State Employee Benefits Committee
State of Delaware Group Health Insurance Plan

Spousal Coordination of Benefits Policy

(Effective January 1, 2027)

Table of Contents

1.0 Authority

1.1 Pursuant to the authority vested in the State Employee Benefits Committee (SEBC) by 29 **Del.C.** §5210(4) and 9602(b)(4), the SEBC adopts this Spousal Coordination of Benefits Policy for the State of Delaware Group Health Insurance Plan ("State Plan"). In the event of a conflict between this policy and the Delaware Code, the Delaware Code takes precedence over the policy.

1.1.1 The intention of this policy is to ensure fiscal responsibility for the State Plan fund where other employers are offering health care coverage to their employees and retirees, wherein those employees and retirees seek coverage under the State Plan.

1.2 The Spousal Coordination of Benefits 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 retirement benefit.

1.2.1 The policy applies to all eligible Spouse's enrolled under the State Plan, and is used to determine each such Spouse's eligibility for primary coverage under the State Plan.

1.2.2 For the purpose of this policy, the use of the term "Spouse" shall refer to the legal spouse or civil union partner of an Employee, Long Term Disability (LTD) beneficiary, COBRA beneficiary, or Pensioner (as defined by 19 **DE Admin. Code** 2001).

2.0 Administration

2.1 In order to certify that a Spouse is or is not eligible to be covered by the health care coverage where the Spouse works or where the Spouse is collecting a retirement benefit, all eligible Employees, Long Term Disability (LTD) beneficiaries, COBRA beneficiaries, or Pensioners who enroll a Spouse are required to complete the Spousal Coordination of Benefits Form:

2.1.1 Upon the initial submission of the enrollment application;
2.1.2 Each year during the annual open enrollment;
2.1.3 Within 30 days after a Spouse's employment or benefit status changes;
2.1.4 Upon request by the Statewide Benefits Office.

2.2 To ensure proper coordination of benefits with other health care coverage, the State of Delaware reserves the right to verify the accuracy of information by conducting audits, contacting the Employee, Pensioner, or Spouse and/or contacting the Spouse's employer or former employer.

2.2.1 In the event the State determines benefit payments were made based on false or incorrect information, the payment will be reversed, and payment will be the responsibility of the Employee or Pensioner as outlined in Subsection 6.1.2 of this regulation.
2.2.2 This information will be shared with the State of Delaware's Third Party Administrator(s) and Prescription Benefit Manager.

3.0 Coordination and Coverage

3.1 A Spouse may not be required to be enrolled in the health care coverage where the Spouse works or is collecting a retirement benefit, or in an individual health plan through the Health Insurance Marketplace, if:

3.1.1 The Spouse does not work full-time or is not collecting a retirement benefit;
3.1.2 The Spouse's employer, or former employer, does not offer active or retiree health care coverage including, but not limited to, a group health plan, a health reimbursement arrangement, or a cash amount in lieu of a health plan benefit;
3.1.3 The Spouse is not eligible for benefits under the employer's health care coverage 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;
3.1.4 The Spouse would contribute more than 50% of the total premium for the lowest group health plan available through the employer or former employer; or would receive a cash, credit, or contribution amount less than 50% of the premium of the State Plan's lowest individual only plan for active and non-Medicare retirees; or
3.1.5 The Pensioner's Spouse does not work full-time, and collects a retirement benefit, and is eligible for Medicare, and the Spouse's former employer does not offer a Medicare plan option or a cash benefit in lieu of health coverage.

4.0 Determining Full-Time Employment

4.1 19 **DE Admin. Code** 2001, subsection 1.2.1 defines a full-time employee as an individual who is regularly scheduled to work 30 or more hours per week or 130 or more hours per month.

4.1.1 If the Spouse works less than the full-time hours required by the employer, and as a result the 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 (as defined by 19 **DE Admin. Code** 2001, subsection 1.2.1). Under these circumstances, the Spouse is not required to obtain coverage through their employer.

4.2 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, then the 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 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.

4.3 If the Spouse's employer requires an initial waiting period and the Spouse is unable to immediately enroll in the employer's health care coverage because of this initial waiting period, then benefits may be provided under the Employee's or Pensioner's selected State Plan until the next enrollment opportunity for the Spouse's employer plan.

4.3.1 If the Spouse is not enrolled in the employer's health care coverage by the effective date associated with the employer's next enrollment opportunity, then the State reserves the right to pay benefits as outlined in Subsection 6.1.2 of this regulation.

4.3.2 If the Spouse waives enrollment during an initial waiting period, then the State reserves the right to pay benefits as outlined in Subsection 6.1.2 of this regulation.

4.3.3 If the Spouse waives enrollment during an annual open enrollment period, then the State reserves the right to pay benefits as outlined in Subsection 6.1.2 of this regulation.

4.4 If the Spouse retires from a non-State of Delaware employer, and returns to the workforce as a full-time employee, the Spouse must obtain health care coverage through the full-time employer as required under Section 5.0 of this regulation.

4.4.1 The Spouse must also maintain any available retiree health care coverage from their former employer for the period when the employee is retired or the Spouse leaves full-time employment.

4.5 If the Spouse is eligible for non-Medicare health care coverage at time of retirement, but waives enrollment at the time of retirement, then the State reserves the right to pay benefits as outlined in Subsection 6.1.2 of this regulation.

5.0 Determining Contribution Requirement

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

5.1.1 If a non-Medicare Spouse is eligible for health care coverage, and the Spouse's contribution is 50% or less of the total premium cost for the lowest individual only plan available through the Spouse's employer or former employer, then it is necessary for the Spouse to enroll in the Spouse's own plan.

5.1.1.1 If a Medicare eligible Spouse is eligible for health care coverage, and the Spouse's contribution is 50% or less of the total premium cost for the lowest individual only plan available through the Spouse's employer or former employer, then it is necessary for the Spouse to enroll in the Spouse's own plan.

5.1.2 If a non-Medicare Spouse is offered a Health Reimbursement Arrangement, and the Spouse is receiving a dollar amount to purchase an individual health insurance plan, and those contributions are equal to 50% or more of the premium for the State Plan's lowest individual only plan for active and non-Medicare retirees, then it is necessary for the Spouse to enroll in the Spouse's own plan.

5.1.2.1 If a Medicare eligible Spouse is offered a Health Reimbursement Arrangement, and the Spouse is receiving a dollar amount to purchase an individual health insurance plan, and those contributions are equal to 50% or more of the premium of the State Plan for Medicare eligible retirees, then it is necessary for the spouse to enroll in the Spouse's own plan.

5.1.3 If a non-Medicare eligible Spouse receives a credit, contribution or other fringe benefit, or some other cash amount, that is equal to 50% or more of the premium of the State Plan's lowest individual only plan for active and non-Medicare retirees, then it is necessary for the Spouse to enroll in the Spouse's own plan.

5.1.3.1 If a Medicare eligible Spouse receives a credit, contribution or other fringe benefit, or some other cash amount, that is equal to 50% or more of the premium of the State Plan for Medicare eligible retirees, then it is necessary for the Spouse to enroll in the Spouse's own plan.

~~5.1.4 If the Pensioner's spouse's former employer offers only a Medicare Advantage Plan for its Medicare retirees, the spouse may enroll in either that plan or the State of Delaware Medicare supplement plan.~~

~~5.1.4.1 Medicare Advantage plans do not coordinate with other Medicare supplement plans; therefore, the spouse cannot also be enrolled in the State's Medicare supplement plan.~~

~~5.1.4.2 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.~~

5.2 If the Spouse's employer or former employer offers only a Health Maintenance Organization (HMO) plan and the HMO's service area is not directly accessible to the Spouse, then it may not be necessary for the Spouse to enroll under their own plan.

5.2.1 Under this policy, "directly accessible" shall be interpreted as not within 50 miles of the Spouse's physical home address or physical place of employment.

5.2.2 The State will evaluate the Spouse's eligibility as outlined in Section 2.0 of this regulation. However, if it is the judgement of the State that the Spouse's employer offers only an HMO plan to avoid covering Spouses of a State of Delaware Employee or Pensioner, then the State reserves the right to pay benefits as outlined in Subsection 6.1.2 of this regulation.

5.3 If the Spouse's employer or former employer offers only a High-Deductible Health Plan (HDHP) with a Health Savings Account (HSA), then the Spouse must still enroll in the employer's health care coverage when required by this policy and should carefully review IRS Revenue-Ruling 2005-25 (Rev. Rul. 2005-25, 2005-1 C.B. 971 (IRS RRU 2005)) regarding enrollment in any other health plan and the impact on Health Savings Account contributions and taxation.

6.0 Payment of Benefits

6.1 The following describes how the policy affects the payment of benefits for a Spouse:

6.1.1 If the Employee or Pensioner does not complete the Spousal Coordination of Benefits Form or does not return additional documentation as required under this policy, then the State will pay 20% of allowable charges for services covered under the State's health care plan and services covered under the State's prescription plan will be charged the full amount at the pharmacy.

6.1.2 If the Spouse is eligible for but not enrolled in the health care coverage offered by the spouse's own employer or former 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, then the State will pay 20% of allowable charges for services covered under the State's health care plan and services covered under the State's prescription plan will be charged the full amount at the pharmacy.

6.1.3 If the Spouse is eligible for and enrolled in the health care coverage offered by the Spouse's own employer or former 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, then 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.

6.1.4 If the Spouse is not eligible for and, therefore, is not enrolled in the health care coverage offered by the Spouse's employer or former employer, or any other health care coverage, and is not receiving a cash benefit in lieu of health care from the employer or former employer, then the State will pay for benefits as provided under the Employee's or Pensioner's selected State health care plan.

7.0 Participating Groups

7.1 Participating Groups are organizations who are eligible to receive health care coverage under the State Plan pursuant to 29 **Del.C.** §5209.

7.1.1 When a benefit eligible Participating Group employee is married to a benefit eligible State of Delaware employee each employee must enroll in separate coverage with their own employer.

7.1.2 When a benefit eligible Participating Group retiree is married to a benefit eligible State of Delaware pensioner, each member must enroll in separate coverage with their own employer or former employer.

7.2 When a Spouse is receiving a pension benefit under the State County and Municipal (General) Plan as outlined under 29 **Del.C.** §55A and is married to a State of Delaware employee or pensioner enrolled in the State Plan, the Spouse may be enrolled under the State of Delaware employee's or pensioner's State Plan if the Spouse is receiving contributions that are less than 50% of the premium of the State Plan's lowest individual only plan.

7.2.1 When a Spouse is receiving a pension benefit under State County and Municipal (General) Plan as outlined under 29 **Del.C.** §55A, and is married to a State of Delaware employee or pensioner enrolled in the State Plan, and the Spouse is receiving contributions that are 50% or more of the premium of the State Plan's lowest individual only plan, each member must enroll in their own coverage.

7.3 When a Spouse is receiving a pension benefit under the State County and Municipal (Police/ Firefighters) Plan as outlined under 11 **Del.C.** §88**,** and is married to a State of Delaware employee or pensioner enrolled in the State Plan, the Spouse may be enrolled under the State of Delaware employee's or pensioner's State Plan if the Spouse is receiving contributions that are less than 50% of the premium of the State Plan's lowest individual only plan.

7.3.1 When a Spouse is receiving a pension benefit under the State County and Municipal (Police/Firefighters) Plan as outlined under 11 **Del.C.** §88**,** and is married to a State of Delaware employee or pensioner enrolled in the State Plan, and the Spouse is receiving contributions that are 50% or more of the premium of the State Plan's lowest individual only plan, each member must enroll in their own coverage.

8.0 Medicare Eligible Spouse of An Active State of Delaware Employee

8.1 When the Spouse is retired, and is eligible for Medicare due to age or disability, the State Plan can be primary while the State of Delaware employee is actively employed, as active plans are primary to Medicare and Medicare plans.

8.1.1 When the Employee retires, Medicare will become the Spouse's primary insurance and eligibility for enrollment in the State's Plan will be determined as outlined in Section 5.0 of this regulation.