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Report to the Iowa General Assembly

IPERS bona fide retirement exception
Licensed health care professionals in public hospitals

Summary

An exception in the law allows licensed health care professionals to retire with IPERS benefits and return to work in one month. The standard bona fide retirement period is four months. The one-month provision ends July 1, 2010.

IPERS found licensed health care professionals returned to work following retirement at a higher rate than regular IPERS members did. Nearly 72 percent of licensed health care professionals who retired and returned to work during the study period from July 1, 2004, through June 30, 2009, did so in less than four months, taking advantage of the exception. This may indicate the exception encouraged retirees to return to work. It may also have encouraged employees to retire earlier, knowing they could return to work in as little as one month. However, we cannot draw conclusions because we do not have sufficient comparative data before the provision was in place.

Early findings show added costs, but the costs are best examined in an experience study. IPERS' actuary will complete an experience study in the summer of 2010. Therefore IPERS recommends extending the one-month provision end date to July 1, 2011, thereby continuing the exception until IPERS completes the experience study. IPERS will report the results before the 2011 legislative session. IPERS discussed the recommendation with Iowa Hospital Association staff, who did not express objections.

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Reporting requirements

IPERS and the Iowa Hospital Association are each to submit a report to the General Assembly by October 1, 2009, on the costs and effectiveness of an amendment to IPERS' bona fide retirement provision in 97B.52A, Iowa Code.

The amendment provides that covered employment does not include employment as a licensed health care professional by certain public hospitals for purposes of establishing a bona fide retirement. The report is to provide statistics on the number taking advantage of the provision, the costs and financial benefits, if any, associated with the provision, and recommendations for further action.

The initial exception period was July 1, 2004, to July 1, 2006. The period was extended to July 1, 2010.

References

97B.52A, Code of Iowa
495—11.5(2), Iowa Administrative Code

Affected employees

The exception covers public employees who are health care professionals licensed under Iowa Code chapter 147 and employed at public hospitals. Included are physicians, surgeons, podiatrists, osteopaths, psychologists, physical therapists, physical therapist assistants, nurses, speech pathologists, audiologists, occupational therapists, respiratory therapists, pharmacists, social workers, dietitians, mental health counselors, and physician assistants.

Affected employers

Licensed, merged, county, and city hospitals participate in the exception. Not included are state hospitals or medical care facilities operated by the Iowa Departments of Human Services and Corrections, Board of Regents, and the Iowa Veterans Home.

What is a bona fide retirement?

To have a bona fide retirement, employees must retire in good faith and have a legitimate, aboveboard retirement. They must stop working and actually retire. They can show their retirement plans are real, and therefore they are entitled to retirement benefits.

Length of time separated from work is one obvious consideration, but other factors also may apply, such as plans to return to work. Retirees can later return to public employment, but they cannot create a sham retirement by having a prearranged plan with an employer to continue working.

Federal requirements

IPERS is a qualified retirement plan because it meets the requirements of Internal Revenue Code section 401(a). As a result, members are eligible to receive certain tax benefits, such as excluding contributions from earnings and transferring the value of their retirement account into another tax-deferred vehicle such as an Individual Retirement Arrangement (IRA). Changes to the IPERS plan must meet the above IRC requirements for the plan to continue its qualified status.

The IRS allows qualified plans to pay benefits to an individual only after the person has ended employment, with only a few narrow exceptions. Many changes in employment status do not qualify as separation from employment. These include:

- Reduced hours.
- An agreement between the employee and employer to a pre-arranged termination and reemployment.
- Changing positions from a job covered by the retirement plan to one with the same employer but not covered by the retirement plan. (The IRS considers all IPERS employers to be "one employer" under a statewide retirement plan.)

Bona fide retirement for IPERS members

All IPERS members must have a break in service of one month, during which a retiree cannot work for any IPERS-covered employer in any job, even if the job is not an IPERS-covered position. Retirees other than licensed health care professionals also must not work in any IPERS-covered position for an additional three months to have a bona fide retirement.

Exception for licensed health care professionals

Licensed health care professionals do not have to meet the additional three-month bona fide retirement period to continue eligibility for benefits. Licensed health care professionals can collect retirement benefits and return to work after only the one month break during which they are completely out of employment with all IPERS covered employers. A requirement for a one-month break before returning to work remains in place because federal law requires a separation in service.

Using the exception

Federal law requires a separation in service before a qualified retirement plan can pay benefits. Therefore licensed health care professionals who want to draw IPERS benefits must completely end employment before returning to work. To ensure this occurs, IPERS added four requirements by administrative rule. All requirements must be met for an exception to be valid.

1. The employer must post the job opening and conduct an employee search.
2. The retiree must receive all termination payouts that the employer is required to pay to any other employee who ends employment.
3. The retiree must give up the advantages that come with seniority as would happen to any other employees who stops working.
4. The retiree must not enter a reemployment agreement with the former employer or another public hospital before or during the first month of benefits.

Findings*
By the Numbers

Number on June 30, 2009	
14,748	Active IPERS members employed by public hospitals
7,245	Licensed health care professionals (active and inactive)
5,348	Active (contributing) licensed health care professionals
1,406	Active licensed health care professionals age 55 or older (Earliest retirement eligibility is age 55)
Number during the study period (7/1/04—6/30/09)	
491	Licensed health care professionals who retired
117	Retired licensed health care professionals returning to work
84	Retired licensed health care professionals returning to work in less than four months
33	Retired, reemployed licensed health care professionals meeting the four-month bona fide retirement period without exception
For 84 licensed health care retirees returning to work in less than four months	
60	Median age at retirement
$46,732	Median final average salary before retirement
$24,447	Median annual retirement benefits
9	Retirees with reemployment wages exceeding $30,000
Comparisons	
Regular members	
22,034	Regular class members who retired during study period
3,502	Retired regular class members returning to work
15.9%	Percent of regular class retirees returning to work
Licensed health care professionals	
491	Licensed health care professionals who retired
117	Retired licensed health care professionals returning to work
23.8%	Percent of regular class retirees returning to work

* Based on employer wage reports filed with IPERS and member retirement records.

Benefits and Costs

IPERS and staff of the Iowa Hospital Association met to discuss each groups' information. It appears from both sets of information the exception is benefiting public hospitals.

Licensed health care professionals are returning to work in retirement at a faster rate than other IPERS' retirees do, and 72 percent of those returning to work are using exception. From wage reports, it appears most re-employed retirees are working part-time.

IPERS is concerned about costs. Normal cost (the amount that should be paid each year to cover benefits being earned) is higher for retirees returning to work than the normal cost of a new IPERS member. Retirement fund financing depends on younger workers entering the system and contributing many years before drawing benefits. When a retiree returns to work, he replaces himself as a new member.

IPERS' actuary conducted a preliminary analysis of the normal costs for all retired, re-employed IPERS members and retired, re-employed licensed health care professionals. The actuary determined that not only is the normal cost higher for all retirees coming back to work, it is higher yet for reemployed licensed health care professionals. That could occur if a higher percentage of females are working as licensed health care professionals. Because females live longer, their retirement costs are higher.

Conclusion and recommendation

Because the group of licensed health care professionals is small and comparative data is limited, IPERS hesitates to draw many conclusions about this group without an experience study. The actuary will complete a regularly scheduled quadrennial experience study in the summer of 2010. An experience study examines employment and retirement behaviors of the membership. This is done to establish or validate actuarial assumptions upon which normal costs are valued.

Licensed health care professionals may be changing their behavior, such as when they retire and return to work, in response to the exception that allows them collect retirement benefits and return to work in as little as one month. This is significant because the normal cost for this group of retirees is higher than the normal cost for other re-employed retirees. Both groups cost more than other IPERS members do.

On the other hand, re-employed retired licensed health care professionals may be filling critical positions that hospitals cannot fill any other way. Therefore IPERS recommends continuing the bona fide retirement exception until the experience study is completed to explore more thoroughly the added costs to IPERS resulting from re-employed retirees. This will provide the legislature more complete information for the 2011 legislative session.

Solutions may include eliminating the exception or collecting extra contributions from the employers who use the exception. The additional contribution would be tied to the higher normal cost associated with retired re-employed members. This approach could apply to all employers, not just public hospitals.

Solutions may also mean eliminating plan provisions that encourage people to retire early. Retirement policies that support later retirements could decrease the demand to allow retirees to return to work.

The Benefits Advisory Committee already is looking at early retirements in its studies of ways to balance long-term funding. The Rule of 88 and Rule of 62/20 allow employees to retire as soon as their age and years of service total the rule. Some IPERS' retirees have qualified for unreduced benefits as early as age 55 with 33 years of service. Given the added cost of re-employed retirees and an increase in longevity, solutions to rebalance funding may also be the same ones that support longer careers.

The fastest growing segment of IPERS' membership is re-employed retirees. While growth appears to be greater for licensed health care professionals, it is an increasing tread for other occupations under IPERS.

This is a serious issue because of the added costs to a retirement system from older members returning to covered employment. Therefore, this issue should be examined in relationship to all membership classes through the upcoming experience study.