

SPOUSAL COORDINATION OF BENEFITS POLICY

This policy became effective with the State of Delaware on January 1, 1993 for a spouse who is eligible for health care coverage through the spouse's own employer. Effective July 1, 2011, the Spousal Coordination of Benefits Policy became applicable to retiree health care coverage available to a spouse through the spouse's employer from whom the spouse is collecting a pension benefit. The intention of this policy is to ensure fiscal responsibility for the State of Delaware Group Health Insurance Plan fund where other employers are offering health care benefits to their employees and retirees.

This section describes how this policy effects payment of health care benefits for spouses. In order to certify that an Employee or Pensioner's spouse is or is not covered by a health care plan where the spouse works or where the spouse is collecting a pension benefit, all Employees or Pensioners who enroll a spouse **MUST** complete the Spousal Coordination of Benefits Form to accompany submission of the enrollment application, each year during open enrollment and anytime throughout the year if your spouse's employment or insurance status changes. The Spousal Coordination of Benefits Form is used to determine the spouse's eligibility for primary or secondary coverage in a State of Delaware Group Health Insurance plan.

IT IS THE EMPLOYEE OR PENSIONER'S RESPONSIBILITY TO UPDATE SPOUSAL INFORMATION WITHIN 30 DAYS AFTER THE SPOUSE LOSES OR GAINS COVERAGE AND EACH YEAR DURING OPEN ENROLLMENT.

How Payment of Benefits for Spouses is Affected

The following describes how the policy effects the benefits payment for spouses:

- If the Employee or Pensioner's spouse **is eligible for and not enrolled** in the health care plan offered by the spouse's own employer as an active employee or non-Medicare retiree, or is eligible for a cash benefit in lieu of a health plan and is not enrolled in a health plan, the State will pay 20% of allowable charges for services covered under the State's health care plan. See next section for enrollment requirements.
- If the Employee or Pensioner's spouse **is eligible for and enrolled** in the health care plan offered by the spouse's own employer as an active employee or non-Medicare retiree, or is eligible for a cash benefit in lieu of a health plan and is enrolled in a health plan, the State will pay for benefits provided under the State's health care plan after the spouse's health care plan pays. Payment from both plans combined will not exceed 100% of covered charges.
- If the Employee or Pensioner's spouse **is not eligible for and, therefore, is not enrolled** in the health care plan where the spouse works or is collecting a pension benefit, or any other health care plan, and is not receiving a cash benefit in lieu of health care from the employer or former employer, the State will pay for benefits as provided under the Employee or Pensioner's selected State health care plan.
- If the Pensioner's spouse is **eligible for and enrolled** in the health care plan offered by the spouse's employer or former employer as a Medicare eligible retiree, or is eligible for a cash benefit in lieu of a health care plan and enrolled in a health plan, the State will terminate coverage under the State's Medicare Advantage Plan. See next section for enrollment requirements.

How to Determine When Spouse is NOT required to Enroll in Their Own Employer's Active or Retiree Health Plan or Marketplace Coverage

Generally, the Employee or Pensioner's Spouse does not need to be enrolled in the health care plan where the spouse works or is collecting a pension benefit, or in an individual health plan through the Health Insurance Marketplace, if ONE of the following are applicable:

- The Employee or Pensioner's spouse does not work full-time or is not collecting a pension benefit; **or**
- The Employee or Pensioner's spouse is not eligible for benefits under the employer's health care plan because the spouse has not satisfied their employer's requirements as to the number of hours worked or has not satisfied their employer's requirements to be eligible for retiree health benefits; **or**
- The Employee or Pensioner's spouse's employer requires a contribution from the employee or former employee of more than 50% of the premium for the lowest active or retiree health benefit plan available through their own employer; **or**
- The Employee or Pensioner's spouse's employer does not offer active or retiree health coverage or a cash benefit in lieu of health coverage; **or**.
- The Pensioner's spouse does not work full-time **and** collects a pension benefit **and** is eligible for Medicare **and** the spouse's former employer does not offer a cash benefit in lieu of health coverage **and** only offers a Medicare Advantage plan.

How to Determine if a Spouse Works Full-time

Based on the State Group Health Insurance Plan Eligibility and Enrollment Rule regarding full-time status, *Full-time* means that an individual is regularly scheduled to work 30 or more hours per week or 130 or more hours per month.

However, if a spouse works less than the full-time hours required by the spouse's employer **and** such spouse receives less than the full-time contribution towards health care coverage, then the spouse is considered part-time even though the spouse works 30 or more hours per week required by the State Group Health Insurance Plan Eligibility and Enrollment Rules. Under these circumstances, the spouse is not required to obtain coverage through the spouse's employer.

For example:

A State employee's spouse works for an employer who requires 40 hours per week to be considered a full-time employee and employer contributes \$200 towards health care coverage for each full-time employee. The spouse only works 32 hours per week and the spouse's employer contributes \$160 towards the spouse's health care coverage. Since the spouse works less than the required number of hours and receives less than the full-time employer contribution, the spouse is considered part-time.

How to Determine the 50% Contribution Requirement

When determining contributions made by the spouse towards the spouse's health care coverage, all flexible benefit dollars, cash in lieu of health benefits, and/or credits available to the spouse are counted as contributions provided by the spouse's employer.

If the spouse's contribution is 50% or less for the lowest individual only plan available through the spouse's employer or former employer, it is necessary for the spouse to enroll in the spouse's own plan.

In the case of cash in lieu of benefits, if the spouse is receiving contributions that are equal to 50% or more of the premium of the State of Delaware Group Health Insurance Plan's lowest individual only plan for active and non-Medicare retirees, it is necessary for the spouse to enroll in the spouse's own plan. If the spouse is receiving contributions that are less than 50% of the premium of the State of Delaware Group Health Insurance Plan's lowest individual only plan for active and non-Medicare retirees, it is not necessary for the spouse to enroll in their own employer or former employer plan, or an individual health care plan.

What Happens When There is no Open Enrollment Period for the Spouse

Sometimes a spouse may be unable to enroll in the spouse's own employer or former employer health care plan because there will be no Open Enrollment Period consistent with a new enrollment. In such cases, health care benefits will be provided under the Employee or Pensioner's selected State plan until the next Open Enrollment Period for the spouse's employer or former employer plan.

If the spouse is not enrolled in the spouse's own employer or former employer health care plan by the effective date associated with the employer or former employer plan's next Open Enrollment period, the State Plan will pay benefits at 20% of the allowable charges for services covered under the Employee's selected State health care plan, until such time that the spouse obtains employer or former employer coverage.

What Happens When the Spouse's Employer Only Offers an HMO Plan

Some employers may only offer an HMO plan and the HMO plan service area is not directly accessible to the spouse. In such instances, it is not necessary that the spouse enroll under the spouse's own employer's plan. However, the State Plan will evaluate the spouse's enrollment under the employer's health care plan on an annual basis. If, in the judgment of the State, the spouse's employer offers only an HMO plan to avoid covering spouses of State of Delaware employees, then the State reserves the right to pay benefits at 20% of the allowable charge for services covered under the Employee's selected State health care plan.

What Happens When the Spouse is Considered a Partner, Owner, or Principal in a Law Firm, Accounting Firm or Any Other Type of Business, Company, Corporation or Firm

If the spouse is considered a partner, owner, or principal in a law firm, accounting firm or any other type of business, company, corporation or firm, the spousal determination will be based on the spouse's corporation's or company's offering of health insurance, or any type of credits, contributions or fringe benefits for **full-time employees and/or retirees that do not have ownership in the company** to use toward the cost of medical and prescription drug coverage or a cash amount in lieu of medical and prescription drug benefits.

What Happens When the Spouse's Employer Only Offers a High Deductible Health Plan with Health Savings Account

Some employers may only offer a High Deductible Health plan with Health Savings Account. In such instances, the spouse must still enroll in the employer's health care plan when required by the Spousal Coordination of Benefits Policy and should carefully review IRS Revenue-Ruling 2005-25 regarding enrollment in any other health plan and the impact on Health Savings Account contributions and taxation.

What Happens When a Spouse who is Retired, with or without Retiree Health Care from their Former Employer, Returns to Full-Time Employment

As active employee coverage is generally primary to retiree coverage, when a spouse who is retired from an employer, other than the State, returns to the workforce as a full-time employee, the spouse should obtain health care coverage through the full-time employer if the employee contributes 50% or less to the premium of the lowest employee only health care plan. Please note: the spouse must also maintain any available retiree health care coverage from their former employer for the period when the employee is retired and/or the spouse leaves full-time employment.

What Happens When the Pensioner's Spouse's Former Employer offers only a Medicare Advantage Plan for Medicare Eligible Retirees

If the Pensioner's spouse's former employer offers only a Medicare Advantage Plan for its Medicare retirees, the spouse must enroll in either that plan or the State of Delaware Group Health Insurance Medicare Advantage plan. Medicare Advantage plans do not coordinate with other Medicare Advantage plans. The Centers for Medicare and Medicaid Services (CMS) only allows enrollment in one qualified Medicare Advantage plan. If the former employer's retiree plan should change from a Medicare Advantage plan to a Medicare supplement plan, the Pensioner's spouse must enroll in the supplement coverage with their former employer if the spouse's contribution is 50% or less for the premium for the supplement plan. At that time, the pensioner should contact the Office of Pensions to disenroll the spouse in the State's Medicare Advantage plan.

What Happens When the Spouse is a Participating Group Employee

Participating Groups are organizations with employees who are not State of Delaware employees, but who are eligible to receive health care coverage under the State of Delaware Group Health Insurance Plan.

When a benefit eligible Participating Group employee is married to a State of Delaware employee enrolled in the State Plan, the spouse must elect coverage through the Participating Group employer. Neither member can be enrolled in more than one State Group Health Insurance plan. Both members must enroll in separate coverage with their own employer.

What Happens When the Spouse is a Participating Group Retiree

Employees who retire from a Participating Group may be eligible for a pension benefit under the State of Delaware County and Municipal Pension Plan. Pensioners receiving a pension benefit under the State County and Municipal Pension Plan are eligible for health care through the State of Delaware Group Health Insurance Plan.

When the spouse is retired from a Participating Group and receiving a pension benefit under the State County and Municipal Pension Plan and is married to a State of Delaware employee or pensioner enrolled in the State Group Health Insurance Plan, the spouse may be enrolled under the State of Delaware employee or pensioner's State Group Health Insurance plan if the spouse is receiving contributions that are less than 50% of the premium of the State of Delaware Group Health Insurance Plan's lowest individual only plan.

NOTE:

You may access <https://de.gov/statewidebenefits> for examples that will help you determine when a spouse should be enrolled in the spouse's own employer or former employer health care plan.

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