ADOPTED REGULATION OF THE BOARD OF THE

PUBLIC EMPLOYEES' BENEFITS PROGRAM

LCB File No. R002-12

Effective June 29, 2012

EXPLANATION – Matter in ***italics*** is new; matter in brackets **[**~~omitted material~~**]** is material to be omitted.

AUTHORITY: §§1, 5-14 and 26-31, NRS 287.043; §§2-4 and 16-24, NRS 287.043 and 287.0479; §15, NRS 122A.100 and 287.043; §25, NRS 287.043 and 287.046.

A REGULATION relating to public employees; setting forth procedures for a group of officers and employees who left the Public Employees' Benefits Program to reenter the Program; revising provisions relating to opt-out plans; setting forth procedures for appealing an adverse determination; making various other changes relating to the Program; and providing other matters properly relating thereto.

Section 1. Chapter 287 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. ***A group that was approved to leave the Program pursuant to NRS 287.0479 may apply to reenter the Program by submitting to the Board a completed application on a form prescribed by the Board at least 90 days before the commencement of the plan year in which reentry is desired. The application must include, without limitation:***

1. A nonrefundable application fee of $250.00, plus $2.25 per participant in the opt-out plan.

2. A nonrefundable fee to be deposited in the Fund for the Public Employees' Benefits Program created pursuant to NRS 287.0435 for the purpose of funding the reserve maintained by the Program to stabilize rates. The Executive Officer or his or her designee shall calculate the amount of the nonrefundable fee by:

(a) Dividing the funded reserve maintained by the Program to stabilize rates on the date on which the application was submitted by the total number of participants in the Program on that date; and

(b) Multiplying the number determined pursuant to paragraph (a) by the total number of participants in the opt-out plan who will reenter the Program.

➥ *The fees or the first installment payment of the fees, if installment payments are authorized by the Program, must be paid by the effective date of reentry.*

3. The name, gender, age, residential zip code and current selection for coverage of:

(a) Each eligible participant in the opt-out plan, regardless of whether the eligible participant is enrolled in the opt-out plan; and

(b) Each participant who is currently enrolled in the opt-out plan and their respective number of enrolled dependents.

4. A statement that all terminal fees and costs associated with the opt-out plan will be paid by the participants in the opt-out plan who will reenter the Program.

Sec. 3. *1. The Program is not liable for any expense or claim of an officer or employee or retired officer or employee, or any dependent thereof, who is a member of a group that is covered by an opt-out plan if the expense or claim is incurred after the date on which the officer or employee or retired officer or employee becomes eligible for coverage by the opt-out plan.*

2. An opt-out plan is not liable for any expense or claim of an officer or employee or retired officer or employee, or any dependent thereof, who is eligible for coverage by the Program if the expense or claim is incurred after the date on which the officer or employee or retired officer or employee becomes eligible for coverage by the Program.

Sec. 4. *1. A retired officer or employee, and any dependent thereof, who is eligible for coverage under an opt-out plan at the time of his or her retirement may not elect to participate in the Program unless the group which participates in the opt-out plan applies to reenter the Program pursuant to section 2 of this regulation.*

2. When a participant in an opt-out plan becomes a survivor of a deceased officer or employee, the participant:

(a) May remain covered by the opt-out plan; and

(b) May not join the Program.

Sec. 5. *As used in NAC 287.610 to 287.690, inclusive, and sections 5 to 10, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 6, 7 and 8 of this regulation have the meanings ascribed to them in those sections.*

Sec. 6. *"Adverse determination" has the meaning ascribed to it in NRS 695G.012.*

Sec. 7. *"Appeals Manager" means the person designated by the Claims Administrator to review and decide appeals of the denials of claims pursuant to NAC 287.670.*

Sec. 8. *"Claims Administrator" means a third-party administrator with which the Program has entered into a contract pursuant to NRS 287.0434 to administer the claims of participants of the Program.*

Sec. 9. *Any Claims Administrator or vendor must be an independent contractor pursuant to NRS 333.700.*

Sec. 10. *1. In addition to the expedited procedure set forth in NRS 695G.271 and 695G.275, a participant may submit a request, verbally or in writing, to the Claims Administrator for an expedited review of an adverse determination under the circumstances set forth in NRS 695G.271 and 695G.275.*

2. Any information related to such a request for an expedited review may be transmitted between the participant and the Claims Administrator by telephone, facsimile or other expeditious method of communication.

3. The Claims Administrator shall notify the participant in writing of its determination on the request for an expedited review within 72 hours after the request was made to the Claims Administrator.

Sec. 11. NAC 287.005 is hereby amended to read as follows:

287.005 As used in NAC 287.005 to 287.690, inclusive, ***and sections 2 to 10, inclusive, of this regulation,*** unless the context otherwise requires, the words and terms defined in NAC 287.0056 to 287.145, inclusive, have the meanings ascribed to them in those sections.

Sec. 12. NAC 287.085 is hereby amended to read as follows:

287.085 "Open enrollment" means the event in which ~~[~~**.** ~~[~~1. Participants~~]~~ ***participants*** in the Program may change elections offered by the Program concerning coverage and dependents ~~[~~or, if eligible, join an opt-out plan.

2. Participants in an opt-out plan may join the Program or another opt-out plan for which they are eligible.~~]~~

Sec. 13. NAC 287.090 is hereby amended to read as follows:

287.090 "Opt-out plan" means an alternative plan to provide life, accident or health insurance, or any combination thereof, for a group which is approved by the Board ~~[~~and is secured from:

1. An insurer that is authorized by the Commissioner of Insurance to provide such insurance; or

~~2. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), that has been approved by the Board.]~~ ***pursuant to NRS 287.0479.***

Sec. 14. NAC 287.145 is hereby amended to read as follows:

287.145 "Vendor" means ~~[an independent contractor pursuant to NRS 333.700]~~ ***a person*** who provides products or services to the Program or its participants and dependents, including, but not limited to, an insurance broker, a consultant, ~~[a claims administrator,]~~ an insurer, a health maintenance organization, a physical or mental health care provider, a case management or utilization management company, a dental or vision care provider, a hospital, a medical facility, a certified public accountant, an actuary, a health educator, a pharmacy or pharmacy benefit manager ~~[,]~~ ***and*** a preferred provider organization ***.*** ~~[, a publisher and a court reporter.]~~ The term does not include an opt-out plan.

Sec. 15. NAC 287.312 is hereby amended to read as follows:

287.312 1. ~~[Except as otherwise provided in subsection 4, the following children of a participant or his or her spouse or domestic partner are eligible for coverage as a dependent if approved pursuant to NAC 287.313:~~

~~(a) Any child who is under the age of 19 years.~~

~~(b) Any child who is 19 years of age or older if:~~

~~(1) At the age of 19 years, the child is incapable of self-support because of a physical or mental disability;~~

~~(2) On the 19th birthday of the child, the child is covered by the Program or has received continuous coverage since the child was 18 years of age as a dependent under another group health plan or credible coverage; and~~

~~(3) Within 30 days after the 19th birthday of the child, if the child is covered by the Program on the 19th birthday of the child or, if the child is initially enrolled in the Program on his or her 19th birthday, within 30 days after the effective date of the child's coverage under the Program, the participant or his or her spouse or domestic partner provides to the Program:~~

~~(I) A written statement by a physician who provides care to the child that is prepared within 90 days before provision of the statement to the Program indicating that the child has a mental or physical impairment which causes the child to be incapable of self-sustaining employment and to depend on the participant or his or her spouse or domestic partner primarily for support; and~~

~~(II) Any other documentation required by the Program that demonstrates financial support of the child by the participant or his or her spouse or domestic partner.~~

~~(c) Any child who is 19 years of age or older but less than 24 years of age, if the child is enrolled in a program of secondary education or an independently accredited program of postsecondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school, on a full-time basis.~~

~~(d) Any child who is 24 years of age or older, if:~~

~~(1) The child was enrolled in a program of secondary education or an independently accredited program of postsecondary education, including, without limitation, a college, university, community or junior college, graduate school and accredited trade or business school, on a full-time basis between the child's 19th birthday and his or her 24th birthday;~~

~~(2) At the age of 24 years, the child is incapable of self-support because of a physical or mental disability if the disability occurred while the child was a full-time student; and~~

~~(3) The participant or his or her spouse or domestic partner provides supporting evidence to the Program within 30 days after the 24th birthday of the child which demonstrates that the child qualifies for coverage and insurance pursuant to this paragraph.~~

~~2.]~~ To determine whether the child of a participant or his or her spouse or domestic partner ***who is incapable of self-support because of a physical or mental disability*** continues to be eligible for coverage ~~[pursuant to paragraph (b) of subsection 1,]~~ ***by the Program,*** the Executive Officer or his or her designee ~~[may]~~ ***:***

(a) Shall require submission by a physician who provides care to the child of a written statement on a form prescribed by the Board indicating that the child has a mental or physical impairment which causes the child to be incapable of self-sustaining employment and to depend on the participant or his or her spouse or domestic partner primarily for support. The written statement required by this paragraph must be prepared by the physician within 90 days before the statement is provided to the Program.

(b) May require:

~~[(a)]~~ ***(1)*** Submission of periodic updates ~~[to the documentation provided]~~ ***regarding the physical or mental disability of the child*** by the participant or his or her spouse or domestic partner ~~[pursuant to subparagraph (3) of paragraph (b) of subsection 1; and]~~

~~[(b)]~~ ***;***

(2) Submission of the child to a mental or physical examination conducted by a physician selected by and at the expense of the Program ~~[.~~

~~3.]~~ ***; and***

(3) Any other documentation required by the Program that demonstrates financial support of the child by the participant or his or her spouse or domestic partner.

2. Children eligible for coverage as a dependent ~~[pursuant to this section]~~ may include biological children, adopted children, children placed in the residence of the participant for adoption, stepchildren and any other child who is related to the participant or his or her spouse or domestic partner if the participant or his or her spouse or domestic partner is legally responsible for the child and the child is financially dependent on the participant or his or her spouse or domestic partner for care and support.

~~[4. The following children]~~

3. A foster child of a participant or his or her spouse or domestic partner ~~[are]~~ ***is*** not eligible for coverage as a dependent **.** ~~[:~~

~~(a) A foster child.~~

~~(b) A child who is married.~~

~~(c) A child who is in a domestic partnership.]~~

Sec. 16. NAC 287.357 is hereby amended to read as follows:

287.357 An application to leave the Program must include, without limitation:

1. A copy of the plan of benefits to be offered under the proposed opt-out plan, including, without limitation, a description of:

(a) The benefits to be provided under the proposed opt-out plan;

(b) The manner for determining eligibility for benefits under the proposed opt-out plan; and

(c) The circumstances under which any participant in the proposed opt-out plan, including, without limitation, active and retired officers and employees, may lose coverage under the proposed opt-out plan.

2. A description of the manner in which initial eligibility for benefits under the proposed opt-out plan will be determined, including, without limitation, whether members of the group

will experience any gap in coverage during the period between when the group leaves the Program and coverage is available for the group under the proposed opt-out plan.

3. ***The proposed effective date of the departure of the group from the Program, which must coincide with the start date of a plan year.***

4. The name of the group.

5. A list of the proposed participants in the proposed opt-out plan, including, without limitation, the name, social security number and date of birth of each proposed participant.

~~[4.]~~ ***6.*** The federal tax identification number of the proposed opt-out plan.

~~[5. Audited financial statements of the proposed opt-out plan, if any, for the 2 years immediately preceding the date of application, which must reflect unqualified opinions by the persons who performed the audit of the financial statements concerning the financial soundness of the proposed opt-out plan.~~

~~6.]~~ ***7.*** A copy of the contract pursuant to which the members of the group will receive coverage from the proposed opt-out plan. The contract must include, without limitation, the amount of premiums or contributions that will be required to maintain coverage for the members of the group under the proposed opt-out plan.

~~[7.]~~ ***8.*** Evidence establishing that the proposed opt-out plan is or will be operated pursuant to such sound accounting and financial management practices as to ensure that the group will continue to receive adequate benefits. Such evidence ~~[may]~~ ***must*** include ~~[financial statements, annual audits]~~ ***, without limitation:***

(a) Financial statements;

(b) Audits of financial statements of the proposed opt-out plan, if any, for the 2 years immediately preceding the date of application, which must reflect unqualified opinions by the

persons who performed the audits of the financial statements concerning the financial soundness of the proposed opt-out plan; and ~~[any]~~

(c) Any other information requested by the Board or determined by the group to be relevant to the ~~[financial]~~ ***evaluation of the:***

(1) Financial management practices of the proposed opt-out plan ~~[.~~

~~8.]~~ ***; or***

(2) Financial soundness of the proposed opt-out plan.

9. A completed Business Associate Agreement that is consistent with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, ***as amended,*** and is in a form acceptable to the Board, or a certification that the opt-out plan is a covered entity under and complies with ~~[the]~~ ***all federal*** privacy regulations ***.*** ~~[of that federal Act.~~

~~9.]~~ ***10.*** If the proposed opt-out plan is secured from an insurer, a copy of the current certificate of authority issued by the Commissioner of Insurance to the insurer which indicates that the insurer is authorized to provide the coverage proposed to be offered under the proposed opt-out plan in this State.

~~[10.]~~ ***11.*** The name and contact information of a representative of the group who will be available to answer questions from the Board concerning the application.

Sec. 17. NAC 287.359 is hereby amended to read as follows:

287.359 1. To apply to leave the Program ***,*** ~~[in the next plan year,]~~ a group must submit an application to the Board on or ~~[after the first day of the first month of the current plan year but before:~~

~~(a) The]~~ ***before the*** first day of the ~~[fourth month of the current plan year ; or~~

~~(b) If the current plan year is less than a calendar year, the date set forth by the Board as the last day to submit an application to leave the Program in the next plan year.~~

~~➥ If an application is received at any other time during the current plan year, the Board will return the application to the applicant.~~ ~~]~~ ***tenth month before the proposed effective date of the departure of the group from the Program.***

2. If additional information is required to process any application, the Board will notify the representative of the group who is designated pursuant to NAC 287.357.

3. The Board will provide an opportunity for:

(a) A representative of the Program to present arguments for or against the approval of an application.

(b) The representative of the group who is designated pursuant to NAC 287.357 to present arguments that support the approval of an application.

4. The Board will ~~[grant]~~ ***approve*** or deny each application received pursuant to subsection 1 not later than ~~[:~~

~~(a) The]~~ ***the*** 15th day of the sixth month ~~[of the current plan year; or~~

~~(b) If the current plan year is less than a calendar year, 75 days after the date set forth by the Board as the last day to submit an application to leave the Program in the next plan year.]~~ ***before the proposed effective date of the departure of the group from the Program.***

5. The Board will notify each applicant of the date and time of the meeting during which the Board will render a decision on the application of the applicant.

Sec. 18. NAC 287.361 is hereby amended to read as follows:

287.361 1. In determining whether to ~~[grant]~~ ***approve*** or deny an application to leave the Program, the Board:

(a) Shall consider whether:

(1) The departure of the group from the Program would cause an increase of more than 5 percent in the costs of premiums or contributions for the remaining participants in the Program;

(2) The proposed opt-out plan is financially sound and operated pursuant to sound accounting and financial management practices; ~~[and]~~

(3) The proposed opt-out plan provides adequate benefits at the time of application that includes offering the same coverage to active officers and employees and retired officers and employees using rates based on the commingled experience of all active and retired participants ~~[.]~~ ***; and***

(4) The group applying to leave the Program, and members thereof, meet the requirements set forth in subsection 3 of NRS 287.0479.

(b) May consider:

(1) Whether the cumulative impact of a group leaving the Program on the costs of premiums or contributions for the remaining participants in the Program is so detrimental as to cause a significant negative impact on the Program;

(2) ~~[Whether the composition of the group indicates adverse selection that would constitute a significant negative impact on the Program;~~

~~(3)]~~ Whether the current financial condition of the Program is such that the departure of the group would constitute a significant negative impact on the Program;

~~[(4)]~~ ***(3)*** Whether the departure of the group is administratively feasible;

~~[(5)]~~ ***(4)*** Whether independent, actuarial or other reviews obtained by the Board indicate that the departure of the group will cause a significant negative impact on the Program; and

~~[(6)]~~ ***(5)*** Any other information that the Board deems relevant.

2. Findings by the Board concerning the considerations described in subsection 1 must be based exclusively on substantial evidence.

Sec. 19. NAC 287.363 is hereby amended to read as follows:

287.363 1. A decision of the Board to ~~[grant]~~ ***approve*** an application to leave the Program will be in writing and will include, without limitation, the effective date of departure of the group from the Program and the dates for completion of any administrative tasks necessary to effect the departure of the group.

2. If the Board ~~[grants]~~ ***approves*** the application of a group to leave the Program ~~[:]~~ ***, the approval will be conditioned upon completion of the following actions:***

(a) The group must submit to the Board a completed release and waiver of rights agreement, in a form acceptable to the Board, obtained from and signed by each member of the group ***.*** ~~[. Such an agreement must include, without limitation, a description of the circumstances, if any, under which a member of the group, including, without limitation, active and retired members, may return to the Program.]~~

(b) A contract, in a form acceptable to the Board, must be executed between the Program and the proposed opt-out plan of the group. The contract must ~~[:~~

~~(1) Set]~~ ***set*** forth the terms of coverage for the group, provisions for the payment of premiums or contributions of participants to the opt-out plan and such other details necessary to effect departure of the group from the Program.

~~[(2) Include, without limitation, provisions regarding the return to the Program of individual members of the group.]~~

3. ~~[The completed release and waiver of rights agreement must be submitted to the Board, and the contract between the Program and the proposed opt-out plan of the group that are~~

~~required pursuant to subsection 2 must be executed between the Program and the proposed opt-out plan of the group, on~~~~]~~ ***On*** or before ~~[:~~

~~(a) The]~~ ***the*** 25th day of the ~~[eighth]~~ ***fourth*** month ~~[of the plan year in which the application is approved; or~~

~~(b) If the current plan year is less than a calendar year, the date set forth by the Board.]~~

before the effective date of thedeparture of the group from the Program established pursuant to NAC 287.369:

(a) The completed release and waiver of rights agreement must be submitted to the Board; and

(b) The contract between the Program and the proposed opt-out plan of the group must be executed between the Program and the proposed opt-out plan of the group.

4. If a group whose application to leave the Program has been approved by the Board fails to comply with the requirements of this section or any provision of the decision of the Board to ~~[grant]~~ ***approve*** the application of the group, the Board may declare the contract between the Program and the opt-out plan of the group void.

Sec. 20. NAC 287.369 is hereby amended to read as follows:

287.369 1. The effective date of departure from the Program of a group whose application has been approved by the Board ***pursuant to NRS 287.0479*** is the first day of the plan year that is at least 120 days after the date on which the Board approves the application.

2. The Program shall provide coverage to participants in a group that has been approved by the Board to leave the Program until the effective date of departure of the group from the Program set forth in the decision of the Board ~~[granting]~~ ***approving*** the application of the group to leave the Program.

~~[3. At any time before the effective date of departure of a group from the Program, the group may request the Board to rescind its decision to grant the application of the group.]~~

Sec. 21. NAC 287.371 is hereby amended to read as follows:

287.371 1. If an officer or employee is eligible to join an opt-out plan at the ~~[time]~~ ***commencement*** of his or her employment, the officer or employee ~~[may elect]~~ ***must, upon commencing employment:***

(a) Elect to join the opt-out plan ***;*** or ~~[the Program upon commencing employment.]~~

(b) Decline coverage under the opt-out plan.

2. If an officer or employee ~~[:~~

~~(a) Was eligible to join an opt-out plan at the commencement of his or her employment but joined the Program; or~~

~~(b) Becomes]~~ ***becomes*** eligible to join an opt-out plan after the commencement of his or her employment,

~~[➥]~~ the officer or employee ~~[may]~~ ***must, at the time of his or her eligibility:***

(a) Elect to join the opt-out plan ~~[in lieu of the Program at an open enrollment.~~

~~3.]~~ ***; or***

(b) Decline coverage under the opt-out plan.

➥ If the officer or employee is a member of the Program at the time he or she becomes eligible to join the opt-out plan, the officer or employee shall terminate coverage by the Program.

3. Except as otherwise provided in subsection 4, if an officer or employee in an opt-out plan becomes ineligible to continue participation in the opt-out plan, the officer or employee must terminate coverage by the opt-out plan and:

(a) If the officer or employee is eligible to join a different opt-out plan:

(1) Elect to join the other opt-out plan, subject to the requirements for enrollment in the opt-out plan; or

(2) Decline coverage under the other opt-out plan.

(b) If the officer or employee is eligible to join the Program:

(1) Elect to join the Program, subject to the requirements for enrollment of the Program; or

(2) Decline coverage under the Program.

4. If an officer or employee in an opt-out plan becomes ineligible to continue participation in the opt-out plan because he or she is no longer employed by a participating public agency, the officer or employee may elect to continue coverage under the opt-out plan pursuant to the Public Health Service Act, 42 U.S.C. § 300bb-1 et seq. or the Consolidated Omnibus Budget Reconciliation Act, Public Law 99-272, as applicable.

5. It is the responsibility of an officer or employee ~~[that]~~ ***who*** is eligible to join an opt-out plan ***or who is ineligible to continue participation in the opt-out plan*** or the administrator of the opt-out plan to notify the Program of the eligibility ***or ineligibility, as applicable,*** of the officer or employee to ~~[join the]~~ ***participate in an*** opt-out plan. Failure to provide such notification to the Program may result in the ineligibility of the employee to ~~[select the]~~ ***participate in an*** opt-out plan ~~[upon commencement of his or her employment or at open enrollment.]~~ ***or the Program, as applicable. Such notification must be given to the Program within 60 days after the officer or employee has become:***

(a) Eligible to join an opt-out plan; or

(b) Ineligible to continue participation in an opt-out plan,

as applicable.

6. The Program shall not consider a decision by an officer or employee to join an opt-out plan to be a declination of coverage.

7. No lapse in coverage may occur to an officer or employee when he or she changes coverage pursuant to this section.

Sec. 22. NAC 287.373 is hereby amended to read as follows:

287.373 1. Within 15 calendar days after a change in the status of a participant in an opt-out plan that affects the rate of his or her premium or contribution, the opt-out plan shall notify the Program of that change in an electronic format acceptable to the Program.

2. If an officer or employee has declined participation in ~~[~~the Program and any~~]~~ ***an*** opt-out plan, the officer or employee shall notify the Program within ~~[~~31~~]~~ ***60*** days after the officer or employee has:

(a) Been ordered to obtain health insurance for his or her child pursuant to NRS 31A.350; or

(b) A change in life status or the addition of a dependent that initiates eligibility for both the declined employee and any affected dependent.

Sec. 23. NAC 287.383 is hereby amended to read as follows:

287.383 The Program shall bill on a monthly basis:

1. Each payroll center that deducts and pays the premium or contribution for a participant in an opt-out plan from the salary or monthly retirement allowance, as applicable, of the participant for the amount of the premiums or contributions for such participants based on the schedule of rates for premiums or contributions for that opt-out plan. ~~[A payroll center shall maintain the schedule of rates for each opt-out plan in which persons for whom the payroll center deducts and pays such premiums or contributions participate.]~~

2. Each participant in an opt-out plan that is responsible for the paying of his or her premium or contribution directly.

3. The Retired Employees' Group Insurance Budget Account ***in the State Retirees' Health and Welfare Benefits Fund created by NRS 287.0436*** for the portion of the amount of the premiums or contributions for participants in an opt-out plan who retired from the service of the State that is paid by the State pursuant to subsection 2 of NRS 287.046. The Program shall identify separately the portion of the amount billed to the State pursuant to this subsection that is attributable to participants in each opt-out plan.

4. The Active Employee Group Insurance Subsidy Account established pursuant to subsection 7 of NRS 287.044 within the Agency Fund for the Payroll of the State created by NRS 227.130 for the portion of the amount of the premiums or contributions for participants in an opt-out plan that is paid by the State pursuant to subsection 1 of NRS 287.044. The Program shall identify separately the portion of the amount billed to the State pursuant to this subsection that is attributable to participants in each opt-out plan.

Sec. 24. NAC 287.385 is hereby amended to read as follows:

287.385 1. A payroll center shall remit by the 25th of each month to the Program the amount of the premiums or contributions for participants in opt-out plans that is billed to the payroll center for that month by the Program pursuant to subsection 1 of NAC 287.383. The payroll center shall identify separately the portion of each such payment to the Program that is attributable to participants in each opt-out plan.

2. A participant of an opt-out plan that is billed directly by the Program pursuant to subsection 2 of NAC 287.383 for his or her premiums or contributions shall remit the amount of the premium or contribution within 30 days after he or she was billed.

3. The amount of the premiums or contributions for participants in an opt-out plan for which the Retired Employees' Group Insurance Budget Account is billed each month pursuant to subsection 3 of NAC 287.383 must be transferred to the Program by the 25th day of each month, subject to adequate funding in that Account.

4. ***The amount of the premiums or contributions for participants in an opt-out plan for which the Active Employee Group Insurance Subsidy Account is billed each month pursuant to subsection 4 of NAC 287.383 must be transferred to the Program by the 25th day of each month, subject to adequate funding in that Account.***

5. The Program shall notify an opt-out plan of the nonpayment of a premium or contribution by a participant in the opt-out plan who is billed by the Program for his or her premiums or contributions directly or through a payroll center. The Program shall not initiate termination of coverage of such a participant.

Sec. 25. NAC 287.440 is hereby amended to read as follows:

287.440 1. Except as otherwise provided in subsection 2, retired officers and employees shall pay their premiums or contributions directly to the Program.

2. Retired officers and employees who receive a retirement benefit from the Public Employees' Retirement System shall pay their premiums or contributions to the Program through an automatic deduction from that benefit unless the ~~[retirement]~~ ***:***

(a) Retirement benefit is less than the premium or contribution ~~[.]~~ ***; or***

(b) Coverage of the retired officer or employee is provided through the Program by an individual medical care plan offered through an exchange to supplement Medicare.

Sec. 26. NAC 287.520 is hereby amended to read as follows:

287.520 1. ~~[A person may not be covered by the Program as both an employee and a dependent. If the]~~ ***Except as otherwise provided in NAC 287.530, if a*** person qualifies ***to be covered by the Program*** as both ~~[, he or she is covered only as]~~ an employee and ~~[not as]~~ a dependent ~~[.]~~ ***, the person:***

(a) If the person is a spouse or domestic partner:

(1) May be covered by the Program as an employee; and

(2) May not be covered by the Program as a dependent.

(b) If the person is a child, may be covered by the Program as an employee or dependent.

2. If a participating officer or employee changes his or her status to that of a dependent because he or she no longer qualifies as an employee, he or she must enroll as a dependent within 60 days after losing status as an employee to be eligible for coverage and insurance as a dependent. If a participant complies with the requirements of this subsection, his or her coverage or insurance is not limited by any waiting period that would otherwise apply.

Sec. 27. NAC 287.660 is hereby amended to read as follows:

287.660 1. ***The Claims Administrator shall notify a participant of an adverse determination of a claim of the participant or his or her dependent. Such notification must:***

(a) Be in writing;

(b) Explain the reason for the adverse determination;

(c) Include the specific provision of the applicable plan of the Program used by the Claims Administrator as the basis for the adverse determination;

(d) If the adverse determination is made as a result of a lack of information, request any additional information necessary to reverse the adverse determination; and

(e) Explain the process for initiating an appeal of the adverse determination pursuant to NAC 287.670.

2. A participant may ~~[request a review of a claim submitted for himself or herself or a dependent]~~ ***appeal an adverse determination*** if the participant feels the claim was not adjudicated pursuant to the current terms and conditions of the Program.

~~[2. The failure to request a review in a timely manner will be deemed to be a waiver of any further right of review or appeal under the Program unless the Program determines that the failure was acceptable.~~

~~3. Upon request, the Program may review claims that are the responsibility of an insurer, health maintenance organization or any other risk-bearing vendor which has responsibility for all the processing and payment of claims. A review of claims will be governed by the terms and conditions of the contract between the participant and vendor.]~~

Sec. 28. NAC 287.670 is hereby amended to read as follows:

287.670 1. ~~[To initiate a review]~~ ***Except as otherwise provided in section 10 of this regulation, to initiate an appeal of an adverse determination*** of a claim, a participant must submit a written request to the Claims Administrator ~~[of the Program]~~ within ~~[60]~~ ***180*** days after the date on which the ~~[claim was adjudicated or to the insurer in accordance with the terms and conditions of the contract between the participant and the vendor.]~~ ***participant received the notification of the adverse determination that is required pursuant to NAC 287.660.*** A request for ~~[a review of a claim]~~ ***an appeal of an adverse determination*** must include:

(a) The name of the participant;

(b) The social security number or member identification number of the participant;

(c) ~~[The identifying number of the claim for benefits;]~~ ***A copy of the explanation of benefits related to the claim that was provided to the participant by the Claims Administrator;***

(d) A ~~[statement indicating whether]~~ ***copy of*** the claim ~~[is for a participant or a dependent or surviving dependent of the participant;]~~ ***that was submitted to the Claims Administrator from the vendor;*** and

(e) A statement setting forth the reasons the ~~[claim]~~ ***adverse determination*** is being ~~[contested.]~~ ***appealed.***

2. ~~[The]~~ ***The Appeals Manager of the*** Claims Administrator shall:

(a) Review ~~[a request for the review]~~ ***the appeal*** of ~~[a claim with the vendors and consultants of the Board to determine]~~ ***an adverse determination to decide*** if the claim was adjudicated pursuant to the ~~[current]~~ ***:***

(1) Current terms and conditions of the Program ~~[under the contract]~~ ***; and***

(2) Contract between the Program and applicable vendor; and

(b) Within ~~[30]~~ ***20*** days after receiving the request for ~~[a review,]~~ ***an appeal,*** advise the participant in writing of:

(1) The decision of the ~~[Claims Administrator; and]~~ ***Appeals Manager, setting forth the reasons therefor;***

(2) The specific provision of the applicable plan of the Program used by the ~~[Claims Administrator]~~ ***Appeals Manager*** as the basis for the decision ~~[.]~~ ***; and***

(3) The process by which the participant may appeal the decision of the Appeals Manager pursuant to NAC 287.680.

3. As used in this section, “member identification number” means the number assigned to a participant by the Program.

Sec. 29. NAC 287.680 is hereby amended to read as follows:

287.680 1. ~~[If]~~ ***Except as otherwise provided in section 10 of this regulation, if*** a participant in the Program is unsatisfied with the ~~[results of an initial review of a claim,]~~ ***decision of the Appeals Manager made pursuant to NAC 287.670,*** the participant may file an appeal with the Executive Officer or a designee thereof. ~~[The]~~ ***Such an*** appeal must be in writing ~~[, include all supporting documentation]~~ and be filed within 35 days after the ~~[Claims Administrator of the Program issues the written decision on the review of the claim. The]~~ ***participant's receipt of the decision of the Appeals Manager. Such an appeal must include all*** supporting documentation ~~[must include,]~~ ***, including,*** without limitation, a copy of the request for ~~[review of the claim]~~ ***an appeal of the adverse determination*** submitted to the Claims Administrator pursuant to NAC 287.670, a copy of the decision of the ~~[Claim Administrator]~~ ***Appeals Manager*** concerning the ~~[claim]~~ ***adverse determination*** and any other information provided to the Claims Administrator by the participant.

2. The Executive Officer or the designee shall ~~[review]~~ ***:***

(a) Review the material submitted by the participant to ~~[determine]~~ ***decide*** if the claim was adjudicated ~~[correctly.~~

~~3. The Executive Officer or the designee shall]~~ ***pursuant to the:***

(1) Current terms and conditions of the Program; and

(2) Contract between the Program and applicable vendor; and

(b) Within 30 days after receipt of the participant's appeal, notify the participant in writing of ~~[the decision within 30 days after receipt of the participant's appeal.]~~ ***:***

(1) The decision of the Executive Officer or the designee, setting forth the reasons therefor;

(2) The specific provision of the applicable plan of the Program used by the Executive Office or the designee as a basis for the decision; and

(3) The process by which the participant may request an external review of the adverse determination pursuant to NAC 287.690.

Sec. 30. NAC 287.690 is hereby amended to read as follows:

287.690 ~~[1.]~~ If a participant in the Program is not satisfied with the decision of the Executive Officer or the designee on the appeal made by the participant ~~[,]~~ ***pursuant to NAC 287.680,*** the participant may ~~[file an appeal with the Board for a review by the Board of the claim. The appeal must be filed within 35 days after the date on which the Executive Officer or the designee issues the written decision concerning the review.~~

~~2. Except as otherwise provided in this subsection, after the receipt of an appeal pursuant to this section, the Executive Officer or the designee shall prepare a written report concerning the appeal and present the report to the Board at its next meeting. If an appeal is received after the deadline for placing items on the agenda for the next meeting of the Board, the Executive Officer or the designee shall present the report to the Board at its next following meeting. The report presented to the Board must include the grounds for the appeal, supporting documentation, information concerning the claim and recommendations for action by the Board.~~

~~3. Not later than 10 days before the date of the meeting in which an appeal that was made by a participant pursuant to this section will be heard by the Board, the Executive Officer or the designee shall notify the participant in writing of the date, time and place of the meeting and provide to the participant the written report concerning the appeal that was prepared by the Executive Officer or the designee pursuant to subsection 2.~~

~~4. The participant may appear with an attorney or other representative of his or her choosing before the Board in a closed portion of an open meeting held pursuant to NRS 241.030 to review orally the claim and the reasons why the participant is not satisfied with the adjudication of the claim.~~

~~5. Except as otherwise provided in NRS 241.033, the Chair may at any time before or during the closed portion of the open meeting determine which additional persons, if any, are allowed to attend the closed portion of the open meeting. The Board may allow the Claims Administrator of the Program to present an explanation of the decision that the Claims Administrator made pursuant to NAC 287.670 at the closed portion of the open meeting.~~

~~6. The Board may render a decision on the claim at that time during its open meeting or defer action to a future meeting if additional information is required for review.~~

~~7. The Executive Officer or the designee shall mail to the participant by first-class mail notice of the decision of the Board within 15 days after the decision is rendered.~~

~~8. A decision of the Board is final.~~] ***request an external review of the adverse determination conducted by an independent review organization pursuant to NRS 695G.241 to 695G.310, inclusive.***

Sec. 31. NAC 287.350 and 287.377 are hereby repealed.

TEXT OF REPEALED SECTIONS

287.350 "Group" defined. (NRS 287.043, 287.0479) As used in NAC 287.350 to 287.389, inclusive, unless the context otherwise requires, "group" means a group of not less than 300 active state officers or employees or retired state officers or employees, or any combination thereof, who participate in the Program and who apply to leave the Program pursuant to NRS 287.0479.

287.377 Requirements for change in coverage. (NRS 287.043, 287.0479)

1. A participant in an opt-out plan may only join a different opt-out plan or the Program during open enrollment. No lapse in coverage may occur to a participant when he or she changes coverage pursuant to this subsection.

2. When a participant in an opt-out plan retires or becomes a survivor of a deceased officer or employee, the participant may not select another opt-out plan for which he or she is eligible or the Program until the next open enrollment.

3. When an officer or employee joins an opt-out plan, the Program shall not consider that decision to be a declination of coverage.

4. If a participant in the Program elects to join an opt-out plan, the participant shall submit to the Program a signed release and waiver of rights agreement, which is in a form acceptable to the Board.

5. If a participant in an opt-out plan becomes ineligible for participation in the opt-out plan, he or she may elect to continue coverage under the opt-out plan pursuant to the Consolidated Omnibus Budget Reconciliation Act, Public Law 99-272, until the next period of open enrollment.

NOTICE OF ADOPTION

The Public Employees' Benefits Program Board adopted regulation assigned LCB File No. R002-12 which pertains to chapter 287 of the Nevada Administrative Code on May 30, 2012.

INFORMATIONAL STATEMENT
FOR
PROPOSED REGULATION
FOR THE
PUBLIC EMPLOYEES' BENEFITS PROGRAM
LCB File No. R002-12

The following statement is submitted for adopted amendments to Nevada Administrative Code chapter 287.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

One workshop and an adoption hearing were held. Public comment was solicited by sending notices of the workshops and the adoption hearing to all state agencies, the Nevada State Library, all Nevada county libraries, and all persons who requested these notices.

No public comment was submitted, written or oral.

2. The number of persons who:

(a) Attended the January 19, 2012 workshop: 50
(b) Attended the May 30, 2012 adoption hearing: 48
(c) Testified at the January 19, 2012 workshop: 0
(d) Testified at the May 30, 2012 adoption hearing: 0
(e) Submitted to the agency written comments: 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

See response to number 1 above.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Section 14 was not amended by the Board at the adoption hearing.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

(a) No adverse or beneficial effects; and

(b) No immediate or long term effects.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None.

7. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are none.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

There are none.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide or involve a new fee.