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**BENEFIT CONTINUATION DURING TIME
AWAY FROM WORK**

1. Purpose

1.1. The purpose of this policy is to outline the obligations of the State of New Hampshire (State) as an employer as well as the Employee options and obligations for continuing benefit coverage for themselves and, if applicable, eligible dependents, while on approved time away from work, either on a paid or unpaid basis.

2. Scope

2.1. This policy applies to employees of the State of New Hampshire Executive, Legislative and Judicial branches who are participating in the State of New Hampshire Employee Health Benefit Plan and are approved for time away from work in a paid (receiving a paycheck) and/or unpaid (not receiving a paycheck) status.

2.1.1. Unpaid time away from work includes those unpaid periods of time when an employee may be receiving payments from a third-party outside of State payroll including, but not limited to, workers compensation (WC) and paid family leave (PFL).

2.2. Benefits covered under this policy include group health and dental plans, basic life, supplemental life, and accidental death and dismemberment insurance plans, as well as healthcare and dependent care FSA plans.

2.3. Approved time away from work for the purpose of this policy includes but is not limited to family medical leave (FMLA), paid family leave (PFL), suspension, workers' compensation, jury duty, and other forms of leaves of absence.

2.4. This policy applies only to those periods of approved time away from work that provides for benefit protection.

3. Policy Statement

- 3.1. All State employees are entitled to fair, equal, and consistent treatment when it comes to the current benefits they selected to participate in during their employment.
- 3.2. Employee benefits remain subject to the terms of applicable benefit plan documents, booklets, summaries, and policies.

4. Benefit Options

- 4.1. Health and Dental Insurance Plans: The State of New Hampshire is required by RSA 21-I:30 and, if applicable, collective bargaining agreements (CBAs), to pay an employer contribution toward the premiums for any eligible employee who elects to participate in the state health and dental insurance plans. The governing statutes and CBAs specify the amount each employee must contribute on a per pay period basis to maintain their elected health and/or dental coverage.
 - 4.1.1. The employee must elect to continue health and/or dental benefits by completing the necessary forms and paying their applicable employee contributions while away from work.
- 4.2. Basic Life Insurance: While on approved time away from work with benefits protection, the cost of *employer-paid* group term life insurance continues to be paid by the State of New Hampshire, at no cost to the employee for up to one year.
 - 4.2.1. No active election nor employee payment is required for basic life insurance to continue for up to one year.
 - 4.2.2. Upon completion of the year, the employee may apply for continuation coverage through a conversion or portability policy, or in the event of a total disability, a waiver of premium through the life insurance carrier. Refer to the Employee Life Insurance Certificate of Coverage online via the Employee Portal for additional information.
- 4.3. Supplemental Life and Accidental Death and Dismemberment (AD&D) Insurance Plans: The cost of *employee-paid* supplemental life and AD&D insurance plans elected by employees for themselves, spouse, and/or dependents, may continue at the same per pay period rates from the start of the paid and/or unpaid time away from work, subject to annual Open Enrollment contribution changes. If an employee is totally disabled and is otherwise eligible, they should apply for a waiver of premium within 9 months of their disability; otherwise, benefits may continue for up to one year.
 - 4.3.1. If the benefit plan lapses due to non-payment, it may jeopardize the payment of any benefit in the event a claim is filed. At the time of a claim, the employee or survivor may be required to provide proof that total premium payments are up to date and in accordance with the policy purchased.
 - 4.3.2. The employee must elect to continue employee-paid supplemental life and AD&D

benefits by completing the necessary forms and paying their applicable employee contributions while away from work.

4.3.3. Employees should refer to the Employee Life Insurance Certificate of Coverage online via the Employee Portal for additional information.

4.4. Health Care Flexible Spending Account (FSA): If the employee is enrolled in a Health Care FSA, Internal Revenue Service (IRS) regulations provides the option to suspend participation in the FSA while away from work. If the FSA contributions are suspended, the ability to be reimbursed for expenses incurred while away from work also stops. Expenses incurred prior to suspending participation are eligible for reimbursement but require manual claim submission either via paper or mobile app. Use of the FSA debit card is automatically suspended when participation is suspended.

4.4.1. The employee must elect to continue their Health Care FSA contributions by completing the necessary forms and paying their applicable employee contributions while away from work. If time away from work is unpaid, the Health Care FSA contributions are post-tax. (See 4.4.2 for the option to make up contributions upon returning to work.)

4.4.2. If an employee elected not to make post-tax contributions for their Health Care FSA while they were away from work, upon return to work, the employee may elect to accelerate or increase contributions to make up any missed contributions if the missed contributions are paid within the same calendar year. This provides the employee the opportunity to submit claims for reimbursement for any eligible expenses incurred during their time away from work.

4.5. Dependent Care Flexible Spending Account (DFSA): In the event an employee is approved for time away from work for a period to exceed 30 days, participation terminates effective the last day of the month the employee begins their approved time away from work to comply with federal Internal Revenue Service (IRS) regulations. The employee can re-enroll in their DFSA upon their return to work.

4.5.1. Per IRS regulations this benefit must stop during time away from work for time away from work anticipated to exceed 30 days. Therefore, the DFSA is not available for election or payment while away from work.

4.5.2. IRS regulation states that the DFSA is to reimburse employees for eligible dependent care expenses *to work*. Therefore, dependent care expenses incurred during approved time away from work are not eligible for reimbursement.

Employees approved for time away from work for a period less than 30 days may elect to continue their participation in the DCFSA. If this time away from work is paid, the State will continue to withhold DCFSA contributions from the employee's paycheck. If this time away is unpaid, the State will automatically withhold DCFSA benefit plan contributions that were missed during the 30 day period from the first paycheck received after returning to work.

5. State's Obligations

- 5.1. Upon notice of the need to take time away from work, including for the reasons stated in section 2.3, the agency Human Resources representative provides the employee with the appropriate Benefit Continuation Election form and the Benefit Continuation Payment Schedule form.
- 5.2. The State, specifically the branch or agency that an employee works for, continues to pay the State's contribution via the automated employer deduction in NH FIRST for health and dental coverage during approved time away from work. The State's obligation to continue its contributions to the health and dental coverage ends when:
 - 5.2.1. The employee fails to make payment for their contributions on a timely basis; or
 - 5.2.2. The time away from work does not provide benefits protection; or
 - 5.2.3. The employee chooses to terminate health and/or dental plan coverage during the approved time away from work; or
 - 5.2.4. The employee fails to return to work as scheduled or informs their agency of their intent to not return. (Note: Upon separation from employment, COBRA insurance continuation provisions may apply.)

6. Employee Options and Obligations for Benefit Continuation while on Approved Paid Time Away from Work

- 6.1. While on approved paid time away from work, the employee's current benefit plan deductions continue to be withheld from employee paychecks unless the employee elects to suspend their participation, including:
 - Health (includes medical and pharmacy)
 - Dental
 - Supplemental Employee Life Insurance and AD&D (self, spouse & dependent)
 - Health Care Flexible Spending Account (FSA)
 - Dependent Care Flexible Spending Account (FSA) – only if the time away is less than 30 days.
- 6.2. Employees on approved time away from work shall have the same opportunities as other employees to make changes to their coverage, plans, or benefits because of a Qualifying Life Event (QLE) or during Annual Open Enrollment for benefits.
- 6.3. If the employee's paycheck amount is not sufficient to deduct the full amount for outstanding benefit contributions, the employee is responsible to make payment outside of payroll for the balance of the contributions due in accordance with the process outlined below under section 7 of this policy.
- 6.4. In accordance with federal law, an employee may be eligible to continue benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA). For example, should an employee inform the State of their intent to not return to work, they are eligible to continue benefits under COBRA. The State will mail a separate notice regarding COBRA rights and responsibilities.

- 6.5. In the event the approved time away from work transitions from paid to unpaid status, employee benefits may be continued as outlined in sections 7 and 8.

7. Unpaid Time Away from Work Less Than 30 Calendar Days

- 7.1. In the event the employee is expected to be on unpaid time away from work for less than 30 calendar days, the State will automatically withhold group insurance and/or FSA benefit plan contributions that were missed during that period from the first paycheck received after returning to work. If the employee's approved unpaid time away from work is longer than 30 calendar days, the employee is required to submit payment retroactively for any contributions missed during the time away from work, subject to the terms as listed in Section 8.
- 7.2. In the event the employee is eligible and has applied for Income Protection Plan (IPP) benefits and is unpaid during all or a part of the 30-day waiting period before receiving income protection benefits, the State will automatically withhold all group insurance and/or FSA benefit plan contributions that were missed during that period from the first IPP payment. If the employee is denied IPP benefits, the employee is required to submit payment retroactively for any contributions missed during the time away from work.

8. Employee Options and Obligations for Benefits Continuation while on Approved Unpaid Time Away from Work

- 8.1. When approved for unpaid time away from work longer than 30 days, the employee is responsible for making direct, timely payments of the employee's biweekly payroll benefit deductions. If the unpaid time away from work exceeds 30 calendar days, the monthly premium payment may not be deferred to when the employee returns to work. Any payments paid by the employee while on unpaid, approved time away are collected as post-tax contributions.
- 8.2. If not already provided, the agency Human Resources (HR) representative will provide the employee with a Benefit Continuation Election form to confirm the employee's election to continue benefits. Once completed and returned, the agency HR representative will prepare and provide a Benefit Continuation Payment Schedule to the employee outlining the benefit payment amount(s) based on elections and the instructions for submitting timely payments. Agency HR will send a copy of both forms to the Division of Risk and Benefits.
- 8.3. Contributions for continued benefits while on approved time away from work may be made by credit card, personal check, bank check or money order payable to the State of New Hampshire and sent directly to the Division of Risk and Benefits to the address on the Payment Schedule. Cash is not accepted.
- 8.4. Payment of employee contributions is due the first day of each month with a grace period through the end of the month.

- 8.5. The employee will be notified if it is necessary to terminate coverage. The effective date of the termination will be retroactive to the last day of the month in which the full contribution payment was received. Any partial payments will be refunded. **It is important to note that the employee will be responsible for any claims incurred after the effective date of coverage termination.**
- 8.6. If the employee's benefits are terminated due to nonpayment while on approved time away from work, the employee may forfeit their right to COBRA eligibility under the federal law.

9. Benefit Enrollment Upon Return to Work

- 9.1. If the employee's benefit is terminated while on unpaid leave, upon return to work, the employee may be re-enrolled in the same benefit plans that were suspended (ex. DFSA) or terminated for non-payment during the employee's approved time away. Upon completion of appropriate enrollment forms, the effective date of re-enrollment is the 1st of the month following the employee's return to work.