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**STATE OF CONNECTICUT**

***OFFICE OF POLICY AND MANAGEMENT***

**Office of Labor Relations**

**August 31, 2012**

**General Notice 2012-04**

**TO: Commissioners, Agency Heads and Labor**

**Relations Designees**

**SUBJECT**: Dependents under State Sponsored Health Insurance Plan -Update

OLR General Notice 2012-03 clarified the rules regarding entitlement to coverage of dependents and spouses under the provisions of the group medical insurance program. As you may be aware, the Office of the State Comptroller will be conducting an audit to determine whether employees are in compliance with those rules. Prior to the actual audit, the State has identified a number of employees who had spousal coverage on June 30, 2012 who elected during Open Enrollment not to continue to provide spousal coverage effective July 1, 2012. As there was another Open Enrollment effective October 1, 2011 due to the institution of the Health Enhancement Program, the State has also identified a number of employees who had spousal coverage on September 30, 2011 who elected not to continue to provide spousal coverage effective October 1, 2011.

**1. Individuals who removed their spouse as a dependent during either the Open Enrollment which ended September 30, 2011 or June 30, 2012**

**a. Listing of Individuals.** You will receive a separate email with a list of the individuals from your agency who are in this category. They will be separated by date. If you do not receive a list, you do not have any such individual in your agency. Please contact each of the individuals on the list and inquire about the reason for their ending spousal coverage. The reason may be due to a change in circumstances (e.g. coverage by spouse’s employer) or may fall within one of the categories (divorce or legal separation) outlined in OLR General Notice 2012-03. The results of the inquiry should be in writing.

**b. Repayment Action.** If an employee removed his/her spouse in either of the Open Enrollment Periods due to divorce or legal separation, there would need to be an investigation whether the employee continued the spousal coverage when it was no longer legitimate and/or if the employee is required to pay for the FULL cost of the spouses’ individual coverage and for what period of time. In general, the State’s health plan does not cover spouses who become legally separated or divorced except in limited circumstances described in OLR General Notice 2012-03. You will need to obtain copies of the employee’s divorce decree, legal separation agreement, etc., in order to determine whether their situation was appropriately handled.

If you determine that the individual was divorced between January 1, 2012 and June 30, 2012, they owe the State the FULL cost of the single individual premium rate for the number of months their former spouse was covered erroneously. The premium would be determined as follows:

|  |  |
| --- | --- |
| **Plan** | **2012 -13 Monthly Premium** |
| Anthem Point of Service | $624.24 |
| Anthem Point of Enrollment | $604.18 |
| Anthem Point of Enrollment - Gatekeeper | $601.78 |
| Anthem Preferred | $893.97 |
| Anthem Out of Area | $855.41 |
| Oxford Freedom Select POS | $506.53 |
| Oxford HMO Select | $481.97 |
| Oxford HMO | $443.33 |
| Oxford Out of Area | $537.23 |

For example, if the individual was divorced on March 15, 2012 and had Anthem POS, they would owe the State $1824.72 ($624.24 x 3 months as insurance goes to the end of the month after the event) plus three months of the individual cost of dental coverage if the former spouse was also covered under the dental program. This total amount must be remitted to the State no later than December 31, 2012 in order to comply with the IRS rules. The employee may choose to repay the amount immediately or via payroll deduction. An agency may, at its option, allow an employee to repay via check.

If you determine that the individual was divorced prior to January 1, 2012, they would owe the State the FULL cost of the individual monthly premium rate determined above for January 2012 through June 2012 for health (and dental, if applicable) plus the FULL cost of the individual monthly premiums for each month for health (and dental, if applicable) prior to January 1, 2012 that the spouse was covered from the date of their divorce or legal separation based upon the rates in effect for the applicable time period. In accordance with IRS rules, the amount from January 1, 2012 to June 30, 2012 would have to be paid back by December 31, 2012. The amount prior to January 1, 2012 may be paid back immediately or over a period of time not to exceed the period of time the benefit was received.

**c. Interest Payments.** In the event the employee decides to pay the amount via payroll deduction or payment over time by check, you should add interest at the rate of five percent (5%). Information regarding this calculation will be provided under separate cover.

**d. Possible employment action.** The agency must also interview the employee about the reason that the coverage was not ended promptly and determine whether disciplinary action is warranted. If you determine that this was an error or mistake which they corrected and the individual repays or arranges to repay the value of the individual coverage benefit erroneously received, you may consider those as mitigating factors in determining the appropriateness and type of disciplinary action. The length of time the benefit was received and the number of open enrollments where the mistake continued without correction should also be considered.

Of course, before any disciplinary action is taken, all normal preliminary steps must be taken: investigation, Loudermill meeting as appropriate, etc. In making your determination as to whether discipline is warranted and the appropriate penalty, you should consider the individual circumstances. If you determine some mutually acceptable resolution of the issue as to repayment and discipline, **you must resolve the matter through utilization of a Stipulated Agreement**. Any resolution must include a provision to recover the remainder of any amount not repaid from their final paycheck if they should retire or leave state service as well as an agreement to pay attorney’s fees and other costs of collection in the event of nonpayment.

**e. Utilization of Accrued time.** An employee may elect to utilize their accrued vacation time if they are retiring or otherwise separating from state service to offset the debt which they owe to the State for erroneously receiving this benefit. Sick time may not be utilized unless the employee is retiring immediately and entitled to receive the statutory sick leave payment.

**f. Repayment Methodology.** Any checks for this coverage should be payable to the Treasurer, State of Connecticut and coded to account code 44338 (Recoveries – Employee Fringe Benefit). Payroll deductions should be coded as HCPYB in CORE. You should only accept either bank checks or money orders. Agencies should keep a copy and also send a copy to OLR with a copy of the Stipulated Agreement.

**g.** **Stipulated Agreement(s).** Each employee who owes money to the State due the coverage of an ineligible dependent must sign an agreement. If the employee elects to repay via payroll deduction the agreement must contain a provision authorizing such deduction. OLR will provide you with draft Stipulated Agreement(s) for your use in situations where you deem appropriate.

**2. Individuals who are not on the list that have disclosed prior to June 30, 2012 that they were divorced and during some prior time erroneously covered their spouse.**

These individuals should be treated in the same manner as outlined above as they are likewise considered to have self-disclosed.

**3. Refusal to Repay**

If an employee refuses to repay the amount you determine is due to the State of Connecticut, you should consider serious disciplinary action up to and including discharge. You must begin the process to recover the amount due through normal procedures.

**4. Individuals who were not ever actually married and covered someone that was not their spouse as a dependent.**

If you determine through interview or investigation that an employee covered an individual who was not their dependent, this is serious misconduct and will subject the employee to serious disciplinary action up to and including discharge. Of course, repayment would be required.

**5. Individuals who did not remove their former spouse as a dependent**

The Office of the Comptroller is attempting to match the data from the Judicial database with the State employee database to determine the identity of other individuals who may be covering former spouses. Additionally, in the future, the Office of the Comptroller will provide information on the independent audit. When this information is available, you will be provided with additional instructions. As these individuals did not disclose and/or did not remove their former spouse as a dependent during either of the last Open Enrollments, they will be subject to serious disciplinary action up to and including discharge depending upon the individual circumstances. Agencies are reminded that all normal preliminary steps must be taken: investigation, Loudermill meeting, as appropriate, etc.

**6. Duty to Report**

You are reminded that you may have a duty to report to the Auditors of Public Accounts and the Comptroller the names of individuals who had ineligible dependants covered under the State’s health insurance plan. You may wish to review CGS § 4-33a.

Please provide us with an update as to the action taken with respect to each of the individuals on the list by completing the attached form. Please email it to Tammy.kowalski@ct.gov.

**7. Miscellaneous**

In no event should the attempt to recover the value of the benefits erroneously or fraudulently received be described as or be handled as if this situation was subject to contractual provisions concerning Overpayment.

Labor Relations Designees with questions concerning this matter should contact the Office of Labor Relations at (860) 418-6447 or the Healthcare Policy & Benefit Services Division of the State Comptroller at (860) 702-3486. All others should contact their Central Personnel Office.

## **Linda J. Yelmini**

Linda J. Yelmini

Director of Labor Relations

Date

Agency

Employee Name

Employee ID

Bargaining Unit

Health Plan

Dental Plan

Date of Divorce

Time Frame of Ineligible Coverage (from/to)

Number of Months of ineligible Coverage

Monthly Health Cost

Monthly Dental Cost

Total Health Cost

Total Dental Cost

Payment Methodology (insert either immediate or payment plan)

If payment plan, amount of interest (at 5%)

Total Amount of Restitution

Amount Due by December 31, 2012

Amount Due by (insert date)

Disciplinary Action (if any)