

# Benefits - Regulatory Issues

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## 1.0 POLICY

The Town of Carolina Beach provides a benefits package to employees on the same basis regardless of race, color, national origin, age, gender, religion, or disability.

## 2.0 PURPOSE

Several benefits offered by the Town are mandated by law but most are voluntary and are largely intended to protect the financial security of employees and/or retired employees. Some of the voluntary benefits, if offered by the Town, are also governed by legal regulations and restrictions. This policy focuses on the major laws, both Federal and State, that impact employees directly, either because of a payroll impact or because the employee has some responsibility for involvement in the administration of the benefit. The Town complies with the laws and regulations, both Federal and State that apply to North Carolina local government benefits programs.

## 3.0 SCOPE

This policy applies to all Town of Carolina Beach employees and retirees who are covered by a benefit program.

## 4.0 DEFINITIONS

- 4.1 **Benefit-Eligible** - full time and part-time employees who are eligible for coverage and participation in the Town's benefit programs in addition to legally mandated coverage. See **Policy on Position Types**.
- 4.2 **Other (not Benefit-Eligible) Employee** - An employee assigned to a position designated roster, seasonal temporary, or special project who is eligible for salary and mandated benefits only. See **Policy on Position Types**.
- 4.3 **Mandated Benefit Programs** - Benefit program offerings that are required by law, including FICA (Social Security/Medicare Coverage), Unemployment Insurance and Workers' Compensation Insurance. Certain mandated benefits are required only for a specific employee group.
- 4.4 **Voluntary Benefit Programs** - Benefit program offerings that are offered by the Town on a voluntary basis including health, dental and life insurance, retirement and leave programs.
- 4.5 **COBRA (Consolidated Omnibus Budget Reconciliation Act of 1986/Public Health Act of 1986)** - Federal laws, enforced by the United States Department of Health and Human Services for the public sector, that provide for continuation of health and dental coverage for specified lengths of time and for certain circumstances following a loss of insurance coverage.
- 4.6 **FICA (Federal Insurance Contributions Act of the Social Security Act of 1935)** - A Federal law, enforced by the United States Internal Revenue Service, that requires most employers and employees to contribute to compulsory payroll taxes to provide for retirement, disability and survivor benefits and Medicare coverage.
- 4.7 **FMLA (Family and Medical leave Act of 1993)** - A Federal law, enforced by the United States Department of Labor that requires employers to provide up to 12

weeks of unpaid job-protected leave each year to qualifying employees in specified circumstances.

- **4.8 HIPAA (Health Insurance Portability and Accountability Act of 1996)** - A Federal law, enforced by the United States Department of Health and Human Services, that governs the privacy of protected health information as well as personal data, and provides for portability of health and dental benefit eligibility.
- **4.9 NCLGERS (The North Carolina Local Governmental Employees Retirement System)** - A defined benefit retirement system for local governmental employees created by Chapter 128 of the General Statutes of North Carolina. The Law Enforcement Officers section of NCLGERS has somewhat different benefits. In 1986, the Law Enforcement Officers (LEO) Retirement System was merged with other retirement systems and local law enforcement officers became a part of NCLGERS. Employees contribute 6% of income to the retirement system and the Town makes an actuarially equivalent contribution. The Town has also chosen to provide the voluntary death benefit under NCLGERS for sworn law enforcement officers only.
- **4.10 NC 401(k) Plan (North Carolina Supplemental Retirement Income Plan) and ICMA 457 Plan** - Defined contribution plans that provides retirement savings through tax deferred contributions. The 1986 legislation, effective January 1, 1987 also created two additional mandated benefit programs for local law enforcement officers, the Supplemental Retirement Income Plan - 401(k), and the Police Separation Allowance. In addition, employers contribute a mandated 5% to the Police 401(k) and whatever payroll amount is necessary to fund the Police Separation Allowance.

**4.11 Law Enforcement Separation Allowance** - A Separation Allowance is available to qualified retiring law enforcement officers according to the conditions set forth in NC 143-166.42. Currently the law enforcement separation allowance is "equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service".

To qualify for the allowance law enforcement officers will have completed 30 or more years of creditable service or have attained 55 years of age and completed 5 or more years of service as a sworn law enforcement officer with at least 50% of their creditable retirement service in law enforcement. Documentation must be provided by the North Carolina Local Governmental Employees' Retirement System to determine and verify "years of creditable service" to be used in the formula.

The Separation Allowance benefit will cease at the death of the individual or on the last day of the month in which he attains 62 years of age or upon the first day of re-employment with any local governmental employer in any capacity. Notwithstanding these provisions, a local government employer may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees Retirement System, and in doing so shall not cause payment to cease to those officers under the provisions of this section.

After cessation of special separation allowance payments under this policy and by Town Resolution No. 08-907, such benefits shall not reinitiate upon a change in circumstances of the retired employee.

Should the separation allowance for law enforcement officers, now required by law, be rescinded or changed, this separation allowance shall be rescinded or changed at the same time.

- 4.12 Employees other than Police are eligible to participate in the NC 401(k) Plan and the employer may make (not required) a contribution to participant accounts as feasibly determined.
- 4.13 **Section 125 of the Federal Internal Revenue Code** - A Federal law, enforced by the United States Internal Revenue Service that provides for an employee to voluntarily reduce his salary by a specified amount, which also reduces his income taxes and social security taxes. These funds may be used to reimburse the employee on a tax free basis for out of pocket expenses associated with certain benefit programs - such benefits are health, dental and vision premiums as well as medical and day care spending accounts.
- 4.14 **Workers Compensation (Workers Compensation Act of North Carolina of 1929) (Chapter 97 of the General Statutes of North Carolina)** - A North Carolina law, enforced by the North Carolina Industrial Commission, that provides for employer paid benefits to employees injured by accident in the course of employment. Benefits include medical bills, temporary disability partial wage replacement, and lump sum total disability or dismemberment payments.

## 5.0 ORGANIZATIONAL RULES

- 5.1 General Rules
  - A. Benefit-eligible employees will be offered a benefits program consisting of both mandatory and voluntary benefits. See **Policy on Benefits - Active Employees**.
  - B. Employees not eligible for Town-provided voluntary benefits will be covered by mandatory benefits only.
  - C. Retirees will be offered a selected group of benefits. Eligibility, costs and duration of coverage will vary by benefit, retiree type and length of service. See **Policy on Benefits - Retired Employees**.
- 5.2 FICA
  - A. Non-sworn general employees contribute a rate of 7.65% of payroll, 6.2% up to the current year maximum for the Old Age, Survivors and Disability Insurance (OASDI) portion of Social Security and 1.45% of payroll with no maximum for Medicare. The Town matches these contributions.
- 5.3 NCLGERS - All benefit-eligible employees are participants of the NCLGERS and contribute 6% of their salary to this defined benefit retirement program. The Town makes an actuarially equivalent contribution. The NCLGERS is administered by the Retirement Systems Division of the North Carolina Treasury Department. The Town serves as a liaison with the NCLGERS and assists with required paperwork but official communications and retirement administration is between the employee and/or retiree and the NCLGERS. Employees are eligible to retire with full service retirement benefits after 30 years of service regardless of their age. A reduced retirement prior to age 65 is available with less than 30 years of service. A disability retirement is also available if the employee meets the eligibility requirements. Sworn Police Officers have enhanced benefits including a 401(k) plan and a separation allowance. The Town has also chosen to provide the voluntary death benefit under NCLGERS for all sworn law enforcement officers. Complete, official information may be found at the North Carolina Department of State Treasurer website.
- 5.4 Workers' Compensation - The Town provides workers' compensation benefits to all employees. See **Policy on Workers' Compensation** for the rights and responsibilities of this program. The Town may provide additional workers' compensation benefits to benefit-eligible full time employees.
- 5.5 Section 125 - The Group Benefits Plan is a voluntary benefit available to benefit-eligible employees and retirees in some circumstances. The details and

requirements, as they apply to employees and retirees, can be found in the Policy on **Benefits - Active Employees** and the **Policy Benefits - Retired Employees**.

- 5.6 FMLA - The Family and Medical Leave Act provides up to 12 weeks of unpaid job-protected leave to all employees who meet the requirements as specified in the law. See Policy **on Family and Medical Leave**.
- 5.7 COBRA - COBRA provides for employees and their covered dependents to continue health and dental insurance and Spending Accounts if coverage would otherwise end because of certain qualifying events. The Town also applies COBRA continuation for retiree dependents if they lose coverage due to the retiree attaining the age of 65, the retiree's death, divorce, legal separation or the aging out of a dependent child.

A. Qualifying Events

1. Employees and covered dependents are eligible for up to 18 months of continuation coverage if the employee terminates employment (except for gross misconduct) or work hours are reduced causing a loss of group benefits.
2. Employees and covered dependents are eligible to continue coverage for up to 29 months if the employee retires under Social Security disability (or becomes totally disabled within 60 days of leaving Town employment) and choose to remain covered under continuation coverage rather than retiree health insurance. If the retiree elects continuation coverage, he will not be eligible for retiree coverage when the continuation coverage ends.
3. Employees who leave Town employment because of a total disability as defined by Social Security (or become totally disabled within 60 days after leaving Town employment) and who do not qualify for disability retirement with the NCLGERS may remain covered, along with covered dependents, for up to 29 months under continuation coverage.
4. Covered dependents are eligible for up to 36 months of continuation coverage if their coverage is, or would normally be, terminated because of the employee/retiree's death, divorce or legal separation, Medicare qualification or if the dependent child ceases to be a dependent under the terms of the group contract.

B. Notification

1. In order to be eligible for continuation of coverage, the employee, retiree or covered dependent is responsible for notifying the Town within 60 days of the following qualifying events: divorce, legal separation, or ineligibility due to the age of a dependent child.
2. The Town is responsible for notifying the eligible participants of their eligibility to continue their coverage within 14 days of being notified of a qualifying event. Notification will be made by first class mail to the last known address of the affected participant not the certificate holder in whose name the insurance policy is carried.

C. Costs

1. Under the continuation coverage, employees and/or their dependents must pay the total costs of the elected benefits plus a small (2%) administrative fee. These costs are at group rates.
2. If a participant is eligible for and elects the 29 months continuation coverage for total disability, the costs will be 102% of the group rate for the first 18 months of coverage and 150% of the group rate for the last 11 months.
3. Participants will be billed on a monthly basis for these benefits. Participants will have 31 days to pay the monthly premium bill. If premiums are not paid in the required time, the COBRA coverage will be terminated and the participant will not be eligible to re-enroll in the program.

- 5.8 HIPAA
  - A. Privacy Regulations
    1. The Town respects the privacy of personal health information and understands the importance of maintaining this information in a confidential and secure manner. The Town has developed very specific guidelines and procedures on the use and disclosure of personal health information to safeguard privacy.
    2. Employees also have a responsibility to help ensure the privacy of their personal health information. HIPAA does not apply to information that an employee voluntarily provides to those who are not authorized to use or disclose the information such as co-workers. Employees can further safeguard their personal health information by sending information to the appropriate location via first class mail rather than interoffice mail if they have concerns about the privacy of information.
    3. HIPAA does not apply to information that is used to pay workers' compensation claims, pre-employment physicals, medical surveillance that is required by law or for things such as accommodation under the Americans with Disabilities Act, medical assessments for fitness for duty determinations, or drug testing unless the information is obtained from the health or dental plans.

## 6.0 PROCEDURES

- 6.1 FICA - The Town will enroll all employees in the appropriate level of FICA, depending on job class, with the initial payroll after employment.
- 6.2 NCLGERS - Benefit-eligible employees will be advised of NCLGERS and provided the necessary information to create a personalized log in and ID to access their personal account through the systems software. Employees will be expected to provide information on beneficiaries for the return of contributions and the death benefit. An employee, at his option, may choose his estate as a beneficiary rather than naming one or more individuals.
- 6.3 Workers' Compensation - An employee who is injured by an accident on the job must immediately notify his supervisor and complete the appropriate paperwork to document the incident. An employee, who has a serious accident and is physically unable to notify his supervisor immediately, should notify his supervisor at the first opportunity or have someone else notify the supervisor. This will help ensure the employee receives the workers' compensation benefits he is entitled to receive. See **Policy on Workers' Compensation** for the rights and responsibilities of this program.
- 6.4 Section 125 - Benefit-eligible employees who are interested in receiving some of their benefits on a tax free basis may enroll in the Group Insurance program. See **Policy on Benefits - Active Employees.**
- 6.5 FMLA - All employees who meet the eligibility requirements are entitled to use up to 12 weeks of unpaid, job-protected leave each year for family or personal medical reasons. See **Policy on Family and Medical Leave.**
- 6.6 COBRA
  - A. In order to be eligible for the COBRA continuation coverage of health and dental insurance, the employee, retiree or dependent must notify the Town within 60 days of the following qualifying events: divorce, legal separation, or ineligibility of a dependent child.
  - B. Once informed of a qualifying event, the Town will notify the participant of his eligibility to continue benefit coverage within 14 days of receiving the notification from the participant. The Town will send the COBRA eligibility notification by first

class mail to the last known address of the affected participant **not** the certificate holder in whose name the insurance policy is carried.

C. Once the participant receives the notification from the Town, he has 60 days from the qualifying date or the date of notification, whichever is later, to elect coverage. The participant may elect any combination of benefits under which he was previously covered.

D. If the eligible participant elects the COBRA coverage, he must pay the applicable fees within 45 days. The Town will then bill the participant on a monthly basis for the coverage. Payment must be made within 31 days or the COBRA continuation coverage will end and the participant will not be entitled to re-enroll.

E. Each year during the Town's annual Open Enrollment period, COBRA participants will receive an Open Enrollment package and will have the same enrollment opportunities and choices as similarly situated employees.

F. COBRA continuation coverage will end if the Town ceases to provide these same benefits to its employees, if the covered participant fails to pay the monthly premiums, if the covered participant becomes eligible for Medicare or at the end of the eligibility period.

G. After COBRA coverage is exhausted, there is no conversion privilege through the Town of Carolina Beach. Participants will need to obtain insurance coverage through another source.

- 6.7 HIPAA

A. Privacy - Employees who want additional information beyond what is contained in the HIPAA Notification of Privacy Practices may make an appointment with the Human Resources Department to review the HIPAA Procedures Manual. New employees are notified of their HIPAA rights during Benefits Sign-up. If an employee has a concern about the use or disclosure of his protected health information, he should contact the Human Resources Director who is the Town's HIPAA Privacy Official.

## **7.0 APPENDIX, APPENDICES**

None