting ballots, and the date that the ballots will be counted.

(d) A nomination for a trustee's seat may be made by the Public Employees' Retirement Board or by petition on a form prescribed by the commissioner of revenue. A nominee nominated by the board shall submit to the commissioner a biographical sketch not to exceed 150 words. A nominating petition must include

(1) the nominee's name and address, a statement of the nominee's willingness to serve, and a short biographical sketch not to exceed 150 words;

(2) the printed names, signatures, and addresses of at least 10 members of the system;

(3) if more than one seat is being filled at an election, a declaration of which seat the nominee is seeking; and

(4) a statement that the nominee is or is not a member of the supplemental employee benefits program established under AS 39.30.150 - 39.30.180.

(e) A completed nominating petition must be received in an office of the Department of Revenue by the deadline set out in the notice of vacancy and election. Corrections to a nominating petition will not be accepted after the deadline.

(f) The commissioner of revenue will review the petitions and prepare the ballots. The names of the nominees whose petitions are incomplete or received after the deadline will not be included on the ballot. A nominee will be excluded from the ballot if, among other reasons, the nominee is not a member of the system, or the nominee's petition contains less than 10 signers who are members; a signature on a petition will not be counted if the signature and printed name are illegible or if the address furnished by the signer does not correspond with the system's address for the signer. The commissioner will advise an excluded nominee of the reason for the exclusion. If a petition is received and reviewed in sufficient time before the petition deadline, and is determined to be inadequate, the nominee may make any necessary identified corrections by the petition deadline.

(g) Voting will be by secret ballot. The commissioner of revenue will mail the ballots to all members of the public employees' retirement system at least 30 days before the date on which ballots will be counted, and will include with the ballot the biographical sketch submitted by each candidate appearing on the ballot.

(h) The commissioner of revenue will tally the vote. Each candidate may be present or have a representative present at the tallying.

(i) Any candidate or Public Employees' Retirement Board member may challenge the eligibility of any person to vote in an election. Challenged ballots will be held separately. If the number of challenged ballots is insufficient to change the outcome of the election, the ballots will be disregarded. If the challenged ballots could affect the outcome of the election, the commissioner of revenue will, after considering the objections, make a determination as to whether to accept and tally, or to reject, each challenged ballot, or whether to take other appropriate action, including conducting a new election.

(j) The commissioner will notify the board and all participating candidates of the results of a tally.

(k) If the top vote-getters for a seat receive the same number of votes, they will draw lots to determine who is elected.

(*l*) Within seven days after notice of the tally of ballots under (j) of this section has been given by the commissioner of revenue, any candidate may file with the commissioner an objection to the manner in which the election

was conducted or to any conduct affecting the results of the election. The commissioner will investigate any objections filed under this subsection and, based on the commissioner's findings, will certify the results of the election or will order any other appropriate action, including a new election.

(m) All ballots and petitions will, in the discretion of the commissioner of revenue, be destroyed 30 days after the commissioner's certification of the election.

History: Eff. 8/7/92, Register 126; deleted as of Register 175, October 2005

Authority: AS 37.10.210 AS 39.35.040 AS 39.35.042

Editor's note: As of Register 155 (October 2000), and acting under sec. 8, ch. 54, SLA 2000 and AS\n 44.62.125(b)(6), the regulations attorney made a technical revision to 2 AAC 35.385(c), to reflect the enactment of ch. 54, SLA 2000, which replaced the Alaska Administrative Journal with the Alaska Online Public Notice System. **Editor's note:** Even though the amendment of 2 AAC 35.385(c) was effective 2/13/2004,l it was not published until Register 172, January 2005.

2 AAC 35.390. [DELETED 10/2005] REMOVAL AND SUSPENSION OF TRUSTEES

(a) The Public Employees' Retirement Board will, in its discretion, propose the removal for cause, including incompetence, neglect of duty, or misconduct in office, of a trustee of the Alaska State Pension Investment Board who was elected by members of the public employees' retirement system. The retirement board will also, in its discretion, propose the removal for cause of a trustee elected by members of the public employees' retirement system who has failed to attend at least 75 percent of the meetings of the Alaska State Pension Investment Board held during a calendar year.

(b) The retirement board will give to a trustee being proposed for removal for cause a written copy of the charges, and will afford that trustee an opportunity for a public hearing to present a defense to the charges. A hearing will not be scheduled within the 10 days after the date upon which the trustee was given a copy of the charges. If a hearing is not requested within those 10 days, the charges are considered to be not contested, and the trustee is removed from office at the conclusion of the 10-day period.

(c) At a hearing requested under (b) of this section, the trustee proposed for removal may be represented by counsel, may present witnesses and evidence, and may cross-examine adverse witnesses. If, after the hearing, the

Public Employees' Retirement Board finds that the charges have been proven, the trustee is immediately removed from office.

(d) The Public Employees' Retirement Board will, in its discretion, suspend a trustee for a violation of law or for misconduct in office pending the proceedings for removal from office under this section.

(e) A trustee who is also a member of the Public Employees' Retirement Board may not vote in any removal action taken by the retirement board against the member, including the initial decision proposing to remove the trustee and the vote following a hearing on the proposed removal.

(f) If a trustee is removed for cause under this section, the Public Employees' Retirement Board will file with the Alaska State Pension Investment Board a complete statement of all charges made against the trustee and, if a hearing on the charges was held, the retirement board's findings and a complete record of the proceedings.

History: Eff. 8/7/92, Register 126; deleted as of Register 175, October 2005

Authority: AS 37.10.210 AS 39.35.040

ARTICLE 6
MISCELLANEOUS PROVISIONS RELATING TO THE DEFINED BENEFIT PLAN (AS 39.35.095 - 39.35.68)

Section

400. Interest on indebtedness amounts.
410. Payment of remaining indebtedness at retirement.
420. Writing off small indebtedness balances and refunds.
430. Interest on individual accounts.
440. Assignment of a portion of an employee contribution account to an alternate payee.
450. Employment as a peace officer or firefighter after January 1, 1961, with a political subdivision of the state.
460. Coverage as a peace officer or firefighter.
470. Membership criteria for University of Alaska personnel.
480. Adoption of unisex tables.

2 AAC 35.400. INTEREST ON INDEBTEDNESS AMOUNTS

The prescribed rate of interest that accrues on any indebtedness amount under the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) is seven percent, compounded semiannually on June 30 and December 31 of each year.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.340 AS 39.35.345 AS 39.35.350 AS 39.35.360 AS 39.35.385

2 AAC 35.410. PAYMENT OF REMAINING INDEBTEDNESS AT RETIREMENT

An employee with an indebtedness to the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) who wishes to pay off the balance of that indebtedness, including accrued interest, must pay off the balance before the employees' retirement benefit begins. Once the employee is appointed to retirement, the application of a lifetime actuarial

reduction to the employee's benefits based upon any indebtedness balance known to exist before the appointment may not be changed. Any indebtedness payments received after the employee has been appointed to a retirement benefit will be refunded to the employee.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.330 AS 39.35.340 AS 39.35.342
AS 39.35.345 AS 39.35.350 AS 39.35.360

2 AAC 35.420. WRITING OFF SMALL INDEBTEDNESS BALANCES AND REFUNDS

(a) Indebtedness balances of $50 or less in the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) are written off.

(b) Refunds of $50 or less in the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) are written off.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003

2 AAC 35.430. INTEREST ON INDIVIDUAL ACCOUNTS

(a) The prescribed rate of interest to be credited to employee contribution accounts in the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) is four and one-half percent.

(b) This plan is not liable for interest on contributions which cannot be posted to the individual account.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003

2 AAC 35.440. ASSIGNMENT OF A PORTION OF AN EMPLOYEE CONTRIBUTION ACCOUNT TO AN ALTERNATE PAYEE

A terminated non-vested or vested employee participating in the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680), whose rights to benefits are subject to a qualified domestic relations order, may elect to receive a refund of the pro-rata portion of the employee contribution account, but only if the alternate payee also elects to receive a refund of the alternate payee's pro-rata portion of the employee contribution account.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.500

2 AAC 35.450. EMPLOYMENT AS A PEACE OFFICER OR FIREFIGHTER AFTER JANUARY 1, 1961, WITH A POLITICAL SUBDIVISION OF THE STATE

(a) An employee participating in the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) who completes three years of service with the state after January 1, 1961, is entitled to credited service for employment as a peace officer or fireman performed after January 1, 1961, for a political subdivision of the state if the employee is vested (has five paid-up years) and was participating in the PERS as an active member under the peace officer or fireman category on July 1. 1980.

(b) Retroactive contributions for service as a peace officer or fireman in the case of an active employee vesting before or during the calendar year 1980 are calculated by multiplying six percent times the 1980 full-calendar-year salary or estimated full-calendar-year salary times years of credited service.

(c) Retroactive contributions for service as a peace officer or fireman in the case of an active employee vesting after December 31, 1980, are calculated by multiplying six percent times the full-calendar-year or estimated full-calendar-year salary for the year in which the employee becomes vested times years of credited service.

(d) Under this section, interest accrues on the indebtedness of a peace officer or fireman beginning July 1, 1983, or one year following the date the peace officer or fireman becomes vested, whichever is later. Any outstanding indebtedness which exists at the time a peace officer or a fireman is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that peace officer or fireman employment.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.680

2 AAC 35.460. COVERAGE AS A PEACE OFFICER OR FIREFIGHTER

(a) Except as may be expressly authorized by AS 39.35.095 - 39.35.680, for purposes of the statutes governing the defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680)

(1) "peace officer" means only a person who is a regular employee of a police agency or organization which is part of the state or a political subdivision of the state, and who has primary responsibility for the prevention and detection of crime and the enforcement of the fish and game, penal, traffic or highway laws of the state or employing political subdivision;

(2) "firefighter" or "fire chief" means only a person who is a regular employee of a fire agency or organization of the state or a political subdivision of the state and who is authorized to act under AS 18.70.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.680

2 AAC 35.470. MEMBERSHIP CRITERIA FOR UNIVERSITY OF ALASKA PERSONNEL

(a) This section determines which University of Alaska personnel are members of the Public Employees' Retirement System.

(b) The University of Alaska shall make a recommended designation to the administrator of all University of Alaska positions as belonging to the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), or neither. Those positions which the recommended designation would assign to the PERS shall be those positions subject to a formal university position classification and evaluation system and whose occupants do not have academic standing or rank as defined by the statutes and regulations governing the TRS.

(c) Final approval of the designation of positions and the membership of employees shall be made by the administrator of the Public Employees' Retirement System.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003

2 AAC 35.480. ADOPTION OF UNISEX TABLES

The defined benefit plan of the Public Employees' Retirement System (AS 39.35.095 - 39.35.680) shall use unisex tables containing unisex joint and survivor option factors, unisex early retirement factors, and unisex indebtedness factors in all appropriate computations. The plan shall incorporate unisex level income option factors that will guarantee that a level income monthly benefit may never be reduced below $50.

History: Eff. 7/20/2006, Register 179

Authority: AS 39.35.003

ARTICLE 15
MISCELLANEOUS

Section

800. [Repealed 7/20/06] Interest on indebtedness amounts.
805. [Repealed 7/20/06] Payment of remaining indebtedness at retirement.
810. [Repealed 7/20/06] Writing off small indebtedness balances and refunds.
820. [Repealed 7/20/06] Interest on individual accounts.
830. [Repealed 7/20/06] Liability for interest on individual accounts.
835. [Repealed 7/20/06] Assignment of a portion of an employee contribution account to an alternate payee.
840. [Repealed 7/20/06] Employment as a peace officer or fireman after January 1, 1961, with a political subdivision of the state.
850. [Repealed 7/20/06] Coverage as a peace officer or fireman.
860. [Repealed 1/7/01] Release of information.
870. [Repealed 7/20/06] Membership criteria for University of Alaska personnel.
880. [Repealed 7/20/06] Adoption of unisex tables.
890. [Repealed 1/7/01] Qualified fish and game employees.
900. [Repealed 7/20/06] Maximum employer contribution rate change.
990. Definitions.

2 AAC 35.800. [REPEALED 7/20/06] INTEREST ON INDEBTEDNESS AMOUNTS

The prescribed rate of interest that accrues on any indebtedness amount under the Public Employees' Retirement System (AS 39.35) is seven percent, compounded semiannually on June 30 and December 31 of each year.

History: In effect before 10/21/83, Register 93; repealed 7/20/2006; Register 179

Authority: AS 39.35.040 AS 39.35.340 AS 39.35.345 AS 39.35.350 AS 39.35.360 AS 39.35.385

2 AAC 35.805. [REPEALED 7/20/06] PAYMENT OF REMAINING INDEBTEDNESS AT RETIREMENT

An employee with an indebtedness to the system who wishes to pay off the balance of that indebtedness, including accrued interest, must pay off the balance before the employee's retirement benefit begins. Once the employee is appointed to retirement, the application of a lifetime actuarial reduction to the employee's benefits based upon any indebtedness balance known to exist before the appointment may not be changed. Any indebtedness payments received after the employee has been appointed to a retirement benefit will be refunded to the employee.

History: Eff. 2/13/2004, Register 172; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.330 AS 39.35.340
AS 39.35.342 AS 39.35.345 AS 39.35.350 AS 39.35.360

Editor's note: Even though the adoption of 2 AAC 35.805 was effective 2/13/2004, it was not published until Register 172, January 2005.

2 AAC 35.810. [REPEALED 7/20/06] WRITING OFF SMALL INDEBTEDNESS BALANCES AND REFUNDS

(a) Indebtedness balances of $50 or less are written off.

(b) Refunds of $50 or less are written off.

History: In effect before 10/21/83, Register 93; am 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042

2 AAC 35.820. [REPEALED 7/20/06] INTEREST ON INDIVIDUAL ACCOUNTS

The prescribed rate of interest to be credited to employee contribution accounts in the Public Employees' Retirement System is four and one-half percent.

History: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

Authority: AS 39.35.040

2 AAC 35.830. [REPEALED 7/20/06] LIABILITY FOR INTEREST ON INDIVIDUAL ACCOUNTS

The system is not liable for interest on contributions which cannot be posted to the individual account.

History: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

Authority: AS 39.35.040

2 AAC 35.835. [REPEALED 7/20/06] ASSIGNMENT OF A PORTION OF AN EMPLOYEE CONTRIBUTION ACCOUNT TO AN ALTERNATE PAYEE

(a) A terminated non-vested or vested employee, whose rights to benefits are subject to a qualified domestic relations order, may elect to receive a refund of the pro-rata portion of the employee contribution account, but only if the alternate payee also elects to receive a refund of the alternate payee's pro-rata portion of the employee contribution account.

(b) A refund of employee contributions irrevocably voids the qualified domestic relations order (QDRO).

History: Eff. 1/7/2001, Register 159; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.042 AS 39.35.500

2 AAC 35.840. [REPEALED 7/20/06] EMPLOYMENT AS A PEACE OFFICER OR FIREMAN AFTER JANUARY 1, 1961, WITH A POLITICAL SUBDIVISION OF THE STATE

(a) An employee who completes three years of service with the state after January 1, 1961, is entitled to credited service for employment as a peace officer or fireman performed after January 1, 1961, for a political subdivision of the state if the employee is vested (has five paid-up years) and was participating in the PERS as an active member under the peace officer or fireman category on July 1, 1980.

(b) Retroactive contributions for service as a peace officer or fireman in the case of an active employee vesting before or during the calendar year 1980 are calculated by multiplying six percent times the 1980 full-calendar-year salary or estimated full-calendar-year salary times years of credited service.

(c) Retroactive contributions for service as a peace officer or fireman in the case of an active employee vesting after December 31, 1980, are calculated by multiplying six percent times the full-calendar-year or estimated full-calendar-year salary for the year in which the employee becomes vested times years of credited service.

(d) Under this section, interest accrues on the indebtedness of a peace officer or fireman beginning July 1, 1983, or one year following the date the peace officer or fireman becomes vested, whichever is later. Any outstanding indebtedness which exists at the time a peace officer or a fireman is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that peace officer or fireman employment.

History: In effect before 10/21/83, Register 93; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.360

2 AAC 35.850. [REPEALED 7/20/06] COVERAGE AS A PEACE OFFICER OR FIREMAN

(a) Except as may be expressly authorized by AS 39.35, a "peace officer" means only a person who is a regular employee of a police agency or organization which is part of the state or a political subdivision of the state, and who has primary responsibility for the prevention and detection of crime and the enforcement of the fish and game, penal, traffic or highway laws of the state or employing political subdivision. A "fireman" or "fire chief" means only a person who is a regular employee of a fire agency or organization of the state or a political subdivision of the state and who is authorized to act under AS 18.70.

(b) Qualified employees of the Department of Fish and Game must claim retroactive peace-officer coverage prior to June 30, 1985. Failure to claim retroactive peace-officer coverage by the deadline constitutes a waiver on the part of the employee to future claims of peace officer credit for this service. The service once waived will be considered "all other" for all retirement and benefit purposes.

History: In effect before 10/21/83; am 12/3/84, Register 93; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.680

2 AAC 35.860. [REPEALED 1/7/01] RELEASE OF INFORMATION

(a) The release of information regarding personal or financial data on active members, inactive members, survivors, or former members shall be in accord with policies promulgated by the administrator. Information on a member or former member will be released to that individual, his employer or former employer(s), and state agencies authorized to secure such information, but will not be released to any other person except

(1) upon production of written authorization for release from the affected member or former member; or

(2) when the inquiring party has a court order or subpoena to secure such information.

(b) For purpose of this section, "employer or former employer" is defined in AS 39.35.680(17).

History: In effect before 10/21/83, Register 93; repealed 1/7/01, Register 159

Authority: AS 39.35.040

2 AAC 35.870. [REPEALED 7/20/06] MEMBERSHIP CRITERIA FOR UNIVERSITY OF ALASKA PERSONNEL

(a) AS 39.35.300(a) and this section govern the membership in the PERS of all University of Alaska personnel.

(b) The University of Alaska shall designate all current University of Alaska positions as PERS, TRS or nonapplicable. Any new position must be designated in the same manner. PERS members are those employees in positions subject to a formal position classification and evaluation system and who do not have academic standing or rank as defined under 2 AAC 36.850.

(c) Final approval of the designation of positions and the membership of employees shall be made by the administrator of the Public Employees' Retirement System.

(d) An employee or former employee who, on December 3, 1984, occupies a position or occupied a position designated under (b) of this section for a retirement system different from the one currently assigned to the position, shall either: (1) irrevocably elect to remain under that system; or (2) elect to be placed retroactively in the retirement system designated for that position. The employee must make this election before January 1, 1986. Failure to make an election by that date results in the employee remaining in the retirement system that he or she is a member of on December 3, 1984. The member must continue to participate in that system until termination or transfer to another position.

(e) An employee electing retroactive PERS coverage will be refunded the difference in member mandatory contributions between what was contributed, plus interest, and what should have been contributed in the PERS, including interest, at the rate prescribed in that system. An employee electing retroactive TRS coverage is indebted to that system for any additional contributions represented by the difference in what the member contributed and what should have been contributed. The University shall make all necessary employer contribution adjustments.

(f) An employee hired or rehired into a PERS-designated TRS position must become a member of the PERS. A PERS-designated position may not be retroactively changed to TRS after January 1, 1986.

(g) A vacant position which is classified as a PERS-covered position may not be transferred to TRS coverage without prior written approval of the administrator.

History: In effect before 10/21/83; am 12/3/84, Register 93; am 5/10/85, Register 99; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.300

2 AAC 35.880. [REPEALED 7/20/06] ADOPTION OF UNISEX TABLES

The Public Employees' Retirement System shall use unisex tables containing unisex joint and survivor option factors, unisex early retirement factors, and unisex indebtedness factors in all appropriate computations. The system, effective January 1, 1981, shall incorporate unisex level income option factors that will guarantee that a level income monthly benefit may never be reduced below $50.

History: In effect before 10/21/83, Register 93; am 12/9/85, Register 97; repealed 7/20/2006, Register 179

Authority: AS 39.35.040

2 AAC 35.890. [REPEALED 1/7/01] QUALIFIED FISH AND GAME EMPLOYEES

(a) Any person who is a permanent, full-time employee (including a seasonal employee) of the Department of Fish and Game, who fills a position which has been certified by the commissioner of fish and game and approved by the commissioner of administration as having duties which necessitate a significant amount of field work, travel, or exposure to hazardous working conditions, is a "qualified employee of the Department of Fish and Game" under AS 39.35.680(32) and will be afforded peace officer coverage in the Public Employees' Retirement System.

(b) Notwithstanding other provisions of this section, any person within the Department of Fish and Game who, before March 21, 1982, filled a position which was treated by the division of retirement and benefits as qualifying for peace officer coverage will continue to be afforded peace officer coverage after March 21, 1982 as long as the person fills that position or any other position within that department that qualifies under this section.

(c) AS 39.35.160 requires each peace officer in the system to contribute five percent of his or her compensation to the Public Employees' Retirement System. Therefore, any person who received credit as a peace officer for service already rendered must contribute an amount equal to the difference between the contributions which have been made and the contributions that are required for peace officer coverage for the same period of service. Public Employees' Retirement System Board Regulation 2 AAC 35.800 sets the rate of interest to be charged on an indebtedness to the system. Therefore, interest at the rate

prescribed by that regulation accrues on any unpaid contributions commencing 90 days after the date of notification of the amount of unpaid contributions.

(d) In this section

(1) "a significant amount" means at least five percent of an individual's working time;

(2) "field work" means working outside of a permanent structure and does not include work within or in proximity to a permanent residential community;

(3) "travel" means going to and from a place of duty as a passenger or operator in a plane, bus, train, automobile, boat, or any other form of mechanized transportation; it does not include travel primarily for the purpose of going from one established city, town, village, or community to another;

(4) "exposure to hazardous working conditions" means actively engaged in fish and game conservation or protection work which involves a demonstrated high risk of serious bodily injury or death, and includes

(A) aerial surveys in small aircraft;

(B) working on vessels on the open sea;

(C) travel in small skiffs over open water or in remote locations; and

(D) conducting stream surveys or other work where contact with dangerous wild animals is likely.

History: Eff. 3/21/82, Register 81; repealed 1/7/01, Register 159

Authority: AS 37.05.020 AS 39.35.680(32)

Editor's note: 2 AAC 30.010 has been renumbered as 2 AAC 35.890, as of Register 93 (April 1985).

2 AAC 35.900. [REPEALED 7/20/06] MAXIMUM EMPLOYER CONTRIBUTION RATE CHANGE

The maximum change in the contribution rate for an employer from one year to the next shall be no more than five percentage points, as actuarially calculated, whether the change is an increase or a decrease.

History: Eff. 5/17/91, Register 119; repealed 7/20/2006, Register 179

Authority: AS 39.35.040 AS 39.35.250 AS 39.35.260 AS 39.35.290

2 AAC 35.990. DEFINITIONS

(a) In this chapter, unless the context otherwise requires, "division" means the Division of Retirement and Benefits in the Department of Administration.

(b) In AS 39.35.006, "decision made by the administrator" means a decision in a matter over which the administrator has control, and does not include a decision by an employer.

(c) In AS 39.35.120. "commencement of employment" means the time at which the employee becomes an active member of the system as defined in AS 39.35.680.

(d) In AS 39.35.370(h), "probation officer" means a person employed as a probation officer by the Department of Corrections, regardless of whether the person is assigned to a correctional facility.

(e) In AS 39.35.520(a), "change or error is made in the records maintained by the system" means a correction or mistake made in the records as a result of the entry of incorrect information about a member into the records.

(f) In the definition of "occupational disability" in AS 39.35.680, "wilful negligence" means intentional misconduct or gross negligence.

(g) In AS 39.35.400(b), "reaches normal retirement age" means

(1) for a member first joining the system before July 1, 1986, reaches age 55 with 5 years of credited service for which no indebtedness is due;

(2) for a member first joining the system on or after July 1, 1986, reaches age 60 with 5 years of credited service for which no indebtedness is due.

(h) In AS 39.35.410(b), "reaches normal retirement age" means

(1) for a member first joining the system before July 1, 1986, reaches age 55 with 5 years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the occupational disability, to entitle the member to retire under AS 39.35.370 (a)(2) or (3), whichever occurs earlier;

(2) for a member first joining the system on or after July 1, 1986, reaches age 60 with 5 years of credited service for which no indebtedness is due or accrues sufficient paid-up credited service, including credited service accrued as a result of the occupational disability, to entitle the member to retire under AS 39.35.370 (a)(2) or (3), whichever occurs earlier.

History: Eff. 9/27/96, Register 150; am 1/7/2001, Register 159; am 2/23/2001, Register 159; am/readopt 7/20/2006, Register 179

Authority: AS 39.35.003 AS 39.35.12 AS 39.35.370 AS 39.35.400
AS 39.35.410 AS 39.35.520 AS 39.35.522 AS 39.35.680

Editor's note: Effective 7/20/2006, Register 179, the Department of Administration readopted 2 AAC 35.990, except for 2 AAC 35.990(b), (f), (g), and (h), without change, to affirm the validity of that section following statutory amendments made in ch. 9, FSSLA 2005. The department also amended 2 AAC 35.990(b), and (f), and added 2 AAC 35.990(g) and (h). Chapter 9, FSSLA 2005 eliminated the Public Employees' Retirement Board, and largely transferred the board's authority to adopt regulations in 2 AAC 35 to the commissioner of administration.

The regulations attorney relocated the division name from 2 AAC 35.080 to a new definition section, 2 AAC 35.990. Although this division name was listed in 2 AAC 35.080, effective 9/27/96, this relocation was not published until Register 150, July 1999.

REGULATIONS

SUPPLEMENTAL BENEFITS SYSTEM

ARTICLE 3
SUPPLEMENTAL BENEFITS SYSTEM

Section

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2 AAC 37.125. REGULATIONS

Adoption, amendment, or repeal of a regulation will be accomplished in accordance with AS 39.35.042.

History: Eff. 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.127. APPEALS

Appeals to the Public Employees Retirement Board under AS 39.30.155 are governed by the procedures set out in public employees' retirement system regulations, 2 AAC 35.080 and 2 AAC 35.100 - 2 AAC 35.180.

History: Eff. 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.130. PARTICIPATION IN THE SUPPLEMENTAL BENEFITS SYSTEM

An employee for whom social security contributions (FICA) would have been withheld during the year by the employer if the employer had been participating in the social security system is an eligible employee and must participate in the supplemental annuity plan. Employees who participate in the supplemental annuity plan may participate in the supplemental benefit plan.

History: In effect before 11/7/85, Register 99; am 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.135. BENEFIT SELECTION

(a) An eligible employee may select benefit options under AS 39.30.160 during the election periods allowed.

(b) An open enrollment will be held once a year during a period and in a manner prescribed by the administrator. During this open enrollment period eligible employees may add, change, or delete benefit options for the next benefit year.

(c) A new employee or rehired employee has at least 60 days following the date of employment to select benefit options. A rehired employee who was previously enrolled in a benefit year may not select benefit options for the remainder of that benefit year.

(d) Changes in benefits may be allowed when one of the following events occurs: (1) marriage; (2) death of a spouse; (3) divorce; (4) birth or adoption of a child; (5) death of a child; (6) termination or commencement of employment of a spouse or commencement of an unpaid leave of absence by a spouse; (7) change from short-term non-permanent to long-term non-permanent or permanent employment status, or vice versa, by an employee or the employee's spouse; (8) change from permanent part-time to permanent full-time, or vice versa, by an employee or the employee's spouse, if there is an accompanying change in the underlying major medical coverage; (9) significant change in the health coverage of the employee or the employee's spouse attributable to the spouse's employment. Changes must be made within 60 days after the qualifying event or within 30 days after the return to work if the change occurred during a period of nonpay status.

(e) An employee who is on leave without pay of any type at the beginning of the benefit year, or at the beginning of open enrollment for that benefit year who has not previously selected benefit options for that year, has 30 days following the date of the first return to active employment to select benefit options.

(f) Benefit elections must be in a form prescribed by the administrator and are subject to the administrator's approval. Benefit elections are considered made only if received by the supplemental benefits system, or postmarked, within the election periods allowed. If a mailed benefit election form has an illegible postmark or an undated postmark, the postmark date is rebuttably presumed to be five working days before the day the benefit election form was received by the system.

(g) The changes adopted on October 10, 1989 adding some spousal events to (d) of this section and adding (e) of this section are applicable only to plan years beginning February 1, 1990 and later.

History: In effect before 11/7/85, Register 99; am 2/1/89, Register 109; am 5/5/89, Register 111; am 11/9/89, Register 114; am 3/2/90, Register 122; am 11/28/91, Register 123

Authority: AS 39.30.155 AS 39.30.160

Editor's note: The 11/28/91 amendment to 2 AAC 37.135 was not published in the AAC until Register 123, October 1992.

2 AAC 37.137. BENEFIT COVERAGE

(a) An eligible employee who selects any benefit option under AS 39.30.160 will be enrolled on the later date of

(1) the first day of the month after 30 days have elapsed since the date of employment;

(2) the first day of the month after a month in which the supplemental benefits system receives a valid benefit election by the 15th of the month;

(3) the first day of the next benefit year if the benefit election is for the next benefit year.

(b) Coverage terminates on the last day of the month in which an employee terminates employment. This termination of coverage applies to the remainder of the benefit year, regardless of whether an employee is rehired.

(c) Coverage for an employee who has not terminated employment is suspended

(1) for any month in which available payroll is insufficient to pay the total costs of selected benefit options;

(2) on the first of the month following a month in which an employee last works before going on scheduled leave without pay or layoff during a plan year beginning February 1, 1990 and later.

(d) Employer or supplemental benefits system actions resulting in incorrect benefit contributions will be corrected to the extent possible.

History: Eff. 2/1/89, Register 109; am 11/9/89, Register 114; am 3/2/90 Register 122

Authority: AS 39.30.155

2 AAC 37.140. ADMINISTRATIVE MATTERS

(a) Administrative fees for the supplemental benefits system programs will be deducted from contributions made to the individual employee annuity accounts. The form and amount of administrative fees will be determined by the administrator in a manner that matches annual administrative fees to appropriations and that draws from each account equitably.

(b) Elections, claims, and designations must be filed on forms and at the location prescribed by the administrator. An employee's election, claim, or designation is not effective before the date received at the prescribed location. At the discretion of the administrator, any information provided must be substantiated.

History: In effect before 11/7/85, Register 99; am 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.143. RECEIPT OF DOCUMENTS

If the supplemental benefits system has no record of receipt of an application, election, or claim, the application, election, or claim is ineffective unless the member shows reasonable proof that the form was transmitted to the division. Reasonable proof includes written demonstration of receipt, such as a certified mail receipt or a stamped receipt from the division.

History: Eff. 11/9/89, Register 114

Authority: AS 39.30.155

2 AAC 37.145. [REPEALED 2/1/89] RESERVES

After paying all administrative fees and insurance premiums that are due, up to one month's premium for all insurance coverages selected by the employee must be held by the administrator in an insurance reserve account for each employee. The administrator will establish additional individual reserves to provide continuing insurance coverage for the calendar year for those employees whose compensation is projected to exceed the taxable wage base before the end of the calendar year.

History: In effect before 11/7/85, Reg. 99

Authority: AS 39.30.155

2 AAC 37.150. BASE PAY FOR SUPPLEMENTAL DISABILITY INSURANCE

(a) The amount of the base pay for calculating supplemental disability insurance must be provided by the participating employer or, in the case of a state employee, it is the amount reflected on the personnel action on the first day of January following the close of the open enrollment period. If an employee is hired after January 1, the base pay is the entrance salary of the new employee.

(b) The amount of the base pay for an hourly employee is the amount provided by the participating employer or, in the case of a state employee, it is an amount determined by the administrator, based on information reflected on the employee's personnel action on the first day of January following the close of the open enrollment period. It excludes bonuses, overtime, and other such compensation. If an employee is hired after January 1, the base pay will be determined by the administrator, based on information reflected on the new employee's personnel action. The base pay of a participant is subject to verification and adjustment by the administrator.

History: In effect before 11/7/85, Register 99

Authority: AS 39.30.155

2 AAC 37.155. PLAN DOCUMENTS

The supplemental benefits system will operate in accordance with the supplemental annuity plan and the supplemental benefit plan. Conflicts between the operation of the supplemental benefits system under any documents other than the plan documents and operation of the system under the plan documents will be resolved in accordance with the requirements of the plan documents.

History: I n effect before 11/7/85, Register 99; am 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.160. PAYMENTS TO BENEFICIARIES

Upon the death of a participant, payment to beneficiaries will be made in accordance with the most recent beneficiary designation on file with the supplemental benefits system. If a valid beneficiary designation is not on file for any form of death benefit, payment for any such death benefit will be made as provided in article VI of the supplemental annuity plan. A payment to a beneficiary who is a minor is subject to AS 13.26.015.

History: In effect before 11/7/85, Register 99; am 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.165. ACTIVE WORK; EFFECTIVE DATES OF INSURANCE

The effective date of coverage for an insured individual is the first day of the month for which the premium is paid by the employer. However, an employee who is both disabled and away from work on the date the insurance is to become effective will not be insured until the first day of the month following the day the employee actually returns to active work for a participant employer on a full-time basis or, in the case of a part-time employee, for at least as many hours as the employee formerly worked.

History: In effect before 11/7/85, Register 99

Authority: AS 39.30.155

2 AAC 37.170. [REPEALED 2/1/89] ALLOCATION OF BENEFIT COST

(a) Charges to an employee's account for fees and benefits will be allocated to either the wage reduction contribution or to the non-wage reduction contribution in accordance with the following:

(1) administrative fees and premiums for any insurance benefits selected by an employee will be paid from the non-wage reduction contribution to each employee's account;

(2) if charges for administrative fees and insurance premiums exceed the non-wage reduction contribution credited to the employee's account, the excess will be paid from the wage reduction contribution credited to the employee's account;

(3) for the purposes of determining which costs are paid from the wage reduction contribution, the payment of fees and premiums will be made for each account in the following order: administrative fees, death benefit premiums, survivor benefit premiums, disability benefits premiums, and health benefit premiums;

(4) if any plan contribution amount remains credited to the employee's account after deducting the costs for administrative fees and insurance premiums, it shall be allocated to the employee's annuity account.

(b) In this section:

(1) "account" means the individual benefit account established for the benefit of an employee under AS 39.30.150(a);

(2) "plan contribution" means the total amount credited by the state to the employee's account;

(3) "wage reduction contribution" means that portion of the plan contribution equal to the employee's wage reduction under AS 39.30.150(c).

(4) "non-wage reduction contribution" means the difference between the plan contribution and the wage reduction contribution;

(5) "annuity account" means the account established for the benefit of the employee under the supplemental annuity plan described in 2 AAC 37.155.

History: In effect before 11/7/85, Reg. 99

Authority: AS 39.30.155

2 AAC 37.171. [REPEALED 11/16/90] INVESTMENT INCOME

Investment income will be posted monthly to the individual annuity accounts. Investment income will be added to individual annuity accounts to the expected date of payment initiation.

History: Eff. 2/1/89, Register 109

Authority: AS 39.30.155

Editor's note: Effective 11/16/90, Register 118, the substance of the repealed 2 AAC 37.171 is contained in 2 AAC 37.180.

2 AAC 37.172. ADOPTION OF UNISEX TABLES

The supplemental benefits system will use tables containing unisex annuity factors and unisex insurance factors in all appropriate computations.

History: Eff. 11/9/89, Register 114

Authority: AS 39.30.155

2 AAC 37.173. [REPEALED 11/16/90] SMALL ANNUITY BALANCES

The supplemental benefits system will not initiate payment on an individual annuity account balance of less than $5.

History: Eff. 2/1/89, Register 109

Authority: AS 39.30.155

Editor's note: Effective 11/16/90, Register 118, the substance of the repealed 2 AAC 37.173 is contained in 2 AAC 37.180.

2 AAC 37.175. [REPEALED 2/1/89] CHANGE OF COVERAGE BY EMPLOYEE

(a) An open enrollment will be held once each during a period and in a manner prescribed by the administrator. During this open enrollment period eligible employees may, depending on the coverage that is made available, add, change, or delete coverage for the next benefit year.

(b) The administrator may allow changes in benefit selections if material changes have occurred in the employee's family or employment status since the most recent open enrollment or in the event of employer error. Changes in benefits will be allowed when one of the following changes occurs: marriage; death of spouse; divorce; birth or adoption of a first child; death of an only child; change from nonpermanent to permanent employment status or vice versa, change from permanent part-time to permanent full-time, or vice versa, if there is an accompanying change in the underlying major medical coverage. Requests for changes in benefits must be received by the supplemental benefits system within 60 days of the qualifying change or within 30 days following return to work if the change occurred during a period of termination or nonpay status, whichever is later. Requests for changes are effective on the first of the month following receipt of the request by the supplemental benefits system. Requests for changes must be in a form prescribed by the administrator and are subject to the administrator's approval.

(c) In addition to changes in benefits allowed as a result of changes in an employee's status as set out in (b) of this section, the administator may allow changes in health benefits if an employee experiences a change in eligibility for the underlying major medical coverage. Health coverage will only be continued during a period of nonpay status such as layoff, seasonal layoff, leave without pay, etc., in accordance with the employee's existing election of continuing benefits. Changes in health benefits are not automatic and must be requested by the employee within 30 days after the effective date of the change in eligibility for the underlying major medical coverage. Changes in health benefits made under this subsection are effective on the first day of the month after receipt of the request by the supplemental benefits system or on the first day of the month after the effective date of the change in eligibility for the underlying major medical coverage, whichever is later. Requests for changes in health benefits must be in a form prescribed by the administrator.

(d) A special limited election period will be held in the 1986 benefit year from September 10, 1986 through October 31, 1986. During this period an employee may elect to have his or her SBS insurance coverage continued during periods of non-pay status, such as layoff, seasonal layoff, leave without pay, etc., when coverage would otherwise lapse. During this period, an employee who entered non-pay status after January 31, 1986 and is on non-

pay status during the special election period may elect a change in health benefits. Changes made under this subsection are effective on the first of the month following receipt of the request by the supplemental benefits system. No retroactive coverage will be granted. Requests for changes under this subsection must be in a form prescribed by the administrator. This subsection is repealed effective January 31, 1987.

History: In effect before 11/7/85, Reg. 99; am 6/18/86, Reg. 99; am 9/10/86, Reg. 100

Authority: AS 39.30.155 AS 39.30.160

2 AAC 37.177. RELEASE OF INFORMATION

The administrator will release information regarding personal or financial data on employees or former employees in accordance with policies promulgated by the administrator. The administrator will release information on an employee or former employee to that individual, to the individual's employer or former employer, and to state agencies authorized to secure that information, but will release the information to any other person only:

(1) upon receipt of written authorization for release from the affected employee or former employee;

(2) when the person has a subpoena or other court order to secure the information; or

(3) when the person establishes a public purpose for release of the information that outweighs the employee's or former employee's privacy interest in the information.

History: Eff. 2/1/89, Register 109

Authority: AS 39.30.155

2 AAC 37.180. ANNUITY PLAN OPERATIONS

(a) The administrator shall establish the supplemental annuity trust fund as a separate trust fund of the supplemental benefits system. The assets of the individual employee annuity accounts must be deposited and held in the fund for the exclusive benefit of the participating employees or their beneficiaries.

(b) The Alaska Retirement Management Board will adopt a written statement of goals and objectives for the supplemental annuity trust fund. The statement will include specific investment performance objectives and the time period over which they are to be realized. The statement will be reviewed and modified as necessary, and at least annually.

(c) The administrator shall contract with an independent firm of certified public accountants to conduct an annual audit of the system, its accounts, and the supplemental annuity trust fund.

(d) If contributions are posted to an individual's annuity account after the commencement date of an annuity benefit and if the contributions do not result from the individual's employment subsequent to the commencement date, the administrator shall refund the contributions to the individual in a lump sum.

(e) Investment income will be posted monthly to the individual annuity accounts. Investment income will continue to be posted to the expected date of initiation of payment.

(f) The supplemental benefits system will not initiate payment on an individual annuity account balance of less than $5.

History: In effect before 11/7/85, Register 99; am 11/16/90, Register 118; am 5/3/91, Register 118; em am 5/3/91 - 10/28/91, Register 118

Authority: AS 39.30.155 AS 39.30.160

Editor's note: As of Register 175 (October 2005), changes were made to 2 AAC 37.180 by the regulations attorney to recognize the establishment of the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board. The changes were made by the regulations attorney in accordance with ch. 9, FSSLA 2005 and AS 44.62.125(b)(6).

2 AAC 37.185. EMPLOYMENT WITH MORE THAN ONE EMPLOYER

The supplemental benefits system will maintain separate employee benefit accounts for the employees of each participating employer. If an employee who is employed by more than one participating employer terminates employment with a participating employer, that employee will be considered terminated for purposes of administering his or her individual account with that employer, notwithstanding the fact that employment continues with another participating employer.

History: In effect before 11/7/85, Register 99

Authority: AS 39.30.155

2 AAC 37.190. [REPEALED 2/1/89] PAYMENT OF INDIVIDUAL ANNUITY ACCOUNTS

If an employee has been terminated for 45 days as of the date the monthly annuity listing is prepared and the employee's insurance premiums have been paid and all administrative fees have been deducted, the employee is eligible for payment of his or her individual annuity account if the employee is not reemployed by a participating employer before the employee's benefit commencement date. Payment of benefits will be made 90 days following termination or as soon after that as administratively feasible unless the employee elects to defer commencing benefits. Payment will be in accordance with the State of Alaska Supplemental Annuity Plan.

History: In effect before 11/7/85, Reg. 99

Authority: AS 39.30.155

Regulations

Deferred Compensation Plan

ARTICLE 4
DEFERRED COMPENSATION PLAN

Section

200. [Repealed 4/27/91] Deferred compensation plan pay periods.
210. Receipt of documents.
220. Benefit commencement date.
225. Postmark.
250. Release of information.
255. Definitions for 2 AAC 37.200 - 2 AAC 37.255.

2 AAC 37.200. [REPEALED 4/27/91] DEFERRED COMPENSATION PLAN PAY PERIODS

As used in the State of Alaska Deferred Compensation Plan (Article II, Paragraph A of the Plan Document) "complete pay period" means the period from the 16th of one month to the 15th of the following month.

History: In effect before 11/7/85, Register 99

Authority: AS 39.45.025

Editor's note: The State of Alaska Deferred Compensation Plan was issued May 31, 1974. A copy of the plan and information relating to the plan may be obtained from the Division of Retirement and Benefits, P.O. Box CR, Juneau, Alaska 99811.

2 AAC 37.210. RECEIPT OF DOCUMENTS

If the administrator has no record of receipt of an application for enrollment in the plan, a request for change (such as change of address, beneficiaries, type of investments and dollar amount of investments), selection of deferral date, or selection of form of payment and benefit commencement date, the enrollment, change, deferral, or form of payment and benefit commencement date is ineffective unless the member shows reasonable proof that the applicable form was transmitted to the plan office within the plan document's prescribed filing deadline. Reasonable proof includes written demonstration of receipt, such as a stamped receipt from the plan office or a certified mail receipt.

History: Eff. 4/27/91, Register 118

Authority: AS 39.45.025

2 AAC 37.220. BENEFIT COMMENCEMENT DATE

(a) The benefit commencement date under the plan is the 60th day following termination of employment unless the participant elects to defer commencement of benefits. A participant's election to defer commencement of benefits must be made on a form prescribed by the administrator and must be filed with the plan office within 60 days after the participant terminates employment. Benefits will be authorized for payment on the benefit commencement date unless a notice of deferral is received.

(b) The filing date of an election to defer commencement of benefits is the day the election form is received by the plan office or, if mailed, the day the form is postmarked.

History: Eff. 4/27/91, Register 118

Authority: AS 39.45.025

2 AAC 37.225. POSTMARK

If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the plan office.

History: Eff. 4/27/91, Register 118

Authority: AS 39.45.025

2 AAC 37.250. RELEASE OF INFORMATION

The administrator will release information regarding personal or financial data on a participant or former participant, in accordance with policies adopted by the administrator, to that individual, to the individual's employer or former employer, and to state agencies authorized to secure that information. The administrator will release the information to any other person only

(1) upon receipt of written authorization for release from the affected participant or former participant;

(2) if the person has a subpoena or court order to secure the information; or

(3) if the person establishes a public purpose for release of the information that outweighs the participant's or former participant's privacy interest in the information.

History: Eff. 4/27/91, Register 118

Authority: AS 39.45.025

2 AAC 37.255. DEFINITIONS FOR 2 AAC 37.200 - 2 AAC 37.255

(a) In 2 AAC 37.200 - 2 AAC 37.255, unless the context requires otherwise,

(1) "plan" means the State of Alaska Deferred Compensation Plan provided for under the Public Employees' Deferred Compensation Program in AS 39.45;

(2) “postmark” means the official cancellation stamp, used by the United States Post Office, which records the date and place of mailing.

(b) In Article II, Paragraph A of the Plan Document “complete pay period”, means the period from the 16th of one month to the 15th of the following month.

History: Eff. 4/27/91, Register 118

Authority: AS 39.45.025

REGULATIONS

GROUP HEALTH AND LIFE INSURANCE

CHAPTER 38
EMPLOYMENT-RELATED BENEFITS FOR SAME-SEX PARTNERS OF STATE EMPLOYEES AND RETIREES UNDER THE STATE'S RETIREMENT SYSTEMS.

Section

10. Same-sex Partner Insurance Coverage.
30. Enrollment of Same-sex Partner and Same-sex Partner's Eligible Child.
50. Imputation of Income and Effect on Pre-tax Premiums.
70. Same-sex Partner Survivor Benefits.
100. Responsibilities and Rights of a State Employee or Member of a State Retirement System and Same-sex Partner

2 AAC 38.010. SAME-SEX PARTNER INSURANCE COVERAGE

(a) A state employee or member of a state retirement system who is covered by group insurance under AS 39.30.090 or 39.30.091, such as the state's retiree medical, Select Benefits, or Supplemental Benefits plans, or by an alternative insurance program, such as a union health trust, under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2), may enroll the employee's or retirement system member's same-sex partner in the group insurance or alternative insurance program if the employee and same-sex partner, or retirement system member and same-sex partner, meet the requirements of this section.

(b) In order to enroll a same-sex partner in group insurance coverage provided under AS 39.30.090 or 39.30.091 or an alternative insurance program under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2), the covered employee or covered member of a state retirement system shall file with the administrator of the health plan or retirement system an affidavit executed by the employee and same-sex partner or the retirement system member and same-sex partner declaring under penalty of perjury that they

(1) are at least 18 years old and are each competent to enter into a contract;

(2) have been in an exclusive, committed, and intimate relationship with each other for the last consecutive 12 months and intend to continue that relationship indefinitely;

(3) have resided together at a common primary residence for the last 12 consecutive months and intend to reside together indefinitely;

(4) consider themselves to be members of each other's immediate family;

(5) are not related to each other to a degree of closeness that would preclude them from marrying each other in this state if they were of the opposite sex from each other;

(6) are neither one of them legally married to anyone else;

(7) have not executed an affidavit affirming same-sex partner status with anyone else within the last 12 months;

(8) are each other's sole domestic partner and are each responsible for the common welfare of the other;

(9) share financial obligations, including joint responsibility for basic living expenses and health care costs;

(10) understand that, under applicable federal income tax law, payments for medical coverage of a same-sex partner or child of a same-sex partner may not be eligible for pre-tax treatment, and coverage of a same-sex partner may result in additional imputed taxable income to the covered employee, retirement system member, or survivor and related withholding for payroll, income, or pension and annuity taxes; and

(11) understand that, in addition to requirements of this section, there are terms and conditions of coverage set out in each group policy, state plan of self-insurance, or alternative insurance program to which they are bound.

(c) In order to enroll a same-sex partner in group insurance coverage provided under AS 39.30.090 or 39.30.091 or an alternative insurance program under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2), and upon request of the health plan or retirement system administrator after enrollment, the covered state employee or member of a state retirement system shall provide documentation establishing that the employee and same-sex partner, or retirement system member and same-sex partner, meet at least five of the following criteria:

(1) joint interest in real property, as evidenced by title or mortgage, lease, or rental agreement, by the employee or retirement system member and the same-sex partner;

(2) joint ownership or purchase of a motor vehicle by the employee or retirement system member and the same-sex partner;

(3) joint ownership of a checking, savings, or investment account or joint liability for a loan or credit account by the employee or retirement system member and the same-sex partner;

(4) the same-sex partner is named as primary beneficiary for a life insurance policy of the employee or retirement system member;

(5) the same-sex partner is named as primary beneficiary for the employee's or retirement system member's pension or annuity plan benefits, deferred compensation plan, Individual Retirement Arrangement or Account, 401(k) plan, Keogh plan, or other tax-deferred or taxable plan;

(6) the same-sex partner is named as primary beneficiary in the employee's or retirement system member's will;

(7) the same-sex partner has authority to deal with property owned by the employee or retirement system member under a valid written power of attorney;

(8) the employee or retirement system member has given the same-sex partner written authority to make decisions concerning the employee's or retirement system member's health and well being if the employee or retirement system member is unable to do so.

(d) An employee or member of a state retirement system who enrolls a same-sex partner in coverage under this section may also enroll the child of the same-sex partner if the child is unmarried, is dependent on the employee or retirement system member for support, and meets other requirements set out in the group policy, state plan of self-insurance, or alternative insurance program, and applicable statute governing the retirement system, including age and applicable school enrollment requirements.

(e) An employee or member of a state retirement system who has enrolled a same-sex partner, or a same-sex partner and child, in coverage under this section shall provide written confirmation of eligibility of the enrolled person, supplementing documentation provided under (c) of this section if that information has changed, upon request of and in the manner requested by the plan administrator. Failure to provide written confirmation requested by the plan administrator may result in suspension of coverage of the enrolled person.

(f) An employee or retirement system member who enrolls a same-sex partner in coverage under this section must agree that, if the employee or retirement system member and same-sex partner no longer meet the

requirements of this section, the employee or retirement system member will file with the administrator of each plan in which the same-sex partner is enrolled a written statement of termination of eligibility within 30 days of the date that eligibility ends. Eligibility of the same-sex partner for benefits of a plan terminates on midnight of the date that eligibility ends as declared in writing by the employee or retirement system member. Failure to notify the plan administrator of termination of eligibility results in liability of the employee or retirement system member for any resulting overpayment of benefits under the plan. Continuation of coverage will be offered to the former same-sex partner of the employee or retirement system member as if a divorce had occurred.

(g) An employee or retirement system member who enrolls a same-sex partner, or same-sex partner and eligible child under (d) of this section, in coverage under this section shall pay any premium established by the plan that an employee or retirement system member is required to pay for comparable coverage for a spouse or spouse and dependent child.

(h) In this section, "resided together at a common primary residence" requires the employee or member of a state retirement system and the employee's or member's same-sex partner to share the same domicile. The common primary residence can change during the 12-month period set out in (b) of this section. Once an employee or member of a state retirement system and same-sex partner have begun to reside together at a common primary residence, absence by the employee or retirement system member or the same-sex partner required for employment that requires periodic absence from the common primary residence, education, medical reasons, military service, or other reasons determined by the plan administrator will not result in a break in eligibility, as long as the absent employee, retirement system member, or same-sex partner intends to return to common primary residence.

History: Eff. date for medical benefit provisions: 11/12/2006, Register 181; eff. date for retirement system benefits provisions: 11/16/2006, Register 181.

Authority: AS 14.25.005 AS 39.30.090 Former AS 39.37.090
AS 22.25.027 AS 39.35.005

2 AAC 38.030. ENROLLMENT OF SAME-SEX PARTNER AND SAME-SEX PARTNER'S ELIGIBLE CHILD

(a) After November 12, 2006, a special enrollment will be conducted to allow enrollment of eligible same-sex partners and eligible children of same-sex partners in group insurance plans described in 2 AAC 38.010(a). If the terms of a group insurance plan described in 2 AAC 38.010(a) allow enrollment of a spouse or family at only a specific time, such as the date of retirement of a member of the retirement system, in order to enroll a same-sex partner or child of a same-sex partner in the plan during the special enrollment, the employee or member of a state retirement system must establish that the requirements of 2 AAC 38.010(b) and (c) were met at the time specified by the terms of the plan.

(b) Following the special enrollment, enrollment of a same-sex partner or child of a same-sex partner may occur only at a subsequent open enrollment or upon the occurrence of a qualifying status change and in accordance with the terms of the plan. For purposes of a plan described in 2 AAC 38.010(a) that allows an employee or member of a state retirement system to enroll a spouse or dependent child within a period of time after a qualifying status change occurs, such as a change in family structure, ineligibility for other coverage or change in insurance coverage, a qualifying status change for enrollment of the employee's or retirement system member's same-sex partner or eligible children of a same-sex partner occurs on the date upon which

(1) the employee or retirement system member is first able to meet the requirements of 2 AAC 38.010(b) and (c), if the plan allows enrollment of a spouse and eligible dependent children when a plan member marries;

(2) a status change occurs related to the same-sex partner that would constitute a qualifying status change event under the terms of the plan if the status change related to the spouse of the employee or retirement system member.

(c) The employee or retirement system member should provide the documentation required by 2 AAC 38.010(c) within 90 days of filing an enrollment form with the administrator of a plan under AS 39.30.090 or 39.30.091, or if the enrollment is filed with the administrator of an alternative insurance program under AS 39.30.090(a)(2), within the time provided by the alternative insurance program plan. Once the documentation required under 2 AAC 38.010(c) is received by the administrator of a plan under AS 39.30.090 or 39.30.091, coverage of the eligible same-sex partner is effective on the latest of the first day of the month after the enrollment form is received by the

plan administrator, the date of the employee's appointment to receive retirement or disability benefits if the enrollment is for a retiree insurance plan, the date coverage is allowed under the terms of an open enrollment if the enrollment is filed under the open enrollment, or January 1, 2007. Payment will not be made on covered claims until eligibility is established under 2 AAC 38.010. Payment will not be made on claims arising more than 12 months before eligibility is established under 2 AAC 38.010.

(d) This section does not authorize or require a change in type or level of coverage if such a change is not allowed by federal regulations governing mid-year changes in coverage or under the provisions of the plan, nor does this section prohibit mid-year changes in the type or level of coverage if such change is required by federal regulations or permitted under the provisions of the plan. Changes in the type or level of coverage may be made during any regular open enrollment period of the plan, if allowed by federal regulations governing the plan.

(e) To the extent permitted by federal regulations, a same-sex partner and an eligible child of a same-sex partner will be considered dependents under the plan for purposes of eligibility, including continuation of coverage and 29 U.S.C. 1182 (Health Care Portability and Accountability Act of 1996) (HIPAA) portability rights, even if the individual does not qualify as a dependent for federal tax purposes.

History: Eff. date for medical benefit provisions: 11/12/2006, Register 181; eff. date for retirement system benefits provisions: 11/16/2006, Register 181.

Authority: AS 14.25.005 AS 39.30.090 Former AS 39.37.090
AS 22.25.027 AS 39.35.005

2 AAC 38.050. IMPUTATION OF INCOME AND EFFECT ON PRE-TAX PREMIUMS

(a) Income will be imputed for federal tax purposes to

(1) an employee or member of a state retirement system who enrolls a same-sex partner or child of a same-sex partner who is not an eligible dependent under 26 U.S.C. 152, without regard to 26 U.S.C. 152(b)(1), (b)(2) and (d)(1)(B), in group insurance coverage under 2 AAC 38.010;

(2) a same-sex partner of a member of a state retirement system if the same-sex partner was not an eligible dependent of the member under 26 U.S.C. 152, without regard to 26 U.S.C. 152(b)(1), (b)(2), and (d)(1)(B), at

the time of the member's death and if the same-sex partner is enrolled in group insurance coverage as a survivor of the member under 2 AAC 38.010.

(b) The amount of income imputed to an employee, retirement system member, or survivor under this section will be based on the fair market value of the coverage provided to the non-dependent same-sex partner as established by the administrator of the state's employee and retiree health plans. The fair market value of coverage provided by a union health trust under an alternative insurance program under an exemption allowed by regulations adopted by the commissioner under AS 39.30.090(a)(2) will be established in consultation with the applicable trust.

(c) If an employee's premium payment for group insurance coverage of a same-sex partner or child of a same-sex partner is not eligible for pre-tax treatment, the premium payment will be deducted on a post-tax basis in the amount established by the administrator of the applicable plan.

(d) Income imputed under this section does not constitute compensation for purposes of determining employer or employee contributions or computation of benefits under the state's retirement systems or Alaska Supplemental Annuity Plan.

History: Eff. date for medical benefit provisions: 11/12/2006, Register 181; effective date for retirement system benefits provisions: 11/16/2006, Register 181.

Authority: AS 14.25.005 AS 39.30.090 Former AS 39.37.090
AS 22.25.027 AS 39.35.005

2 AAC 38.070. SAME-SEX PARTNER SURVIVOR BENEFITS

(a) A state employee or member of a state retirement system may designate the employee's or retirement system member's same-sex partner as the beneficiary to receive survivor benefits that are available to an employee's or retirement system member's surviving spouse in accordance with this section. Survivor benefits are payable to a same-sex partner designated under this section to the extent the benefits are not payable to a former spouse under the terms of a qualified domestic relations order.

(b) A designation of a same-sex partner to receive survivor benefits that may be paid to a person other than a spouse under applicable statute is valid to the same extent the designation of any other non-spouse beneficiary is valid under the statute.

(c) A designation by a member of a state retirement system of a same-sex partner as beneficiary to receive survivor benefits that are available to a surviving spouse under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, 14.25.167, 14.25.420, 14.25.485, 14.25.487; AS 22.25.030; AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, 39.35.890, 39.35.892; or former AS 39.37.060 is not valid unless the member files with the administrator

(1) with the designation of beneficiary an affidavit executed by the member and the same-sex partner making the declarations, under penalty of perjury, set out in 2 AAC 38.010(b); and

(2) documentation establishing that the member and same-sex partner meet at least five of the criteria set out in 2 AAC 38.010(c).

(d) A deceased employee's or retirement system member's same-sex partner whom the administrator determines is validly designated as the employee's or member's beneficiary to receive survivor benefits has the same rights to survivor benefits, including group insurance and alternative insurance benefits available under the applicable plan, that a surviving spouse would have, and is subject to the same requirements that a surviving spouse would be subject to relating to those benefits.

(e) An employee or member of a state retirement system may revoke a designation of beneficiary under this section at any time. After the date of retirement, a member's revocation of the designation of the member's same-sex partner as the beneficiary to receive survivor benefits does not change the form or amount of a joint and survivor benefit payable to the member or allow designation of a different beneficiary to receive the joint and survivor benefit.

(f) An employee or member of a state retirement system who has designated a same-sex partner as beneficiary under this section shall provide written confirmation of the designation, supplementing documentation provided under (c) of this section if that information has changed, upon request of and in the manner requested by the plan administrator. Failure to provide written confirmation requested by the plan administrator may result in ineligibility of the designated same-sex partner for survivor benefits.

History: Eff. date for medical benefit provisions: 11/12/2006, Register 181; effective date for retirement system benefits provisions: 11/16/2006, Register 181.)

Authority: AS 14.25.005 AS 39.35.005 Former AS 39.37.090
AS 22.25.027

2 AAC 38.100. RESPONSIBILITIES AND RIGHTS OF A STATE EMPLOYEE OR MEMBER OF A STATE RETIREMENT SYSTEM AND SAME-SEX PARTNER

(a) It is the responsibility of a state employee or member of a state retirement system to comply with all requirements of an insurance, retirement, or benefit plan or program, including all application, designation, affidavit, and documentation requirements, in order to provide or allow provision of benefits to the employee's or retirement system member's same-sex partner. Except when specifically provided by this chapter or the terms of an insurance, retirement, or benefit plan or program, an employee's or retirement system member's compliance with the application, affidavit, and documentation requirements of a plan or program does not entitle the employee's or retirement system member's same-sex partner to rights or benefits under a different plan or program.

(b) Nothing in this chapter supersedes the requirements of a court order regarding rights or benefits of a former spouse or dependents of an employee or retirement system member.

(c) Nothing in this chapter provides, or allows the provision of, any right or benefit to the same-sex partner of an employee or retirement system member that would not be available to the spouse of the employee or retirement system member.

History: Eff. date for medical benefit provisions: 11/12/2006, Register 181; effective date for retirement system benefits provisions: 11/16/2006, Register 181.

Authority: AS 14.25.005 AS 39.30.090 Former AS 39.37.090
AS 22.25.027 AS 39.35.005

CHAPTER 39
GROUP HEALTH AND LIFE INSURANCE

Article

1. Long-Term Care Insurance. (2 AAC 39.010 - 2 AAC 39.100)
2. Dental-Vision-Audio Insurance. (2 AAC 39.210 - 2 AAC 39.290)
3. Major Medical Insurance. (2 AAC 39.300 - 2 AAC 39.399)
4. Appeals From Denials of Medical Claims Under the Medical Coverage Provided by the Public Employee's Retirement System. (2 AAC 39.500 - 2 AAC 39.590)
5. Appeals From Denials of Medical Claims Under the Medical Coverage Provided by the Teachers' Retirement System. (2 AAC 39.600 - 2 AAC 39.690)
6. Miscellaneous Provisions. (2 AAC 39.900 - 2 AAC 39.925)

ARTICLE 1
LONG-TERM CARE INSURANCE

Section

10. Eligibility and coverage.
20. Application for long-term care insurance.
30. [Repealed 2/1/93] Implementation of the long-term care insurance plan for existing benefit recipients.
40. Date of application.
50. Premium payments for long-term care coverage.
60. Effective date of long-term care insurance coverage.
70. Changes in coverage.
80. Discontinuation of long-term care insurance coverage.
90. Change by the administrator in coverage and premiums.
95. Postmark.
100. Definitions for 2 AAC 39.010 - 2 AAC 39.100.

2 AAC 39.010. ELIGIBILITY AND COVERAGE

(a) Except as provided in (b) and (c) of this section, a benefit recipient may apply for long-term care insurance on an individual or joint basis by applying in accordance with 2 AAC 39.020.

(b) A spouse who is receiving a survivor benefit may elect to obtain long-term care insurance on an individual basis only.

(c) A dependent child who is receiving a survivor benefit may not elect long-term care insurance.

(d) Individual long-term care insurance covers only the benefit recipient. Joint long-term care insurance covers the benefit recipient and the benefit recipient's spouse. Coverage will be limited for long-term care necessitated by a pre-existing condition.

(e) A spouse who is not receiving a survivor benefit, and whose long-term care insurance coverage under a benefit recipient's joint coverage is discontinued as a result of divorce from or death of the benefit recipient, may elect to continue that coverage on an individual basis by paying the premium established by the administrator as provided in 2 AAC 39.050(b).

History: Eff. 11/12/86, Register 100; am 5/31/87, Register 102; am 5/11/90, Register 114; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.020. APPLICATION FOR LONG-TERM CARE INSURANCE

(a) A benefit recipient who elects long-term care insurance shall apply for that insurance on a form provided by the administrator. Except as provided in (b) and (c) of this section, application for that insurance must be made before the effective date of retirement.

(b) A person applying for a survivor benefit and electing long-term care insurance shall submit an application for that insurance when the person applies for the survivor benefit.

(c) A person applying for a disability benefit and electing long-term care insurance shall submit an application for that insurance within 60 days of the person's approval for the disability benefit.

(d) A spouse who elects to continue coverage under 2 AAC 39.010(e) shall make the election on a form provided by the administrator. The election must be made no later than 60 days after the spouse's coverage under a benefit recipient's joint coverage is discontinued. Retroactive premiums are required to prevent a lapse in coverage.

(e) Failure to make timely application as provided in (a) through (d) of this section will result in the loss of all rights to apply for or obtain long-term care insurance under this chapter. The administrator may waive this requirement if extraordinary circumstances are demonstrated to the satisfaction of the administrator. Need, or the awareness of need, for long-term care insurance arising after the application period has ended is not an extraordinary circumstance.

History: Eff. 11/12/86, Register 100; am 2/1/93, Register 125

Authority: AS 39.30.090

Publisher's note: Pursuant to instruction from the department of law, the reference to 2 AAC 39.010(b) in the first sentence in subsection (d) of this regulation has been changed to 2 AAC 39.010(e) as of Register 114 (July 1990).

2 AAC 39.030. [REPEALED 2/1/93] IMPLEMENTATION OF THE LONG-TERM CARE INSURANCE PLAN FOR EXISTING BENEFIT RECIPIENTS

(a) To be eligible for long-term care insurance coverage, a person appointed to receive a monthly benefit before February 2, 1987, must apply for the insurance by May 30, 1987. Coverage, if approved, will be effective on the first day of the month following the month in which premiums are deducted.

(b) A person appointed to receive a monthly benefit before February 2, 1987, must complete a health statement for both himself or herself and for a spouse who will be covered under joint coverage. The health statement will be used to determine eligibility and coverage will be approved or denied based on established underwriting standards. The standards are designed to identify individuals likely to require confinement and professional nursing care in a skilled nursing facility, intermediate care facility, or home convalescent setting within the 12 months after the effective date of coverage.

History: Eff. 11/12/86, Register 100; am 5/31/87, Register 102

Authority: AS 39.30.090(a)

2 AAC 39.040. DATE OF APPLICATION

The date of postmark of the application or the date of receipt of the application by the administrator, whichever is earlier, is the date of application for long-term care insurance coverage.

History: Eff. 11/12/86, Register 100

Authority: AS 39.30.090(a)

2 AAC 39.050. PREMIUM PAYMENTS FOR LONG-TERM CARE COVERAGE

(a) A benefit recipient who elects long-term care insurance coverage must pay for that coverage by paying the premium established by the administrator. Premium payments are deducted from the monthly benefit warrant unless the benefit is insufficient to permit the deduction of the full monthly premium. If at any time the benefit amount is insufficient to cover the full long-term care insurance premium, the administrator will notify the benefit recipient, and premium payments due after the notice must be made by the recipient directly to the insurance carrier.

(b) A spouse who elects to continue coverage under 2 AAC 39.010(e) shall pay the premium established by the administrator directly to the insurance carrier.

(c) A plan participant who pays a premium directly to the insurance carrier forfeits the right to participate in the plan if

(1) a premium payment is delinquent by more than 60 days; or

(2) premium payments are delinquent twice in any one calendar year by more than 31 days.

(d) A plan participant who must pay premiums directly to the insurance carrier must pay any retroactive premiums necessary to avoid a lapse in coverage.

History: Eff. 11/12/86, Register 100; am 1/29/89, Register 109

Authority: AS 39.30.090(a)

2 AAC 39.060. EFFECTIVE DATE OF LONG-TERM CARE INSURANCE COVERAGE

(a) Except as provided in (b) of this section, long-term care insurance coverage for a benefit recipient begins on the date that continuing monthly benefits begin.

(b) Long-term care insurance coverage for a benefit recipient receiving a disability benefit is effective on the first day of the calendar month after the month in which the premium is first deducted.

(c) Retroactive premiums will be deducted as necessary.

History: Eff. 11/12/86, Register 100; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.070. CHANGES IN COVERAGE

(a) A benefit recipient may change long-term care insurance coverage from joint coverage to individual coverage at any time. Once joint coverage has been discontinued, it may only be reelected in accordance with (b) of this section.

(b) A benefit recipient may change from individual long-term care insurance coverage to joint coverage only when the benefit recipient marries. A spouse who wants coverage shall complete a health statement and will be subject to approval or denial by the long-term care insurance carrier.

(c) An application for a change in long-term care insurance coverage from individual to joint coverage or from joint to individual coverage must be submitted in writing and is subject to verification by the administrator. Application for a change from individual coverage to joint coverage must be made within 120 days after the marriage of the benefit recipient. A change in coverage based on an application that is postmarked or received on or before the 15th day of a month will be effective on the first day of the next calendar month. A change in coverage based on an application that is postmarked or received after the 15th day of a month will be effective no later than the first day of the second month after the date of postmark or receipt of the application. Retroactive adjustments of premiums will be made if necessary.

History: Eff. 11/12/86, Register 100; am 5/31/87, Register 102; am 1/29/89, Register 109; am 5/11/90, Register 114; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.080. DISCONTINUATION OF LONG-TERM CARE INSURANCE COVERAGE

(a) A benefit recipient may discontinue participation in the long-term care insurance plan at any time by submitting a signed, written request to the administrator. If the request is received or postmarked on or before the 15th day of a month, the administrator will stop premium payments in that month. If the request is received or postmarked after the 15th day of a month, premiums will be stopped no later than the month following the date of receipt or postmark. Coverage ends on the last day of the month after the month in which the last premium is deducted.

(b) A person who is paying premiums directly to the insurance carrier may discontinue participation in the long-term care insurance plan at any time by submitting a signed, written request to the insurance carrier. Coverage ends on the last day of the month for which the last premium was paid.

(c) A person who has elected continued coverage and who then discontinues coverage may not reapply for the coverage.

History: Eff. 11/12/86, Register 100; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.090. CHANGE BY THE ADMINISTRATOR IN COVERAGE AND PREMIUMS

If necessary to maintain the financial integrity of the plan, the administrator may change the premiums for all plan participants and may change the terms of coverage for plan participants who are not receiving long-term care insurance benefits.

History: Eff. 11/12/86, Register 100

Authority: AS 39.30.090(a)

2 AAC 39.095. POSTMARK

If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the division.

History: Eff. 5/11/90, Register 114

Authority: AS 39.30.090(a)

2 AAC 39.100. DEFINITIONS FOR 2 AAC 39.010 - 2 AAC 39.100

In 2 AAC 39.010 - 2 AAC 39.100, unless the context requires otherwise,

(1) "administrator" means the director of the division of retirement and benefits in the department of administration;

(2) "benefit recipient" means a person who is receiving a continuing monthly benefit from the public employees', teachers', judicial, or elected public officers retirement systems;

(3) "pre-existing condition" means a medical condition that has been diagnosed or treated within the 90 days before the effective date of coverage;

(4) "postmark" means the official cancellation stamp, used by the United States Post Office, that records the date and place of mailing;

(5) "disability benefit" means a continuing monthly benefit paid under AS 14.25.130, AS 39.35.400, AS 39.35.410, AS 22.25.101(b), or former AS 39.37.030;

(6) "survivor benefit" means a continuing monthly benefit paid to a spouse or dependent child under AS 14.25.155, 14.25.157, 14.25.162, 14.25.164, 14.25.167, AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, AS 22.25.030, or former AS 39.37.060.

History: Eff. 11/12/86, Register 100; am 5/31/87, Register 102; am 5/11/90, Register 114; am 2/1/93, Register 125

Authority: AS 39.30.090(a)

ARTICLE 2
DENTAL-VISION-AUDIO INSURANCE

Section

210. Eligibility and coverage.
220. Application for dental-vision-audio insurance.
230. Date of application.
240. Premium payments.
250. Effective date of dental-vision-audio insurance coverage.
260. Changes in coverage.
265. Open enrollment period.
270. Discontinuation of dental-vision-audio insurance coverage.
280. Change by the administrator in coverage and premiums.
285. Postmark.
290. Definitions for 2 AAC 39.210 - 2 AAC 39.290.

Editor's note: Regulations in this article, showing an effective date of 7/1/82, were adopted in 1982 but were not printed in the Alaska Administrative Code until their amendment in 1987.

2 AAC 39.210. ELIGIBILITY AND COVERAGE

A benefit recipient may elect to obtain dental-vision-audio insurance on (1) an individual, (2) an individual plus spouse, (3) an individual plus children, or (4) a family basis by applying in accordance with 2 AAC 39.220. Individual dental-vision-audio insurance covers the benefit recipient only. Individual plus spouse dental-vision-audio insurance covers the benefit recipient and spouse. Individual plus children dental-vision-audio insurance covers the benefit recipient and all eligible dependent children. Family dental-vision-audio insurance covers the benefit recipient, the benefit recipient's spouse, and all eligible dependent children.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 1/29/89, Register 109; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.220. APPLICATION FOR DENTAL-VISION-AUDIO INSURANCE

(a) A benefit recipient who elects dental-vision-audio insurance shall apply for that insurance on a form provided by the administrator. Except as otherwise provided in this section, application for that insurance must be made before the effective date of retirement.

(b) A person applying for a survivor benefit and electing dental-vision-audio insurance shall submit an application for that insurance when the person applies for the survivor benefit.

(c) A person applying for a disability benefit and electing dental-vision-audio insurance shall submit an application for that insurance within 60 days of the person's approval for the disability benefit.

(d) A new law benefit recipient who elects major medical insurance under AS 14.25.168(d) or AS 39.35.535(c) is eligible to apply for dental-vision-audio insurance under (a) - (c) of this section, or during an open enrollment period under 2 AAC 39.265.

(e) Failure to make timely application as outlined in (a) - (d) of this section will result in the loss of all rights to apply for or obtain dental-vision-audio insurance under this chapter. The administrator may waive this requirement if extraordinary circumstances are demonstrated to the satisfaction of the administrator. Need, or the awareness of need, for dental-vision-audio insurance arising after the application period has ended is not an extraordinary circumstance.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.230. DATE OF APPLICATION

The date of postmark of the application or, if the application does not bear a dated postmark, the date of receipt of the application by the administrator, is the date of application for dental-vision-audio insurance coverage.

History: Eff. 7/1/82; am 5/31/87, Register 102

Authority: AS 39.30.090(a)

2 AAC 39.240. PREMIUM PAYMENTS

(a) A benefit recipient who elects dental-vision-audio insurance coverage must pay for that coverage by paying the premium established by the administrator. Premium payments are deducted from the monthly benefit warrant unless the benefit is insufficient to permit the deduction of the full monthly premium. If at any time the benefit amount is insufficient to cover the full monthly premium, the administrator will notify the benefit recipient, and all premium payments due after the notice must be made by the benefit recipient directly to the insurance carrier. Retroactive premiums, to the date coverage would have lapsed due to an insufficient benefit warrant, must be paid directly to the insurance carrier by the benefit recipient.

(b) A benefit recipient who pays a premium directly to the insurance carrier forfeits the right to participate in the plan if

(1) a premium payment is delinquent by more than 60 days; or

(2) premium payments are delinquent twice in any one calendar year by more than 31 days.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 1/29/89, Register 109

Authority: AS 39.30.090(a)

2 AAC 39.250. EFFECTIVE DATE OF DENTAL-VISION-AUDIO INSURANCE COVERAGE

(a) Except as provided in (b) and (c) of this section, dental-vision-audio insurance coverage for a benefit recipient begins on the date that continuing monthly benefits begin.

(b) Dental-vision-audio coverage for a benefit recipient receiving a disability benefit is effective on the first day of the calendar month after the month in which the premium is first deducted.

(c) Dental-vision-audio coverage for a new law benefit recipient, who makes an election of major medical and dental-vision-audio insurance during an open enrollment period, is effective on January 1 of the year following the open enrollment period.

(d) Retroactive premiums will be deducted as necessary.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.260. CHANGES IN COVERAGE

(a) A benefit recipient may discontinue dental-vision-audio insurance coverage for a recipient's covered dependent at any time. Once coverage has been discontinued it may be reelected only in accordance with (b) or (d) of this section.

(b) A benefit recipient may add coverage for the recipient's eligible dependents only when a change has occurred in the recipient's family structure. A change in family structure occurs at the marriage of a recipient or at the birth or adoption of a first child. Application for the additional coverage must be made within 120 days after the change in the recipient's family structure occurs.

(c) An application for a change in coverage must be submitted in writing and is subject to verification by the administrator. A change in coverage based on an application that is postmarked or received on or before the 15th of a month, will be effective on the first day of the next calendar month. A change in coverage based on an application that is postmarked or received after the

15th of a month, will be effective no later than the first day of the second month after the date of postmark or receipt of the application. Retroactive adjustments of premiums will be made if necessary.

(d) A new law benefit recipient who elects major medical insurance coverage under AS 14.25.168(d) or AS 39.35.535(c) may add dependent children or spouse coverage during an open enrollment period under 2 AAC 39.265.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 8/5/88, Register 107; am 1/29/89, Register 109; am 5/11/90, Register 114; am 2/1/93, Register 125

Authority: AS 39.30.090(a)

2 AAC 39.265. OPEN ENROLLMENT PERIOD

An open enrollment period will be held once a year during the months of October and November for new law benefit recipients who elect major medical insurance coverage under AS 14.25.168(d) or AS 39.35.535(c). Only during this open enrollment period may a new law benefit recipient add or change dental-vision-audio insurance coverage and only if the recipient selects the same or greater level of major medical insurance coverage under 2 AAC 39.300.

History: Eff. 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.270. DISCONTINUATION OF DENTAL-VISION-AUDIO INSURANCE COVERAGE

(a) A benefit recipient may discontinue participation in the dental-vision-audio insurance plan at any time by submitting a signed, written request to the administrator. If the request is received or postmarked on or before the 15th day of the month, the administrator will stop premium payments in that month. If the request is received or postmarked after the 15th day of a month, premiums will be stopped no later than the month following the date of receipt or postmark. Coverage ends on the last date of the month after the month in which the last premium is deducted.

(b) A participant who is paying premiums directly to the insurance carrier may discontinue participation in the dental-vision-audio insurance plan at any time by submitting a signed, written request to the insurance carrier. Coverage ends on the last day of the month for which the last premium was paid.

(c) Once dental-vision-audio insurance coverage ends under this section it may not be reinstated except as provided in 2 AAC 39.265.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 2/1/93, Register 125

Authority: AS 39.30.090

2 AAC 39.280. CHANGE BY THE ADMINISTRATOR IN COVERAGE AND PREMIUMS

When necessary to maintain the financial integrity of the plan, the administrator may change the premiums and the terms of coverage.

History: Eff. 7/1/82; am 5/31/87, Register 102

Authority: AS 39.30.090(a)

2 AAC 39.285. POSTMARK

If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the division.

History: Eff. 5/11/90, Register 114

Authority: AS 39.30.090(a)

2 AAC 39.290. DEFINITIONS FOR 2 AAC 39.210 - 2 AAC 39.290

In 2 AAC 39.210 - 2 AAC 39.290, unless the context otherwise requires

(1) "administrator" means the director of the division of retirement and benefits of the department of administration;

(2) "benefit recipient" means a person who is receiving a continuing monthly benefit from the public employees', teachers', judicial, or elected public officers retirement systems;

(3) "postmark" means the official cancellation stamp used by the United States Post Office, that records the date and place of mailing.

(4) "disability benefit" means a continuing monthly benefit paid under AS 14.25.130, AS 39.35.400, 39.35.410, AS 22.25.010(b), or former AS 39.37.030;

(5) "new law benefit recipient" means a person under the age of 65 who is receiving or is qualified to receive a

(A) continuing monthly benefit under the Public Employees' Retirement System and who was first hired after June 30, 1986;

(B) continuing monthly benefit under the Teachers' Retirement System and who was first hired after June 30, 1990; or

(C) survivor benefit as the survivor of a person described in (A) or (B) of this paragraph;

(6) "survivor benefit" means a continuing monthly benefit paid to a spouse or dependent child under AS 14.25.155, 14.25.157, 14.25.162, 14.25.164, 14.25.167, AS 22.25.030, AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, or former AS 39.37.060.

History: Eff. 7/1/82; am 5/31/87, Register 102; am 5/11/90, Register 114; am 2/1/93, Register 125

Authority: AS 39.30.090

ARTICLE 3
MAJOR MEDICAL INSURANCE

Section

300. Eligibility and coverage.
310. Application for major medical insurance.
320. Date of application.
330. Premium payments.
340. Effective date of major medical insurance coverage.
350. Changes in major medical insurance coverage.
360. Open enrollment period.
370. Pre-existing condition limitation.
380. Discontinuation of major medical insurance coverage.
390. Change by the administrator in major medical insurance coverage and premiums.
399. Definitions for 2 AAC 39.300 - 2 AAC 39.399.

2 AAC 39.300. ELIGIBILITY AND COVERAGE

(a) A new law benefit recipient who elects to purchase major medical insurance under AS 14.25.168(d) or AS 39.35.535(c) may purchase that insurance on (1) an individual, (2) an individual plus spouse, (3) an individual plus children, or (4) a family basis, by applying for coverage in accordance with 2 AAC 39.310.

(b) An alternate payee who elects major medical insurance under AS 14.25.168(c), AS 22.25.090(d), or AS 39.35.535(d) may purchase that insurance on an individual or an individual plus children basis.

(c) Individual major medical insurance covers the benefit recipient or alternate payee only. Individual plus spouse major medical insurance covers the benefit recipient and spouse. Individual plus children major medical insurance covers the benefit recipient or alternate payee, and all eligible dependent children. Family major medical insurance covers the benefit recipient, the benefit recipient's spouse, and all eligible dependent children.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090
AS 39.30.090 AS 39.35.535

2 AAC 39.310. APPLICATION FOR MAJOR MEDICAL INSURANCE

(a) A new law benefit recipient who elects major medical insurance must apply on a form provided by the administrator before the recipient's retirement date. A new law benefit recipient applying for a survivor benefit and electing major medical insurance must submit an application for that insurance when applying for the survivor benefit. Failure of a new law benefit recipient to make timely application under this subsection will result in the loss of all rights to apply for or obtain major medical insurance under this chapter.

(b) An alternate payee who elects major medical insurance must apply on a form provided by the administrator within 60 days after the first monthly benefit paid under a qualified domestic relations order is mailed or otherwise delivered to the alternate payee. Failure of an alternate payee to make timely application under this section will result in the loss of all rights to apply for or obtain major medical insurance under this chapter.

(c) The administrator may waive the application requirements of this section if extraordinary circumstances are demonstrated to the satisfaction of the administrator. Need, or the awareness of need, for major medical insurance arising after the application period has ended is not an extraordinary circumstance.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

2 AAC 39.320. DATE OF APPLICATION

The date of application for major medical insurance is the date of receipt by the administrator or, if the application was mailed, the date of postmark. If a postmark is illegible or undated, the postmark day is rebuttably presumed to be five working days before receipt by the administrator or, if the application is for coverage for an alternate payee, by the health carrier.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

2 AAC 39.330. PREMIUM PAYMENTS

(a) Premium payments for major medical insurance under AS 14.25.168(d) or AS 39.35.535(c) will be deducted from the monthly benefit warrant unless the benefit amount is insufficient to cover the new law benefit recipient's full required premium. If the benefit amount is insufficient to cover the full required premium, the administrator will notify the recipient that premium payments due after that notice must be made directly to the insurance carrier by the recipient.

(b) Premium payments made by an alternate payee must be made directly to the insurance carrier.

(c) A person who pays premiums directly to the insurance carrier loses the right to participate in the major medical insurance coverage if

(1) a premium payment is delinquent by more than 60 days; or

(2) premium payments are delinquent by more than 31 days twice in any one calendar year.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090
AS 39.30.090 AS 39.35.535

2 AAC 39.340. EFFECTIVE DATE OF MAJOR MEDICAL INSURANCE COVERAGE

(a) For a new law benefit recipient electing major medical insurance under AS 14.25.168(d) or AS 39.35.535(c), the effective date of that coverage is

(1) the date of appointment to a continuing monthly benefit if the election is made in accordance with 2 AAC 39.310(a);

(2) January 1 for a recipient electing coverage during an open enrollment period; or

(3) the first day of the month in which a recipient runs age 65, if coverage is not in effect before that time.

(b) For an alternate payee electing major medical insurance, coverage begins on the first day of the next calendar month following receipt of the

qualified domestic relations order by the administrator, if the order is received on or before the 15th day of the month. If the qualified domestic relations order is received after the 15th day of a month, coverage begins on the first day of the second month after receipt of the application.

(c) Retroactive premiums will be required as necessary.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090
AS 39.30.090 AS 39.35.535

2 AAC 39.350. CHANGES IN MAJOR MEDICAL INSURANCE COVERAGE

(a) A new law benefit recipient may discontinue major medical insurance coverage at any time for a recipient's covered dependent. Once coverage has been discontinued it may be reelected only in accordance with (c) of this section or during an open enrollment period.

(b) An alternate payee may discontinue dependent children coverage at any time. Once coverage has been discontinued, it cannot be reelected.

(c) A new law benefit recipient may add coverage for the recipient's eligible dependents only when a change has occurred in the recipient's family structure. A change in family structure occurs at the marriage of a recipient or at the birth or adoption of a first child. Application for the additional coverage must be made within 120 days after the change in the recipient's family structure occurs.

(d) An application for a change in coverage under this section must be submitted in writing and is subject to verification by the administrator. A change in coverage based on an application that is postmarked or received on or before the 15th day of a month will be effective on the first day of the next calendar month. A change in coverage based on an application that is postmarked or received after the 15th day of a month will be effective no later than the first day of the second month after the date of postmark or receipt of the application. Retroactive premiums will be deducted as necessary.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090
AS 39.30.090 AS 39.35.535

2 AAC 39.360. OPEN ENROLLMENT PERIOD

An open enrollment period will be held once a year during the months of October and November, during which only a new law benefit recipient may add or change coverage for the following year. This open enrollment period does not apply to an alternate payee.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

2 AAC 39.370. PRE-EXISTING CONDITION LIMITATION

(a) If major medical insurance coverage is elected during an open enrollment period, the new law benefit recipient and any eligible dependents are subject to a pre-existing condition limitation. Under this limitation, only the first $1,000 of covered medical expenses relating to a pre-existing condition will be paid by the insurer. After a person has been covered for 12 consecutive months, the limitation no longer applies.

(b) The pre-existing condition limitation does not apply to

(1) a new law benefit recipient who makes an election of major medical insurance under 2 AAC 39.310(a);

(2) a benefit recipient appointed to a disability benefit;

(3) a new law benefit recipient eligible due to reaching the age of 65; or

(4) an alternate payee.

(c) In this section "pre-existing condition" means a condition for which an individual has received diagnosis, tests, or treatment, including the taking of medication, during the three month period before the effective date of coverage.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

2 AAC 39.380. DISCONTINUATION OF MAJOR MEDICAL INSURANCE COVERAGE

(a) A new law benefit recipient who elects major medical insurance coverage under AS 14.25.168(d) or AS 39.35.535(c) may discontinue participation in that plan at any time by submitting a signed, written request to the administrator. If the request is received or postmarked on or before the 15th day of a month, the administrator will stop premium payments in that month. If the request is received or postmarked after the 15th day of a month, premium payments will be stopped no later than the month following the date of receipt or postmark. Coverage ends on the last day of the month after the month in which the last premium is deducted. A new law benefit recipient who discontinues coverage may not reapply for the coverage except as provided in 2 AAC 39.360.

(b) A person who is paying premiums for major medical insurance directly to the insurance carrier may discontinue participation in the major medical insurance plan at any time by submitting a signed, written request to the insurance carrier. Coverage ends on the last day of the month for which the last premium was paid.

(c) An alternate payee who discontinues major medical insurance coverage may not reapply for coverage.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

2 AAC 39.390. CHANGE BY THE ADMINISTRATOR IN MAJOR MEDICAL INSURANCE COVERAGE AND PREMIUMS

If necessary, the administrator may change the premiums and the terms of major medical insurance coverage.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

2 AAC 39.399. DEFINITIONS FOR 2 AAC 39.300 - 2 AAC 39.399

In 2 AAC 39.300 - 2 AAC 39.399, unless the context otherwise requires

(1) "administrator" means the director of the division of retirement and benefits of the Department of Administration;

(2) "alternate payee" means a person who is receiving a continuing monthly benefit under a qualified domestic relations order and who is eligible to elect major medical insurance coverage under AS 14.25.168(c), AS 22.25.090(d), or AS 39.35.535(d);

(3) "benefit recipient" means a person who is receiving a continuing monthly benefit from the Public Employees' Retirement System, Teachers' Retirement System, or Judicial Retirement System;

(4) "disability benefit" means a continuing monthly benefit paid under AS 14.25.130, AS 39.35.400, or 39.35.410;

(5) "new law benefit recipient" means a person under the age of 65 who is receiving or is qualified to receive a

(A) continuing monthly benefit under the Public Employees' Retirement System and who was first hired after June 30, 1986;

(B) continuing monthly benefit under the Teachers' Retirement System and who was first hired after June 30, 1990; or

(C) survivor benefit as the survivor of a person described in (A) or (B) of this paragraph;

(6) "survivor benefit" means a continuing monthly benefit paid to a spouse or dependent child under AS 14.25.155, 14.25.157, 14.25.162, 14.25.164, 14.25.167, AS 22.25.030, AS 39.35.420, 39.35.430, 39.35.440, 39.35.450, or former AS 39.37.060.

History: Eff. 2/1/93, Register 125

Authority: AS 14.25.168 AS 14.25.170 AS 22.25.027 AS 22.25.090 AS 39.30.090 AS 39.35.535

Article 4
Appeals From Denials of Medical Claims Under the Medical Coverage Provided by the Public Employees' Retirement System

Section

500. Applicability.
510. Exhaustion of remedies provided by claims payer required.
520. Appeal to plan administrator.
530. Appeal to the public employee's retirement board.
540. Emergency procedures.
590. Definitions.

2 AAC 39.500. APPLICABILITY

The provisions of 2 AAC 39.500 - 2 AAC 39.590 apply only so long as the plan administrator determines that a self-insured program of medical coverage is provided to enrollees. If a self-insured program ceases to exist, the plan administrator and the board will not hear appeals from denial of medical claims under AS 39.35.535 and AS 39.30.090.

History: Eff. 5/28/99, Register 151

Authority: AS 39.35.040 AS 39.35.535

2 AAC 39.510. EXHAUSTION OF REMEDIES PROVIDED BY CLAIMS PAYER REQUIRED

Before appealing to the plan administrator or to the board under 2 AAC 39.500 - 2 AAC 39.590, an enrollee must fully utilize any appeal procedures provided by a claims payer under a contract entered into under AS 39.30.090 - 39.30.095.

History: Eff. 5/28/99, Register 151

Authority: AS 39.35.040 AS 39.35.535

2 AAC 39.520. APPEAL TO PLAN ADMINISTRATOR

(a) An enrollee may appeal to the plan administrator from a final decision by the claims payer denying the enrollee's claim in whole or in part. A "final decision by the claims payer" is a decision that is not subject to any further review by the claims payer.

(b) The enrollee's appeal must be in writing, must explain the grounds for the appeal, and must be postmarked or received by the plan administrator within 45 days of the date that the enrollee received written notice of the final decision by the claims payer. The appellant may submit documentation in support of the appeal. The filing requirement of this subsection may be waived by the plan administrator if the enrollee can show that there are extraordinary circumstances resulting in the enrollee's inability to meet the filing requirement.

(c) The plan administrator shall send a final written decision on the appeal within 30 days of the date that the appeal was received, unless the administrator determines that additional information is necessary for resolution of the appeal. If the administrator determines that additional information is necessary from the appellant, the administrator shall allow the appellant an additional 30 days to submit the additional information. If the additional information is not furnished within 30 days, the administrator may deny the appeal. If the additional information is furnished in a timely manner, the administrator shall send a final written decision on the appeal within 30 days of the date that the additional information is received. If the plan administrator determines that a medical review by an independent review organization is necessary, the administrator shall make such request and notify the appellant within 15 days of the date that the appeal is received. After the plan administrator receives the report of the independent review, the administrator shall send a final written decision on the appeal within 30 days of the date that the independent review is received.

(d) In the final written decision, the plan administrator shall indicate which aspects of the decision are appealable to the board under 2 AAC 39.530, and which aspects are not so appealable.

History: Eff. 5/28/99, Register 151

Authority: AS 39.35.040 AS 39.35.535

2 AAC 39.530. APPEAL TO THE PUBLIC EMPLOYEE'S RETIREMENT BOARD

(a) Except as provided in (b) of this section, if an enrollee is not satisfied with the decision of the plan administrator under 2 AAC 39.520(c), the enrollee may appeal to the board within 30 days after receiving the plan administrator's decision. Unless the recipient requests a hearing directly before the board at the time of the appeal, the secretary of the board shall appoint a qualified hearing officer to hear the appeal.

(b) Determinations of the plan administrator respecting issues relating to coordination of benefits and the calculation of usual, customary and reasonable charges are not appealable to the board.

(c) Appeals to the board are subject to the procedures set out in 2 AAC 35.160, except that a party to the appeal may be represented by counsel only if the party gives written notice to the board secretary (for appeals before the full board) or the hearing officer (for appeals before a hearing officer), with service upon the other party, at least 30 days before the scheduled hearing date.

(d) If a hearing is held before a hearing officer, that officer shall issue a recommended decision within 21 days of the completion of the hearing or, if the record is held open following completion of the hearing for submission of argument or additional evidence, within 21 days of the date that the record is closed. The recommended decision shall be presented to the board at its next scheduled meeting. The board will, if requested, allow either party to speak to the proposed decision. The board may adopt the recommended decision in whole, may adopt the recommended decision with modifications, or may reject the recommended decision. The board will, in its discretion, decide the appeal upon the record including the transcript or tape recording of the earlier hearing, with or without taking additional evidence, or may refer the appeal to the same or another hearing officer to take additional evidence.

(e) If the appeal is referred to a hearing officer for the taking of additional evidence under (d) of this section, the hearing officer shall prepare a proposed decision based upon the additional evidence and the record of the earlier hearing.

(f) The board will, in its discretion, give the parties the opportunity to present argument, either oral or written, before the board.

(g) The time limits established in this section may be extended if it is determined that the limits impose undue restrictions on either party.

History: Eff. 5/28/99, Register 151

Authority: AS 39.35.040 AS 39.35.535

2 AAC 39.540. EMERGENCY PROCEDURES

(a) The plan administrator and the board may review claims of an emergency nature on an expedited basis, including use of shortened schedules, telephonic proceedings, and other procedures necessary to facilitate prompt determinations. "Emergency" as used in this section is limited to determinations where a patient's life or health would be threatened by delay, and substantial deference shall be afforded to a certificate by an enrollee's treating physician that such an emergency exists.

(b) Appeals granted under emergency procedures do not have any precedential value in future appeals due to the abbreviated nature of emergency procedures, and any medical treatment approved in an emergency procedure is not thereby approved for any claimant not specifically a party to the emergency procedure.

History: Eff. 5/28/99, Register 151

Authority: AS 39.35.040 AS 39.35.535

2 AAC 39.590. DEFINITIONS

In this chapter,

(1) "board" means the Public Employees' Retirement Board;

(2) "claim" means a claim for benefits under the major medical insurance coverage provided under AS 39.35.535;

(3) "claims payer" means the third-party administrator of benefit claims and payments under a contract entered into by the plan administrator under AS 39.30.090 - 39.30.095;

(4) "day" means a calendar day;

(5) “enrollee” means a person receiving medical coverage under any provision of AS 39.35, or the legal guardian of such a person;

(6) “independent review organization” means an impartial health organization selected by the plan administrator to provide medical reviews of cases at the request of the plan administrator;

(7) “plan administrator” means the administrator appointed by the commissioner of administration under AS 39.35.050;

(8) “qualified hearing officer” means a person experienced in rendering decisions as a neutral decision-maker, and may include an employee of the state or a state agency other than the division of retirement and benefits in the Department of Administration.

History: Eff. 5/28/99, Register 151

Authority: AS 39.35.040 AS 39.35.535

Article 5
Appeals From Denials of Medical Claims Under the Medical Coverage Provided by the Teachers' Retirement System

Section

600. Applicability.
610. Exhaustion of remedies provided by claims payer required.
620. Appeal to plan administrator.
630. Appeal to the teachers' retirement board.
640. Emergency procedures.
690. Definitions.

2 AAC 39.600. APPLICABILITY

The provisions of 2 AAC 39.600 - 2 AAC 39.690 apply only so long as the plan administrator determines that a self-insured program of medical coverage is provided to enrollees. If a self-insured program ceases to exist, the plan administrator and the board will not hear appeals from denials of medical claims under AS 14.25.168 and AS 39.30.090.

History: Eff. 5/27/99, Register 151

Authority: AS 14.25.035 AS 14.25.168

2 AAC 39.610. EXHAUSTION OF REMEDIES PROVIDED BY CLAIMS PAYER REQUIRED

Before appealing to the plan administrator or to the board under 2 AAC 39.600 - 2 AAC 39.690, an enrollee must fully utilize any appeal procedures provided by a claims payer under a contract entered into under AS 39.30.090 - 39.30.095.

History: Eff. 5/27/99, Register 151

Authority: AS 14.25.035 AS 14.25.168

2 AAC 39.620. APPEAL TO PLAN ADMINISTRATOR

(a) An enrollee may appeal to the plan administrator from a final decision by the claims payer denying the enrollee's claim in whole or in part. A "final decision by the claims payer" is a decision that is not subject to any further review by the claims payer.

(b) The enrollee's appeal must be in writing, must explain the grounds for the appeal, and must be postmarked or received by the plan administrator within 45 days of the date that the enrollee received written notice of the final decision by the claims payer. The appellant may submit documentation in support of the appeal. The filing requirement of this subsection may be waived by the plan administrator if the enrollee can show that there are extraordinary circumstances resulting in the enrollee's inability to meet the filing requirement.

(c) The plan administrator shall send a final written decision on the appeal within 30 days of the date that the appeal is received, unless the administrator determines that additional information is necessary for resolution of the appeal. If the administrator determines that additional information is necessary from the appellant, the administrator shall allow the appellant an additional 30 days to submit the additional information. If the additional information is not furnished within 30 days, the administrator may deny the appeal. If the additional information is furnished in a timely manner, the administrator shall send a final written decision on the appeal within 30 days of the date that the additional information is received. If the plan administrator determines that a medical review by an independent review organization is necessary, the administrator shall make such request and notify the appellant within 15 days of the date that the appeal is received. After the plan administrator receives the report of the independent review, the administrator shall send a final written decision on the appeal within 30 days of the date that the independent review is received.

(d) In the final written decision, the plan administrator shall indicate which aspects of the decision are appealable to the board under 2 AAC 39.630, and which aspects are not so appealable.

History: Eff. 5/27/99, Register 151

Authority: AS 14.25.035 AS 14.25.168

2 AAC 39.630. APPEAL TO THE TEACHERS' RETIREMENT BOARD

(a) Except as provided in (b) of this section, if an enrollee is not satisfied with the decision of the plan administrator under 2 AAC 39.620(c), the enrollee may appeal to the board within 30 days after receiving the plan administrator's decision. Unless the enrollee requests a hearing directly before the board at the time of the appeal, the secretary of the board shall appoint a qualified hearing officer to hear the appeal.

(b) Determinations of the plan administrator respecting issues relating to coordination of benefits and the calculation of usual, customary, and reasonable charges are not appealable to the board.

(c) Appeals to the board are subject to the procedures set out in 2 AAC 36.120, except that a party to the appeal may be represented by counsel only if the party gives written notice to the board secretary (for appeals before the full board) or the hearing officer (for appeals before a hearing officer), with service upon the other party, at least 30 days before the scheduled hearing date.

(d) If a hearing is held before a hearing officer, that officer shall issue a recommended decision within 21 days of the completion of the hearing or, if the record is held open following completion of the hearing for submission of argument or additional evidence, within 21 days of the date that the record is closed. The recommended decision shall be presented to the board at its next scheduled meeting. The board will, if requested, allow either party to speak to the proposed decision. The board may adopt the recommended decision in whole, may adopt the recommended decision with modifications, or may reject the recommended decision. The board will, in its discretion, decide the appeal upon the record including the transcript or tape recording of the earlier hearing, with or without taking additional evidence, or may refer the appeal to the same or another hearing officer to take additional evidence.

(e) If the appeal is referred to a hearing officer for the taking of additional evidence under (d) of this section, the hearing officer shall prepare a proposed decision based upon the additional evidence and the record of the earlier hearing.

(f) The board will, in its discretion, give the parties the opportunity to present argument, either oral or written, before the board.

(g) The time limits established in this section may be extended if it is determined that the limits impose undue restrictions on either party.

History: Eff. 5/27/99, Register 151

Authority: AS 14.25.035 AS 14.25.168

2 AAC 39.640. EMERGENCY PROCEDURES

(a) The plan administrator and the board may review claims of an emergency nature on an expedited basis, including use of shortened schedules, telephonic proceedings, and other procedures necessary to facilitate prompt determinations. "Emergency" as used in this section is limited to determinations where a patient's life or health would be threatened by delay, and substantial deference shall be afforded to a certificate by an enrollee's treating physician that such an emergency exists.

(b) Appeals granted under emergency procedures do not have any precedential value in future appeals due to the abbreviated nature of emergency procedures, and any medical treatment approved in an emergency procedure is not thereby approved for any claimant not specifically a party to emergency procedure.

History: Eff. 5/27/99, Register 151

Authority: AS 14.25.035 AS 14.25.168

2 AAC 39.690. DEFINITIONS

In this chapter,

(1) "board" means the Alaska Teachers' Retirement;

(2) "claim" means a claim for benefits under the major medical insurance coverage provided under AS 14.25.168;

(3) "claims payer" means the third-party administrator of benefit claims and payments under a contract entered into by the plan administrator under AS 39.30.090 - 39.30.095;

(4) "day" means a calendar day;

(5) “enrollee” means a person receiving medical coverage under any provision of AS 14.25, or the legal guardian of such a person;

(6) “independent review organization” means an impartial health organization selected by the plan administrator to provide medical reviews of cases at the request of the plan administrator;

(7) “plan administrator” means the administrator appointed by the commissioner of administration under AS 14.25.015;

(8) “qualified hearing officer” means a person experienced in rendering decisions as a neutral decision-maker, and may include an employee of the state or a state agency other than the division of retirement and benefits in the Department of Administration.

History: Eff. 5/27/99, Register 151

Authority: AS 14.25.035 AS 14.25.168

ARTICLE 6
MISCELLANEOUS PROVISIONS

Section

900. Exemption from group health and life insurance coverage for state bargaining units.
905. Eligible children.
910. Plan requirements.
915. Coordination of benefits.
920. Reduction of coverage for spouses and dependent children.
925. Definitions.

2 AAC 39.900. EXEMPTION FROM GROUP HEALTH AND LIFE INSURANCE COVERAGE FOR STATE BARGAINING UNITS

(a) A bargaining unit of the executive branch of the state may be exempted from the coverage of the group insurance policy or policies covering state employees, their spouses, and eligible dependents by entering into a collective bargaining agreement that meets the requirements of (b) and (c) of this section, and if the commissioner of administration approves the exemption.

(b) A collective bargaining agreement exempting a bargaining unit from the coverage of a group policy or policies as provided in (a) of this section must provide for the indemnification of the state for liability for any consequence, loss, injury, or claim arising from the exemption.

(c) An alternative insurance program implemented as a result of an exemption permitted under this section must comply with all applicable federal and state law and regulations, and, beginning July 1, 2004, meet the requirements of mandatory coverage set out in AS 39.30.090(a)(2), and the requirements of 2 AAC 39.910 and 2 AAC 39.915.

History: Eff. 6/9/89, Register 110; am 7/1/2003, Register 166

Authority: AS 39.30.090

2 AAC 39.905. ELIGIBLE CHILDREN

The term "dependent children," referring to children who are covered by a group insurance policy or policies covering eligible state employees, is defined by the terms of

(1) a collective bargaining agreement, with respect to employees covered by that agreement; the agreement may limit coverage for "dependent children" as to

(A) age; and

(B) living arrangements; and

(2) that policy or policies, with respect to employees not covered by a collective bargaining agreement and in the exempt or partially exempt service.

History: Eff. 12/30/89, Register 112; am 7/1/2003, Register 166

Authority: AS 39.30.090

2 AAC 39.910. PLAN REQUIREMENTS

(a) Beginning July 1, 2004, the commissioner of administration will approve an exemption under 2 AAC 39.900 only if the requirements of this section are met.

(b) All plans covering state employees to which the state contributes must follow the requirements of 2 AAC 39.915 regarding coordination of benefits.

(c) If an eligible state employee either is married to another eligible state employee or, together with another eligible state employee, has eligible dependent children, and if

(1) neither employee has an eligible dependent child, each employee may select employee-only coverage;

(2) either employee has an eligible dependent child and both employees are in the same state employee health plan, one employee must select family coverage; and

(3) either employee has an eligible dependent child and the employees are in different state employee health plans, the employee who has primary responsibility for the eligible dependent child under 2 AAC 39.915 must select family coverage.

History: Eff. 7/1/2003, Register 166

Authority: AS 39.30.090 AS 39.30.091

2 AAC 39.915. COORDINATION OF BENEFITS

(a) Beginning July 1, 2004, all plans covering state employees to which the state contributes must coordinate benefits as provided in this section.

(b) A plan without coordination provisions is always the primary plan.

(c) If all plans have a coordination provision, the primary plan must be determined in the following order:

(1) first, any active plan, whether it covers the employee or a dependent, is the primary plan over Medicare;

(2) second, the plan covering the employee directly, rather than as a dependent, is the primary plan;

(3) third, the plan covering the employee as an active employee, rather than as a laid-off or retired employee, is the primary plan;

(4) fourth, the plan that has covered the employee longer is the primary plan.

(d) If a child is covered under both parents' plans, the plan of the parent whose birthday falls earlier in the year is the primary plan for the child. If both parents have the same birthday, the plan that has covered a parent longer is the primary plan for the child.

(e) Notwithstanding (d) of this section, if an employee is separated or divorced, the plans pay in the following order:

(1) first, the plan of the parent whom a court of competent jurisdiction has established as financially responsible for the health care of a child who is otherwise eligible for coverage as a dependent child under the plan, if the administrator of the plan is notified of the order;

(2) second, the plan of the parent with custody of the child;

(3) third, the plan of the spouse of the parent with custody of the child;

(4) fourth, the plan of the parent who does not have custody of the child;

(5) fifth, the plan that has covered the child longer.

(f) An employee covered by a plan under this section must report the existence of any plan, or the benefits payable to the employee under any plan.

(g) If a plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered is considered a covered service and a benefit paid. The reasonable cash value of any services provided is considered an expense incurred by the employee or the employee's covered dependent, and the liability under the secondary plan is reduced accordingly.

History: Eff. 7/1/2003, Register 166

Authority: AS 39.30.090 AS 39.30.091

2 AAC 39.920. REDUCTION OF COVERAGE FOR SPOUSES AND DEPENDENT CHILDREN

(a) Coverage of the spouse of an eligible state employee will be reduced to 30 percent under the commissioner's health plan obtained under AS 39.30.090 - 39.30.095, if the spouse is a state employee participating in a plan exempted under 2 AAC 39.900 and

(1) waives coverage; or

(2) selects a health plan option that

(A) reduces coverage for the spouse below 70 percent; or

(B) provides only catastrophic coverage.

(b) The coverage of the dependent children of an eligible state employee will be reduced to 30 percent under the commissioner's health plan obtained under AS 39.30.090 - 39.30.095 if the

(1) employee is covered under a plan exempted under 2 AAC 39.900 and selects a health plan option that

(A) does not include coverage for dependent children;

(B) reduces coverage for dependent children below 70 percent; or

(C) provides only catastrophic coverage; and

(2) plan exempted under 2 AAC 39.900 would have been the primary plan under 2 AAC 39.915 for the dependent children, had the employee selected a health plan option other than one listed in (1)(A) - (1)(C) of this subsection.

History: Eff. 7/1/2003, Register 166

Authority: AS 39.30.090 AS 39.30.091

2 AAC 39.925. DEFINITIONS

In 2 AAC 39.900 - 2 AAC 39.925, unless the context requires otherwise,

(1) "catastrophic coverage" means a health care insurance plan that

(A) provides benefits for hospital and medical care with a lifetime maximum benefit per insured of at least $250,000; and

(B) has a deductible of at least $5,000;

(2) "employee-only coverage" means a health care insurance plan that covers the employee with at least 70 percent coinsurance and an out-of-pocket limit of no more than $3,500;

(3) "family coverage" means a health care insurance plan that covers all eligible members of the family with at least 70 percent coinsurance and out-of-pocket limits of no more than $3,500 per individual.

(4) "out-of-pocket limit" means the amount the member needs to pay in coinsurance before the plan pays covered medical expenses at 100 percent.

History: Eff. 7/1/2003, Register 166

Authority: AS 39.30.090 AS 39.30.091

NOTES:

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