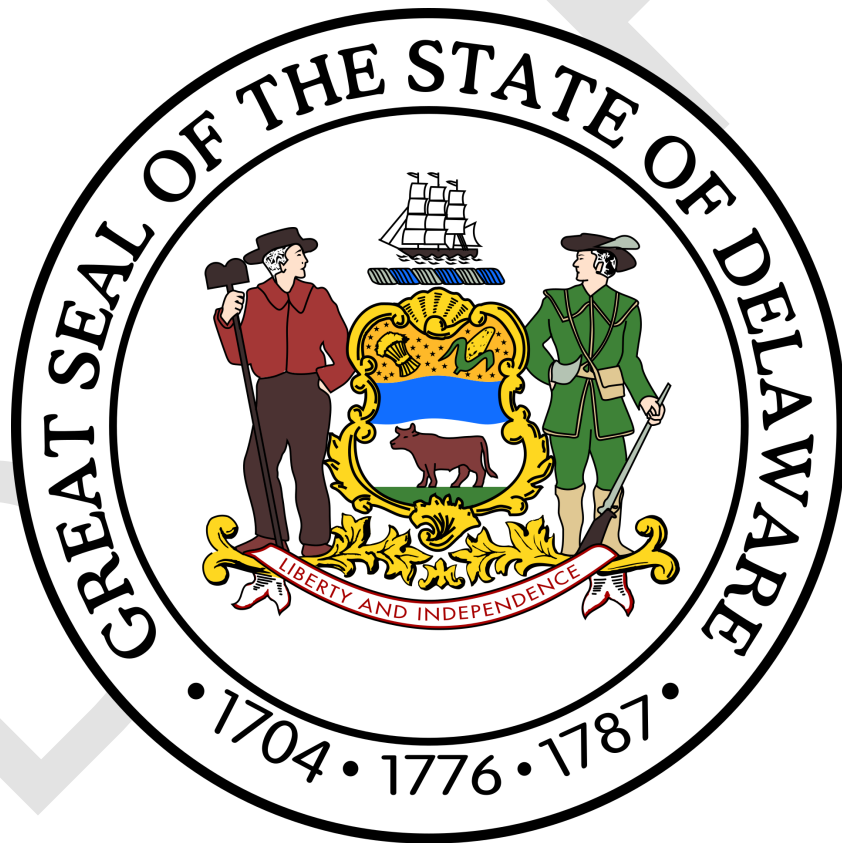


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Initial Report on Retiree  
Healthcare Benefits Advisory  
Subcommittee



May 1, 2023

## Report Background

Over the past several years, the State Employee Benefits Committee (SEBC) and the Retirement Benefits Study Committee (RBSC) held many public meetings to study current and future underfunded State retiree healthcare coverage and found under the current state pensioner healthcare plans, vesting schedules, and funding models, the OPEB trust fund is woefully underfunded and unsustainable.

On December 31, 2022, the previous five-year Special Medicfill Medicare Supplement contract expired. As required by Delaware Code, in early 2021, the SEBC competitively bid the administration on the State Group Health Insurance Plans offered to State employees and pensioners. After several public meetings, in early 2022, the SEBC awarded a contract to Highmark Blue Cross Blue Shield Delaware to provide Medicare retiree healthcare under a Medicare Advantage plan, beginning January 1, 2023. On June 28, 2022, the Governor signed the Fiscal Year 2023 state budget which passed the General Assembly. The budget included language that recategorized the State plan to Medicare Advantage and included one-time supplemental funding for the OPEB trust fund equal to one percent of the prior year's budget.

Following a legal challenge to the Medicare Advantage plan, on October 19, 2022, Superior Court Judge Calvin Scott issued an interim ruling and order to halt the implementation of the plan. Following the October 19, 2022 order from the Court, the State negotiated with Highmark Blue Cross Blue Shield Delaware to extend the previous Special Medicfill Medicare Supplement plan until January 1, 2024. Senate Bill 29, as amended by Senate Amendment 1, signed by the Governor, created the Retiree Healthcare Benefits Advisory Subcommittee (RHBAS), a subcommittee of the State Employee Benefits Committee (SEBC), to conduct public meetings and engage public comment about current and future State retiree healthcare benefits, while taking into consideration the previous work of the SEBC and the RBSC. In the course of its work, the RHBAS ("Subcommittee") is considering how reporting and analyses regarding Medicare Advantage plans nationwide relate to the terms of the previously proposed Medicare Advantage plan for State retirees. In addition, the Subcommittee is evaluating options for continuing to provide strong State retiree healthcare benefits in a fiscally sustainable way, including options to maintain their current coverage similar to other states that offer retirees a choice to buy into a Medicare Supplement plan. The Subcommittee is exploring reports and analyses regarding Medicare Advantage plans nationwide related to the terms of the previously proposed Medicare Advantage plan for State retirees.

Senate Bill 29 requires that, by May 1, 2023, the Subcommittee issue findings and recommendations to the Governor and the General Assembly as they relate to the Fiscal Year 2024 State budget. Pursuant to the critical need exception at 29 *Del. C.* § 6907, the SEBC voted at its April 24, 2023 meeting to further extend the expired Special Medicfill Medicare Supplement contract for an additional 6 months through June 30, 2024, which allows the Subcommittee additional time to evaluate options to recommend to the SEBC effective July 1, 2024 for pensioner healthcare. The Subcommittee submits this initial report as a status update to the Governor and the General Assembly on the

work that has been done to date and a timeline for completion and subsequent report with recommendations.

## Subcommittee Membership

Lieutenant Governor Bethany Hall-Long, Chair  
Senator Bryan Townsend, Co-Vice Chair, appointed by the President Pro Tempore  
Representative Paul Baumbach, Co-Vice Chair, appointed by the Speaker of the House  
Cerron Cade, Director, Office of Management and Budget, State of Delaware  
Secretary Claire DeMatteis, Department of Human Resources, State of Delaware  
Commissioner Trinidad Navarro, Department of Insurance, State of Delaware  
Secretary Richard Geisenberger, Department of Finance, State of Delaware  
Representative Michael Ramone, appointed by the Speaker of the House  
Senator Bryan Pettyjohn, appointed by the President Pro Tempore  
Wayne Emsley, State Retiree, New Castle County, appointed by the Governor  
David Craik, State Retiree, Kent County, appointed by the Governor  
Denise Allen, State Retiree, Sussex County, appointed by the Governor  
Jeff Tashner, Executive Director, Delaware State Education Association,  
appointed by the Governor  
Michael Begatto, Executive Director, Delaware Public Employees Council 81,  
appointed by the Speaker of the House  
William Oberle, Legislative Agent of Delaware State Troopers Association,  
appointed by the President Pro Tempore

## Summary of Subcommittee Activity

### Overview of Meetings and Content Reviewed

The Subcommittee has met seven times during the months of March and April of 2023 and reviewed select material presented to the RBSC and SEBC in the past, information on other state Medicare coverage, individual marketplace and Medicare plans, OPEB options, and actuarial and financial data. Materials were prepared by staff and the State's consultants including benefits consultant Willis Towers Watson and pension and OPEB plan actuary Cheiron. The materials reviewed by the committee and the meeting minutes are available in full at: [DHR – Division of Statewide Benefits \(delaware.gov\)](https://delaware.gov)

The Subcommittee's tasks are listed below with a summary of activities that have been conducted up until the time of this report.

***Task 1: Conduct public meetings and receive public comment about current and future State retiree healthcare benefits, including the previously proposed Medicare Advantage Plan for State retirees, while taking into consideration the previous work of the State Employee Benefits Committee and the Retirement Benefit Study Committee.***

The Subcommittee provided time at the end of every meeting for public input and dedicated one full meeting and half of another meeting for public comment. The Subcommittee also provided an opportunity for the group RISE Delaware to conduct a 30-minute presentation during the March 22, 2023 meeting.

Public comments generally expressed dissatisfaction with the preauthorization process for non-emergency medical care required with Medicare Advantage, as well as in-network and out-of-network issues. Commenters noted that major healthcare institutions such as Mayo Clinic, Johns Hopkins and Sloan-Kettering do not participate in Medicare Advantage. Retirees expressed a desire to continue with the existing Special Medicfill plan. Additional comments were made regarding the Group Health Insurance Plan (GHIP) rate setting and budget process and publicly available financial reporting. Concerns were also raised about empowering a private company to make decisions over Medicare services, and to complaints and legal challenges and investigatory revelations tied to jurisdictions which had changed to providing Medicare Advantage.

The Subcommittee reviewed the Fiscal Year 2024 GHIP cost projections and the proposed premium increases necessary to offset the forecasted health fund deficit. In addition, the Subcommittee reviewed the three classifications of considerations made by the RBSC:

- Increase state funding for the OPEB Trust Fund
- Address Medicare-eligible and pre-Medicare costs
- Review eligibility changes for future retirees

In addition, the Subcommittee studied prior OPEB funding and the 1% carveout initiated in Fiscal Year 2023 (\$48 million) and proposed for Fiscal Year 2024 (\$51 million)

***Task 2: In the course of its work, consider how reporting and analyses regarding Medicare Advantage Plans nationwide relate to the terms of the previously proposed Medicare Advantage Plan for State retirees.***

The Subcommittee reviewed the Medicare plan options by state. Findings included:

- Five states offer different plans for state versus school retirees.
- 19 states (38%) offer choice between Medicare Supplement and Medicare Advantage plans to some or all Medicare Eligible retirees
- 16 states (32%) provide Medicare Supplement only.
- 16 states (32%) provide Medicare Advantage only.
- 5 states (10%) provide a Health Reimbursement Account to purchase Medicare Supplement and/or Medicare Advantage.

The public also provided the Subcommittee an analysis of Medicare options by state along with a summary of key findings.

***Task 3: Study, review, and evaluate the fiscal and other implications of the extension of the existing Medicare Supplement plan to January 1, 2024.***

For Medicare retirees, approximately 80% of benefits are provided by the Medicare system, (at no state cost), and for which retirees paid throughout their working career with payroll deduction, and during retirement with Medicare premiums. The state currently offers a Medicfill benefit with addresses the last 20% of healthcare costs for its Medicare retirees, and the Subcommittee found that nearly all the Medicfill premium cost is borne by the state. According to the Office of Pensions, approximately \$6.7 million in premiums (for both Special Medicfill and prescription coverage) are paid annually by retirees to the State (in addition to the monthly premium paid to Medicare), with the remaining \$151 million paid by the State. The premiums are paid to the GHIP. The GHIP premium revenues are determined and funded in aggregate to offset total projected expenses for the GHIP. The Subcommittee reviewed the active employee, pre-65 retiree and Medicare retiree population's Fiscal Year 2024 projected premium contributions and expenses.

At the March 22, 2023 Subcommittee meeting, Claire DeMatteis, Secretary of the Department of Human Services, announced that the SEBC would vote at the April 24, 2023 SEBC meeting on the question of whether to continue the Special Medicfill Medicare Supplement plan for Medicare retirees until June 30, 2024.

***Task 4: Evaluate options for continuing to provide strong State retiree healthcare benefits in a fiscally sustainable way, including options to maintain their current coverage similar to residents in other states that offer a choice to buy into a Medicare Supplement plan.***

The Subcommittee has reviewed in detail Medicare Medigap (Medicare Supplement) and Medicare Advantage (MA) and Prescription Drug (MAPD) plans offered in the Individual Medicare marketplace including how the various Medigap and MA plans compare in plan design and premium to the current State Special Medicfill Medicare Supplement and proposed Highmark Blue Cross Blue Shield Delaware's Freedom Blue PPO Medicare Advantage plans. Illustrative comparison examples comparing individuals in the 10<sup>th</sup>, 50<sup>th</sup> and 90<sup>th</sup> percentiles were discussed. There was a high-level review of Part D prescription drug plans and discussion on how the Individual Medicare marketplace works and how an employer such as the State of Delaware can provide subsidized access to the Individual Medicare marketplace plans.

A preliminary discussion occurred at the April 17, 2023 Subcommittee meeting on funding, plan design and eligibility options, including those previously reviewed with the

RBSC. The Subcommittee had further discussion at the April 26, 2023 meeting on which options will be further evaluated and discussed during meetings that are expected to continue through August 2023.

**Task 5:** *By May 1, 2023, issue findings and recommendations to the Governor and the General Assembly.*

This report fulfills the requirement to provide a report by May 1, 2023.

## **SEBC Decision Regarding Medicare Health Plan for FY24**

At the April 24, 2023 SEBC meeting, the SEBC discussed and voted to extend the Special Medicfill Medicare Supplement plan through June 30, 2024. The decision was made as an emergency/critical need determination pursuant to 29 *Del. C.* § 6907(b). The following factors drove this decision:

1. The Superior Court's decision issued October 19, 2022 remains in full force and effect. Therefore, the SEBC must continue to extend the current Special Medicfill Medicare Supplement Plan per court order, pending a different decision on appeal.
2. The State must conduct Medicare Open Enrollment no later than October 2023 to allow Medicare retirees to select their coverage for the next calendar year.
3. To prepare the required written materials and notifications to State retirees regarding the October 2023 Medicare Open Enrollment, the SEBC needs to have the January 1, 2024 Medicare plan coverage plan in place by June 2023.
4. Recommendations from the RHBAS to the SEBC may require the release of a Request for Proposals (RFP). The RFP process can take from 6 to 12 months.

The estimated costs to the GHIP to continue the Special Medicfill Medicare Supplement plan through June 30, 2024 are estimated to be \$38 million to \$40 million.

## **Areas of Focus Requiring Further Consideration**

The RBSC previously evaluated options to address the State's OPEB liability, grouped into three categories: increased funding, eligibility changes, and plan design/benefit delivery. The RBSC concluded that combining options from each category will have the greatest impact on reducing the OPEB liability while potentially minimizing negative disruption to any one cohort.

The following provides a recap of the options evaluated by the RBSC across each of the three categories. These are not intended to be an exhaustive list of options, but rather a starting point for further exploration and consideration by the Subcommittee.

## Funding

- Additional funding of 1% of prior fiscal year of State budget
- Additional funding of 2% of prior fiscal year of State budget
- Additional funding of 3% of prior fiscal year of State budget

## Eligibility

- Reduce spousal State share subsidy to 50% for future retirees only
- Increase the graduated State share based on years of service: State share eligibility schedule for those hired since 1/1/2012 to 20 years = 50%, 25 years = 75% and 30 years = 100%
- Eliminate future vested retirees from eligibility for healthcare: anyone who terminates employment with State and is entitled to a future pension benefit will not have access to health coverage
- Increase minimum required age: future retirees only - State police age 55, all other age 60

## Plan Design/Benefit Delivery Changes

- Move to HRA/Individual Marketplace, with indexing of HRA: \$5,100 annual HRA for each eligible member and 2% annual indexing or consider alternative HRA amount and indexing options such as Rhode Island's approach which considers age and premium cost levels
- Move to Highmark Group Medicare Advantage (MA): Move to previously approved Highmark Group MA (\$0 premium medical); maintain current Employer Group Waiver Plan (EGWP) for Medicare Part D prescription coverage
- Explore an appropriate level of grandfathering for any recommended change

Additional options for future consideration, and not previously modeled by the RBSC (unless noted) include, but are not limited to:

- Move to HRA/Individual Marketplace, no indexing of HRA (previously modeled for RBSC)
- Grandfather/no change for current retirees, future retirees move to Highmark Group MA
- Grandfather/no change for current retirees, future retirees move to HRA/Individual Marketplace with or without indexing of HRA
- Maintain Medicfill Supplement with plan design changes (i.e., increased member out-of-pocket cost sharing)
- Maintain Medicfill Supplement with increased retiree contribution premium share
- Offer both Group MA (that closely mirrors Medicfill Supplement) and HRA/Individual Marketplace
- Rate groups on their own experience
- Target plan design and contribution changes for pre-65 retirees
- Change the premium structure for all retirees to increase the retirees share

- Add a new eligibility for the State share based on age for those hired after 1/1/14 (i.e. age 62 for the State employees plan and age 55 for the New State police plan, if you retire prior to that age you have to pay 100% of the cost)
- Contract with a vendor to provide customer service and information on the State retiree's options as the Statewide Benefits Office and Office of Pensions are not staffed to provide those services
- Codify the funding of 1% (or higher) of prior fiscal year State budget
- Change the premium structure for all State Medicare retirees to pay a minimum of 5% of the premium for the Medicare plans offered
- Recalculate the OPEB valuation using the discount rate of 7% to determine the shortfall remaining toward full funding

Additional analyses are required for each of these options to assess feasibility and potential OPEB liability impacts.

### **Expected Meeting Cadence and Timeframe for Post FY24 Recommendations**

At the April 26, 2023 Subcommittee meeting, the RBSC discussed and agreed to schedule bi-monthly meetings through August 2023 with the goal of issuing a report of recommendations to the Governor, General Assembly and SEBC no later than October 1, 2023.