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AGENDA ITEM

Action Item

Information Only

Date: March 31, 2020

Item Number: VIII

Title: Bill Draft Request to amend NRS 287.0475

BACKGROUND

Prior to November 30, 2008, local governmental retirees were eligible to join the Public Employees' Benefits Program (PEBP) regardless of their former employer's participation in the program. However, Senate Bill 544 of the 2007 legislative session amended PEBP's eligibility provisions by disallowing retirees of local governments to join PEBP if the local government that employed the retiree did not participate in the program. NAC 287.095 defines who is eligible to participate in PEBP and incorporates those members who were grandfathered into the program on November 30, 2008. Currently, PEBP has 8 active non-state local government employees and 6,133 non-state retirees which are primarily the non-state population grandfathered into the plan on November 30, 2008.

As of 2011, PEBP requires (with some exceptions) Medicare eligible retirees to participate on the Medicare Exchange by enrolling in a plan directly through Via Benefits. Retirees enrolled through Via Benefits receive a years-of-service subsidy which is provided in the form of a monthly Health Reimbursement Account (HRA) contribution. Retiree's may be eligible for up to \$240/month which can be used to reimburse eligible medical expenses and Medicare plan or dental plan premiums. If a retiree fails to enroll in a plan through Via Benefits or disenrolls from a plan through Via Benefits, they are terminated from the program.

REPORT

NON-STATE RETIREE DISENROLLMENT

NRS 287.0475 addresses the reinstatement of insurance by a retired public officer, employee or surviving spouse. The statute as it currently reads allows retirees from a participating state

agency or local government to reinstate coverage if they have no more than one period not covered under the program. This allows retirees from the state and participating local governments one opportunity to return to the program as “late enrollees” during open enrollment should they disenroll. It does not, however provide the same opportunity to the majority of non-state retirees.

Since 2011, numerous state and non-state Medicare Exchange retirees have been affected by this rule and many non-state retirees have permanently lost their benefits. Retirees enrolled through Via Benefits have the opportunity every year to change plans during the Medicare Open Enrollment period. It is usually during this period that retirees mistakenly enroll directly through the carrier which results in an agent of record change. Once the agent of record is changed, the retiree is no longer covered in a medical plan through Via Benefits. In other cases, Medicare plans are discontinued and retirees are required to choose a new plan. If the retiree fails to actively choose another plan, the carrier (per insurance regulations) is required to crosswalk those individuals on to a comparable plan. Similarly, this results in an agent of record change away from Via Benefits and to the new carrier - in this case, the retiree may be completely unaware that this is occurring.

In both of the cases described above retirees are no longer considered enrolled in a medical plan through Via Benefits and are subsequently disenrolled from the program and terminated by PEBP. It is not until they receive termination notices from PEBP that they begin to realize the consequences of their actions. Recognizing this, PEBP includes language stressing the importance of making any plan changes through Via Benefits in all retiree guides, resources and trainings. Additionally, PEBP sends reminder notices prior to each Medicare open enrollment period and has also engaged in aggressive communications to those who have been identified as participating in a plan which is set to expire. Unfortunately, there are always retirees who disenroll and end up losing their HRA subsidy. State retirees can mitigate the damage by reinstating during PEBP Open Enrollment as “late enrollees” but non-state retirees lose their ability to participate in the program, and their HRA subsidies, permanently.

Based on enrollment data, PEBP estimates that approximately 750 non-state retirees have disenrolled from the plan in this manner and lost their HRA subsidies since 2011.

PEBP believes it is reasonable to provide non-state retirees the same opportunity state retirees are offered to reinstate their Medicare Exchange plan. This change does not have a budgetary impact to PEBP since HRA subsidies are funded by the local governments.

Since this is a statutory change, it requires a Bill Draft Request (BDR) submission. The deadline to submit a non-budgetary BDR is May 20th. PEBP has coordinated with our Deputy Attorney General to include preliminary language that adds non-state retirees from a non-participating agency to the statute. The language also specifically captures those who are eligible for the Medicare Exchange:

NRS 287.0475 Reinstatement of insurance by retired public officer or employee or surviving spouse.

1. Except as otherwise provided in subsection 3, a retired public officer or employee or the surviving spouse of a retired public officer or employee who is deceased may reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee:

(a) Retired:

(1) Pursuant to [NRS 1A.350](#) or [1A.480](#), or [286.510](#) or [286.620](#), from a participating state agency or was enrolled in a retirement program provided pursuant to [NRS 286.802](#); or

(2) Pursuant to [NRS 1A.350](#) or [1A.480](#), or [286.510](#) or [286.620](#), from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement; or

(3) Pursuant to [NRS 1A.350](#) or [1A.480](#), or [286.510](#) or [286.620](#), from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is not a participating public agency and:

(I) Was enrolled in the Program as a retiree on November 30, 2008; and

(II) Is enrolled in Medicare Part A, as established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395c et seq., and Medicare Part B, as established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395j et seq.; and

(b) Did not have more than one period during which the retired public officer or employee was not covered by insurance under the Program on or after October 1, 2011, or on or after the date of retirement of the public officer or employee, whichever is later.

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse to reinstate the insurance not later than 31 days before the commencement of the plan year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in [NRS 287.046](#), paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in [NRS 1A.470](#) or [286.615](#), which are due from the date of reinstatement and not paid by the public employer.

3. If a retired public officer or employee retired pursuant to [NRS 1A.350](#) or [1A.480](#), or [286.510](#) or [286.620](#), from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency, the retired public officer or employee, or the surviving spouse of such a retired public officer or employee who is deceased, may not reinstate health insurance pursuant to subsection 1 if he or she is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of [NRS 287.043](#).

(Added to NRS by [1987, 503](#); A [1993, 482](#); [1999, 3037](#); [2001 Special Session, 98](#); [2003, 2740, 3256, 3271](#); [2007, 2880](#); [2009, 1593, 2358](#); [2011, 536, 2745](#)

PEBP Recommendation: PEBP recommends the approval of the Bill Draft Request and approval for staff to submit by the May 20, 2020 deadline.