805 CMR 8.00: MUNICIPAL HEALTH COVERAGE

Section

8.01: Transfer Procedures

The Commission shall determine whether a Municipal Employer that has adopted M.G.L. c. 32B, § 19 or 23, qualifies for the Commission's Health Coverage. If the Commission approves a Municipal Employer to transfer all of its Insureds whom the Commission determines to be eligible to join the Commission's Health Coverage, it shall do so according to the conditions set forth in M.G.L. c. 32B, §§ 19, 21, and 23.

(1) Notice. Non-unionized cities, town and districts must send a letter from their chief executive officer stating their decision to transfer the Municipal Employer's subscribers to Commission coverage. Unionized Municipal Employers must provide notice as follows:

(a) Section 19 Notice. For the purposes of notice to the Commission of intent to transfer subscribers sufficient to satisfy M.G.L. c. 32B, § 19(e), Unionized Municipal Employers must provide to the Commission a copy of the signed and executed Public Employee Committee agreement to join the Commission's health coverage and a cover letter from an authorized official of the Municipal Employer confirming the Municipal Employer's intent to join Commission Health Coverage. The notice deadline may be extended up to a maximum of five business days after the statutory deadline for the sole purpose of executing the Public Employee Committee agreements.

(b) Section 23 Notice. For the purposes of notice to the Commission of intent to transfer subscribers sufficient to satisfy M.G.L. c. 32B, § 23(a), Unionized Municipal Employers must provide to the Commission a copy of the signed and executed Public Employee Committee agreement, or the order of the three-person panel, under M.G.L. c. 32B, § 21, to join the Commission's health coverage, a copy of the proposal underlying the order of the three-person panel, where applicable, and a cover letter from an authorized official of the Municipal Employer that gives notice of a decision to transfer to the Commission. The agreement or the order and supporting proposal shall include the premium contribution details.

(2) A Municipal Employer's transfer agreement or order whose terms alter the Commission's Health Coverage benefit levels from those determined by the Commission or subsidize Municipal Insureds' health coverage are prohibited, with the exception of Municipal Employers funding pre-tax program start-up costs and annual administrative fees, Medicare Part B premium refunds and such other exceptions as are expressly authorized by law. Prohibited alterations include but are not limited to the following:

(a) Alteration of its subscribers' choice of health carriers, health benefits, or out-of-pocket costs;

(b) Offering non-Commission health insurance coverage;

(c) Making contributions to offset Commission health premium or specific health benefits, including compensating the difference between current municipal benefits and Commission benefits, except as expressly authorized by law, including as authorized by M.G.L. c. 32B, §§ 15(b), 24 and 25;

(d) Obligating the Commission's municipal coverage to pay for health claims that were incurred before the Municipal Insureds' Commission coverage became effective.

Such alterations or subsidies are grounds for rejection or termination from Commission coverage after a 90-day termination notice. In the event that the Commission learns of the violation after Commission coverage has begun, termination shall be retroactive to the initial subsidy or alteration.

8.01: continued

(3) Scope of Transfer. Upon the Municipal Employer's coverage effective date and for the duration of its coverage with the Commission, the Municipal Employer shall not provide any non-Commission health coverage to its employees.

(4) Coverage Effective Date. Health Coverage for Municipal Insureds shall begin on the effective date of transfer as determined by the Commission. The Commission's Health Coverage shall consider only health care claims that are incurred after the Commission's effective date of transfer. The Municipal Employer shall be solely responsible for continuing its Municipal Insureds' health coverage until the effective date of transfer to Municipal Coverage, including coverage of any costs or claims incurred but not reported prior to the effective date of transfer.

(5) Enrollment, Choice of Plans. As of the effective date of transfer to the Commission's Health Coverage, the Municipal Employer shall provide the Commission's forms for Health Coverage enrollment to all prospective insureds, including those who currently are not enrolled in the Municipal Employer's health coverage. Municipal Employer Insureds shall be offered all of the health plan choices as are offered to other Insureds who live in the same geographic area.

(6) Data Required with Notice. A Municipal Employer that has given notice as defined in 805 CMR 8.01(1) of its decision to transfer shall provide the Commission with a completed "Required Municipal Initial Enrollment Data" of its current enrollee population for whom it provides health insurance coverage. These data shall be provided no later than 30 days after the notice deadline for any given enrollment period and be in a format designated by the Commission. The Commission shall provide the file type, file layout, data elements and the Commission's Municipality Software Application upon request of the Municipal Employers. The Commission will publicize initial enrollment data requirements on its website.

(a) Completeness of the aggregated data shall be assessed by use of the Commission's Municipality Software Application and shall be within a 5% error threshold.

(b) The total count of eligible subscribers, including all employees, retirees, and survivors who would be eligible for Commission health insurance whether or not currently enrolled shall be provided by the deadlines as described in 805 CMR 8.01(6).

(c) All Municipal Employers shall provide the Commission with the following contact information:

1. IT contact and alternate;
2. benefits coordinator and alternate;
3. fiscal contact and alternate; and
4. authorized official and alternate.

Contact information shall include mailing address, phone number and email address.

(d) All Municipal Employers shall provide their benefits coordinator staff with internet access to utilize the Commission's eligibility system (known as the MAGIC system). The Commission shall provide authentication certificates, user IDs and passwords to allow access to the MAGIC system.

(7) The Municipal Employer shall provide, in advance, a draft to the Commission of the initial subscriber communication, which will be subject to the Commission's review. The Commission shall provide a template for this communication. Future communications regarding the Commission shall be cleared by the Commission in advance of their distribution. The Commission shall provide a master premium contribution chart for the Municipal Employer to use in developing a customized rate chart for its own contribution ratios as well as all benefit related materials. The Municipal Employer shall produce customized rate charts for its subscribers and shall provide them to the Commission in an Americans with Disability Act (ADA) accessible format for the Commission's website.

(8) Municipal Employers that do not meet the Commission's required deadlines during the implementation period may, at the Commission's sole discretion, have their coverage effective date delayed until the next scheduled enrollment period.

8.01: continued

(9) If a Municipal Employer chooses to transfer to Commission coverage and its retired teachers currently receive insurance through the Commission's Retired Municipal Teachers program under M.G.L. c. 32A, § 12, all said retired teachers shall return to the Municipality for coverage under M.G.L. c. 32B and may re-enroll only in those Commission benefits for which they are eligible. Retired Municipal Teachers who transfer to the Commission through their respective Municipal Employers may receive through the Commission only those benefits for which they are eligible under M.G.L. c. 32B, § 19 or § 23, as applicable, and are no longer eligible for Commission life insurance.

(10) Municipal Employers whose teachers have participated in the Commission's Retired Municipal Teacher program immediately prior to transferring to the Commission's Municipal Insureds' Health Coverage must offer their Retired Municipal Teachers basic life insurance upon transfer to Municipal Health Coverage.

8.02: Health Coverage Payments

(1) The Commission shall determine the full cost rates for Health Coverage, to be shared by the Municipal Employer and Municipal Insureds. The full cost rates shall consist of a premium cost and an administrative fee determined by the Commission. The administrative fee shall not exceed 1% of the premium cost.

(2) The Municipal Employer shall arrange for all Municipal Insureds' premium contributions to be deducted from their paychecks or retirement allowance one month in advance of coverage.

(3) No later than March 1st, the Municipal Employer shall notify the Commission of any change to Municipal Insureds' premium contribution ratios. Changes to contribution ratios shall be effective July 1st.

(4) The Municipal Employer shall transmit monthly to the Commission the full cost of Municipal Insureds' Health Coverage, including the applicable administrative fee. Payment of Municipal Insureds' Health Coverage is due on a date determined by the Commission. The Commission shall invoice the Municipal Employer on a monthly billing cycle for the full cost health insurance premium liability and administrative fee. Monthly invoices are available through the Commission's eligibility system, MAGIC, and invoices must be reconciled to the payment submitted to the Commission. If the Municipality does not pay the invoice in full, the Commission will bill the Municipality for outstanding balances until full payment is made or discrepancies are reported and reconciled. Failure to remit full payment may result in cancellation of coverage for that Municipality's enrollees. Adjustments will be separately noted on the following month's invoice on the eligibility system.

(a) In the event that a Municipal Employer fails to pay the cost of its Insureds' Health Coverage within 30 days of the premium due date, the Commission shall send an overdue notice to the Municipal Employer. Payments not received after 30 days' delinquency will be subject to interest charges and further action.

(b) The Commission shall notify the Public Employee Committee, the Municipal Employer, and the Executive Office for Administration and Finance of the delinquency and the Commission's intention to cancel coverage if the Municipal Employer fails to pay the full amount in arrears for more than 60 days from the invoice due date.

(c) As to remaining arrearages, the Commission may inform the state treasurer who shall issue a warrant in the manner provided by M.G.L. c. 59, § 20 requiring the Municipal Employer to pay into the treasury, as prescribed by the Commission, the amount of the premium and administrative expenses attributable to the political subdivision, *see* M.G.L. c. 58, § 20A.

(d) If any amount remains in arrears at the end of a 90-day period, the Commission may begin termination proceedings of the Municipal Employer's health coverage, and the Municipal Employer may be responsible for all claims incurred during the period in which the full premium was not paid.

(5) If a Municipal Employer fails repeatedly or egregiously to notify the Commission within 60 days of a termination or other loss of eligibility due to a change in employment status, the Commission may assess against the Municipal Employer a financial penalty of $100 per ineligible person per month, or the amount by which actual claims for any ineligible person exceeded premiums paid by the Municipal Employer for that person, whichever is greater.

8.03: Eligibility, Conditions of Participation

(1) To be eligible for Health Coverage, persons affiliated with Municipal Employers must be Employees, Retirees, Survivors, or Dependents, as those terms are defined in 805 CMR 1.02: *Definitions*.

(2) For the purposes of implementing M.G.L. c. 32B, §§ 19 and 23, the Commission interprets M.G.L. c. 32B, §§ 19(a) and (e) and 23(h) to mean that eligibility for Health Coverage in political subdivisions that have transferred subscribers to the Commission pursuant to M.G.L. c. 32B, § 19 or 23 remains subject to M.G.L. c. 32B. However, for those political subdivisions, the Commission is the sole determinant of who is eligible for Health Coverage. The Commission interprets eligibility under M.G.L. c. 32B to be the same as eligibility under M.G.L. c. 32A, except where there is a clear distinction between the two chapters. Therefore:

(a) Consistent with 805 CMR 9.08: *Employees and Municipal Insureds not Entitled to Receive a Pension or Retirement Allowance* and 805 CMR 1.02: Employee and Retiree, the employees and retirees of a city, town, regional school district, or any other statutorily authorized district shall not be eligible for Commission coverage unless they are members of a Massachusetts public sector retirement system, are receiving a pension from a public retirement system, or are Survivors of Municipal Employees or Retirees (OBRA is not such a public retirement system for this purpose).

(b) Municipal Employees, except elected officials or others as expressly exempted by law, must meet the requirement of a Regular Work Week, as defined in 805 CMR 1.02: *Definitions*. For the purposes of M.G.L. c. 32B, §§ 19 and 23, the reference to "20 hours" in M.G.L. c. 32B, § 2, "Employee" means 20 hours out of a regular work week of 40 hours, or 18.75 hours out of a regular work week of 37.5 hours.

(3) The following individuals are Municipal Employees:

(a) Elected officials, without regard to hours worked or to participation in a pension system, are Municipal Employees at local option, consistent with 805 CMR 9.02: *Elected Officials* and M.G.L. c. 32B, § 2, "Employee".

(b) Members of call fire departments or other emergency services, without regard to hours worked, are Municipal Employees at local option, consistent with M.G.L. c. 32B, § 2, "Employee".

(c) Public school employees are deemed to be Employees during the months of July and August following the school year, without regard to hours worked or to method of payment pursuant to M.G.L. c. 71, § 40 and eligible for coverage if employee contributions for health insurance for those two months are deducted from the compensation paid for services rendered during the previous school year consistent with M.G.L. c. 32B, § 2.

(d) Traffic supervisors, without regard to hours worked, are Municipal Employees at local option, consistent with M.G.L. c. 32B, § 2A.

(e) Reserve, permanent-intermittent, and call firefighters, without regard to hours worked, are Municipal Employees and, upon retirement, Municipal Retirees, at local option, consistent with M.G.L. c. 32B, § 2B.

(4) The Commission shall determine the effective date for all matters pertaining to Municipal Insureds' Health Coverage, including but not limited to their eligibility, effective dates of coverage, termination, and status changes. The Commission determines whether persons are eligible for Commission coverage as Municipal Insureds according to M.G.L. c. 32A and c. 32B, and its eligibility decisions are final and binding. Prior coverage through a Municipal Employer does not guarantee Commission coverage.

(5) Municipal Employers that do not meet the Commission's required deadlines during the implementation period may, at the Commission's sole discretion, have their coverage effective date pended until such time as the Commission can determine an appropriate date.

(6) The Municipal Employer shall submit all eligibility and enrollment information requested by the Commission, including census data in a format specified by the Commission, along with documentation that the Commission deems necessary to determine eligibility.

(7) A Municipal Employer's authorized individual shall certify the accuracy of the eligibility information and shall submit the certification, signed under the pains and penalties of perjury, with the eligibility data for the Commission's review and decision. No persons shall be enrolled in Commission coverage without the prior approval of the Commission.

8.03: continued

(8) Surviving Spouses of Municipal Employees and Municipal Retirees are eligible for Commission coverage, subject to the provisions of 805 CMR 9.09: *Surviving Spouse*. Health Coverage for Municipal Employees' and Retirees' surviving spouses ends upon the surviving spouse's remarriage.

(9) Municipal Insureds and their eligible dependents shall be eligible for Health Coverage and shall be subject to the same Health Coverage terms, conditions, carriers, schedules, benefits and benefit levels as those provided to State Employees, Retirees, Survivors, and their Dependents in the pool.

(10) The Commission may audit Municipal Employers for compliance with the Commission's policies and procedures for maintaining Municipal Insureds' Health Coverage.

(11) If they are eligible for Medicare Part A for free, Municipal Retirees, their covered spouses, and Municipal Surviving Spouses are required to enroll in Medicare Parts A and B in order to receive health coverage through the Commission. They must enroll during Medicare's next annual enrollment period. Municipal Employers shall be required to notify all retirees of this obligation and of the next Medicare open enrollment period. The Municipal Employer shall pay any new late entry penalties for its Medicare-eligible Insureds who were required to join Medicare as a condition of transfer to Health Coverage. The Commission shall not pay for or reimburse any Part B premium. Municipal Employers shall reimburse retirees for penalties incurred by their Medicare eligible insureds who are required to join Medicare upon transferring to Commission coverage. A Municipal Employer is not required to reimburse retirees for late enrollment penalties if the retiree did not enroll in Medicare when required.

(12) Upon the Municipal Insureds' Coverage effective date and for the duration of their Health Coverage, the Insureds shall not receive health coverage pursuant to M.G.L. c. 150E, M.G.L. c. 32B or any other arrangement with the Municipal Employer.

(13) The Municipal Employer shall perform all administrative functions and shall process and provide all information that the Commission deems is necessary to administer its Insureds' Health Coverage, including monthly billing reconciliation.

(a) The Municipal Employer and its Insureds, as the case may be, shall furnish all information necessary to maintain its Insureds' Health Coverage in such form, content and frequency as the Commission determines, including but not limited to monthly reconciliation of the Commission's monthly billing file.

(b) The Municipal Employer shall gather eligibility information for enrollment and status changes, and forward a copy of all such documentation to the Commission with each application. Any necessary translation shall be at the applicant's or Municipal Employer's expense.

(14) Municipal Insureds who terminate employment while in good premium payment standing and begin employment with benefits with the same or another Employer before Commission coverage under the prior Municipal Employer ends, shall continue to be insured without a break in existing coverage and must remain in the health plan they enrolled in with the first Municipal Employer consistent with 805 CMR 9.19(1). Such Municipal Insureds who begin employment with benefits with the same or another Employer after Commission coverage under their prior Municipal Employer has ended shall be subject to 805 CMR 9.19(2).

(15) The Commission is not subject to the provisions of M.G.L. c. 30A.

(16) Prior to the effective date of transfer to the Commission's health coverage, the Municipal Employer shall distribute enrollment materials, as provided by the Commission, for health coverage enrollment to all prospective Insureds, including those who currently are not enrolled in the said Municipal Employer's health coverage. The Municipal Employer's Insureds shall be offered the same health plan choices offered to state Insureds who reside in the same geographic area.

(17) Coverage ends on the last day of the calendar month following the month that an employee leaves the service of his or her original Municipal Employer. Premiums shall be collected for that last month by the Municipal Employer.

8.03: continued

(18) If a former Spouse is eligible under the terms of a divorce decree and enrolled under the insured's family plan, coverage for the former Spouse under the insured's family plan will end upon the remarriage of either the Insured or Spouse. The former Spouse may be eligible for a divorced Spouse rider or COBRA coverage as determined by the Commission depending upon the language in the divorce decree.

8.04: Coverage Continuation and Termination, Notice Deadline

(1) A Municipal Employer that transfers to Health Coverage due to a Fiscal Emergency declared by the Legislature may continue Health Coverage for its insureds after the governing finance control board or receiver determines that a Fiscal Emergency no longer exists or otherwise ends its oversight of the Municipal Employer. If a Municipal Employer remains in Health Coverage after release from finance control board oversight, the Municipal Insureds' Health Coverage shall be subject to the same Commission rules and regulations that apply to Municipal Employers whose Insureds have joined Health Coverage pursuant to M.G.L. c. 32B, § 19.

(2) If a Municipal Employer terminates Commission coverage without giving notice by the deadline, the Municipal Insureds' Health Coverage shall be cancelled for nonpayment retroactive to the last month for which the Municipal Employer paid its share of the premium.

(3) A Municipal Employer transferring out of the Commission's coverage pursuant to M.G.L. c. 32B, § 19 or 23 shall provide the Commission with notice on or before December 1st for transfer on July 1st of the following year. The effective date for a Municipal Employer to withdraw from Commission coverage shall be on July 1st of the expiration year as specified in a municipal entity's bargained agreement or Order of the Panel, and Commission coverage shall end on June 30th.

(4) A Municipal Employer that withdraws from Commission coverage and does not immediately transfer its Insureds to the Commission pursuant to a different section of M.G.L. c. 32B may not transfer its Insureds to the Commission for three years. For example, a Municipal Employer may withdraw from Commission coverage pursuant to M.G.L. c. 32B, § 19 effective July 1st and transfer its Insureds to Commission coverage pursuant to M.G.L. c. 32B, § 23, as of the same July 1st. However, if it does not do so, but instead withdraws from all Commission coverage, it may transfer its Insureds once again to the Commission no earlier than July 1st, three years after the effective date of the earlier withdrawal.

(5) A Municipal Employer that fails to notify the Commission of its transfer decision as specified in 805 CMR 8.04(3) and fails to provide the Commission with a new PEC agreement by the expiration of its then current PEC agreement shall be re-enrolled for the minimum renewal period specified in M.G.L. c. 32B, § 19 or 23. The contribution ratios specified in M.G.L. c. 32B, § 19 expiring PEC agreement will continue until a successor agreement is provided to the Commission.

8.05: Transfer Procedures under M.G.L. c. 32B, § 23: (Reserved)

8.06: Data Management and Communication

(1) Municipal Employers shall report all changes to an enrollee's coverage on forms designated by the Commission. Upon notification from the Commission, Municipal Employers shall be required to enter on the Commission's eligibility system (MAGIC system), an enrollee's coverage and/or coverage changes.

(2) The Commission determines the effective date of enrollees' coverage changes including, but not limited to: individual to family, family to individual, and cancellation of coverage and shall notify the Municipal Employer directly via the Premium Deduction Change Notice. The Municipal Employer shall accept this notice and update its records accordingly.

8.06: continued

(3) Municipal Employers shall reconcile their entire insured membership on a monthly basis via the Statement of Verification that is included with the monthly bill and roster. Municipal Employers shall report any discrepancies to the Commission at a time determined by the Commission. Late notification of discrepancies to the Commission may result in a delay in the effective date of insurance coverage changes.

(4) Any Municipal Employer that transfers its insureds to the Commission with more than one enrollee percentage contribution towards a particular individual, family or Medicare health plan premium shall provide the Commission with enrollment data by enrollee percentage contribution for said health plan(s). Reporting shall be monthly, or less frequently as required by the Commission, on a form that will be provided by the Commission.

(5) A participating Municipal Employer or its Public Employee Committee may request data for the sole purpose of determining whether it will continue to participate after its initial three years, as specified in its executed Public Employee Committee agreement or order from the three-person arbitration panel. Requests for such data shall be made in the calendar year in which a given agreement is open to negotiation, and such requests shall be limited to one request in the calendar year in which a political subdivision is considering withdrawing from coverage

(a) Entities requesting utilization data should assess the amount of time they will need to analyze data and conduct negotiations before making a decision about whether to remain in the Commission. Such entities must submit their requests to the Commission at least 30 days before the data are to be provided to them to use in their decision-making process. In a City, the request must be signed by the City Manager or the Mayor, in a Town by the Town Manager or the Chairman of the Board of Selectmen, and in a regional school district, by the Chairman of the Regional School District Committee. For a Public Employee Committee, the request must be signed by a majority of the representatives of the Public Employee Committee, or by a weighted majority of representatives of the Public Employee Committee. The Commission will notify the relevant Municipal Employer of a data request from a Public Employee Committee.

(b) The Commission will provide the following data to each requesting entity with more than 50 subscribers:

1. A monthly claims report consisting of the following data elements:
   a. the subscriber count;
   b. the covered lives count;
   c. the total paid medical claims; and
   d. the total paid prescription drug claims.
2. A yearly large loss report, *i.e.*, for claimants who have incurred $25,000 or more paid claims in a given year consisting of the following elements:
   a. the de-identified claimant ICD-9 or ICD-10 codes (diagnoses); and
   b. the de-identified claimant total paid claims (medical and prescription drug).

The Commission will provide Protected Health Information to requesting entities as the Commission's Business Associates subject to the HIPAA Privacy Rule after each signs the Commission's Business Associate Agreement (BAA) as specified below. In the event that a Municipal Employer or a Public Employee Committee both request data in the same year, the Commission will supply data for the same time period to both entities.

Municipal Employers and Public Employee Committees that have requested these data will be required to designate a single person to handle these data, and such persons will be required to sign a BAA in which they agree not to share these data with other parties. Before receiving these data, the requesting entities agree to execute a BAA with the Commission in which they agree that only their single designated person shall handle these data, and that these data shall not be shared with anyone other than insurance brokers, benefits consultants, and health plans for the limited purpose of securing bids for the procurement of health insurance.

Requesting entities wanting Medicare HMO data or fully insured retiree dental coverage data should use the monthly premium as a substitute for actual cost. Administrative costs are not included in the data provided.

8.06: continued

(6) On or before January 15, 2013 or any later year, at the request of a Municipal Employer, the Commission will make available to the Municipal Employer a list of that Municipal Employer's current members. A Municipal Employer must make any such request by November 15th of the prior year. The purpose of this list is to assist the Municipal Employer in meeting its obligations under M.G.L. c. 32B, § 26.

8.07: Commonwealth Charter Schools, Education Collaboratives, Regional Planning Agencies, and Regional Councils of Government

(1) Eligibility. Employees, Retirees, Survivors, and Dependents of Commonwealth charter schools, education collaboratives, regional planning agencies, or regional councils of government are eligible for Commission benefits if they are statutorily entitled to such benefits pursuant to M.L. c. 32A, § 2(b), or if the Commonwealth charter school, education collaborative, regional planning agency, or regional council of government has adopted M.G.L. c. 32A as specified in M.G.L. c. 32A, § 2(b), M.G.L. c. 32A, § 3B, or M.G.L. c. 32B, § 21(a), whichever is applicable.

(2) Notice. Non-unionized Commonwealth charter schools must provide a certified copy of the majority vote of their board of trustees to join Commission health coverage; non-unionized education collaboratives must provide a certified copy of their boards of directors' majority vote to join Commission coverage. Regional planning agencies and regional councils of government must provide a letter from their governing board stating their decision to join Commission coverage. Unionized Commonwealth charter schools and unionized educational collaboratives must provide the Commission with notice of intent to transfer as required by M.G.L. c. 32B, § 19 or § 23.

(3) Commonwealth charter schools, education collaboratives, regional planning agencies, or regional councils of government shall follow the transfer protocols in 805 CMR 8.01.

(4) Terms. Except as otherwise stated in 805 CMR 8.06, Commonwealth charter schools, education collaboratives, regional planning agencies, or regional councils of government who opt to join Commission coverage are subject to applicable requirements of M.G.L. c. 32A and related regulations.

REGULATORY AUTHORITY

805 CMR 8.00: M.G.L. c. 32B, §§ 19 and 23.