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**STATE OF CONNECTICUT**

***OFFICE OF POLICY AND MANAGEMENT***

**Office of Labor Relations**

**November 19, 2012**

**General Notice 2012-09**

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

**Relations Designees**

**SUBJECT**: Dependents under State Sponsored Health/Dental Insurance Plan – EMPLOYEES WHO SELF-DISCLOSED AND REMOVED THEIR SPOUSE/FORMER SPOUSE EFFECTIVE October 1, 2011 or July 1, 2012 - Revised

OLR General Notice 2012-04 outlined the procedure to deal with those individuals who removed their spouse/former spouse during open enrollment effective October 1, 2011 or July 1, 2012. The procedures have been revised as a result of an agreement between the Administration, SEBAC and its constituent unions. This OLR General Notice supersedes OLR General Notice 2012-04. It only governs those individuals who are considered to have self-disclosed. It **DOES NOT** govern those individuals who were identified by the Office of the State Comptroller and forwarded to you as an attachment to OLR General Notice 2012-07.

1. **Investigatory Interview.** Agencies must have an investigatory interview with the employee(s) by December 15, 2012. The union should be included unless the represented employee requests otherwise. Some agencies have already had meetings with some of the impacted employees and it may not be necessary to have another investigatory meeting. Employees must provide an explanation as to why they removed their spouse from the insurance during open enrollment.
2. **Employee remains married.** If the employee is still married, the employee must provide either a copy of their marriage certificate or sign an affidavit (Sample attached) that at all relevant times he/she was married to the individual who was covered as a dependent under his/her insurance. Verification will be placed in the individual’s personnel file.
3. **Documented Agency Error.** If the Agency determines that there was Agency error in that there is documentation (oral or written) that the employee previously notified HR or payroll and the Agency did not remove the former spouse from the insurance, the Agency and the employee shall enter into a stipulated agreement verifying the facts for placement in the official personnel file. No payment shall be required by the employee. In the event that documentation cannot be obtained, repayment procedures shall be instituted and the individual treated in accordance with paragraph 5 hereof. The employee may file a grievance with the Pension Grievance Committee.
4. **Divorced, no claims and former spouse has own insurance.** If the employee was divorced and the former spouse had no health/dental insurance claims (except for claims within the two month period following the divorce) the employee must provide written documentation (from insurance carrier or employer) that the former spouse obtained medical coverage within a reasonable time period following the divorce. The insurance must have been continuously maintained until September 30, 2011 or June 30, 2012, as applicable. The employee should obtain the proof of no claims from his/her insurance carrier. Employees in this category shall receive a nongrievable written reprimand for failure to keep their dependent information up to date. In the event the employee is unable to provide evidence of insurance coverage by January 1, 2013, please call the Office of Labor Relations to discuss.
5. **Divorced, former spouse had claims and/or former spouse has no other insurance.** If the employee was divorced and does not fall within paragraph 3 or 4 hereof, they shall pay to the State one-half of the individual premium back to the first day of the month following the date of divorce. Employees in this category shall receive a nongrievable written reprimand for failure to keep their dependent information up to date.
6. **Taxation.** The employee will be responsible to pay the tax on one-half of the fair market value of the insurance benefit that was erroneously received for the employee’s former spouse. The fair market value of the insurance benefit has been determined by the IRS as the individual premium rate. To facilitate this, the agency will need to complete and submit the required form (i.e., Benefits Override spreadsheet) to the Office of the Comptroller (OSC), who will process the required tax adjustment via payroll deduction. The amount of the tax relating to benefits erroneously received during calendar year 2012 needs to be paid in full before December 31, 2012. The OSC will deal with the taxation issue for any benefits erroneously received during prior calendar years. The OSC will report only the amount that it has determined is subject to taxation. It is our understanding that the OSC has determined that they will be going back for three (3) years on including amounts in income which will be taxable. They will, of course, be issuing a notice to Agencies regarding that issue.
7. **Repayment Action.** If you determine that the individual was divorced between January 1, 2012 and June 30, 2012 and falls within paragraph 5 above, they owe the State one-half of the individual premium rate for the number of months their former spouse was covered erroneously. The premium would be determined as follows:

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| **Plan** | **2012 -13 Monthly Premium** | **One-half of Monthly premium** |
| Anthem Point of Service | $624.24 | $312.12 |
| Anthem Point of Enrollment | $604.18 | $302.09 |
| Anthem Point of Enrollment - Gatekeeper | $601.78 | $300.89 |
| Anthem Preferred | $893.97 | $446.99 |
| Anthem Out of Area | $855.41 | $427.71 |
| Oxford Freedom Select POS | $506.53 | $253.27 |
| Oxford HMO Select | $481.97 | $240.99 |
| Oxford HMO | $443.33 | $221.67 |
| Oxford Out of Area | $537.23 | $268.62 |

For example, if the individual was divorced on March 15, 2012 and had Anthem POS, they would owe the State $936.36 ($312.12 x 3 months as insurance goes to the end of the month after the event) plus three months of one-half of the monthly individual premium rate 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 certified or bank check or money order. Additionally, the Employee would have $936.36 included in his/her income and be taxed on that amount during calendar 2012. (See paragraph 6 above).

If you determine that the individual was divorced prior to January 1, 2012, and falls within paragraph 5 above, they would owe the State one-half of the monthly cost of the individual premium rate determined above for January 2012 through June 2012 for health (and dental, if applicable) plus the one-half of the monthly individual premium rate for each month for health (and dental, if applicable) prior to January 1, 2012 that the spouse was covered from the first day of the month following 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 and the other half would be included in his/her income and the individual would be taxed on that amount during calendar 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. See paragraph 6 above regarding taxation of the value of the benefit.

1. **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 was previously provided.

**9. 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.

**10. 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 for principal should be coded as HCPYB and interest payments should be coded as HCINT in CORE. You should only accept either bank or certified checks or money orders. Agencies should keep a copy.

**11.** **Stipulated Agreement(s).** Each employee who owes money to the State or will have the value of the benefit reported to the IRS and DRS due to 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. A copy of the Stipulated Agreement should be sent to Healthcare Policy & Benefit Services Division of OSC and OLR.

**12. 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.

**13. 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.

**14. 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.

**15. Individuals who did not remove their former spouse as a dependent.** The Office of the Comptroller matched the data from the Judicial database with the State employee database to determine the identity of other individuals who may be covering former spouses. The information was provided to you as part of OLR General Notice 2012-07. The individuals that you determine inappropriately covered a former spouse and did not self disclose during open enrollment are NOT covered by the terms of the SEBAC agreement with the Administration. They will be responsible to repay the State the FULL cost for the entire time the former spouse was inappropriately covered. 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.

**16. 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.

**17. Stipulated Agreements Signed before November 15, 2012.** Any Stipulated Agreement entered into prior to November 15, 2012 should be reviewed and modified as necessary to be in compliance with the agreement with the Administration. This would include any Agreement with a nonrepresented employee.

**18. Opting out.** Employees may choose to opt out of the procedure outlined in the agreement and as described in this OLR General Notice. In such event, call the Office of Labor Relations to discuss.

**19. COBRA Notice.** You are reminded that an appropriate COBRA notice should have been provided to the former spouse upon removal from the health/dental insurance.

**20. 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)

AFFIDAVIT

I, (Name of Employee), under the pains and penalties of perjury, hereby swear or affirm that I have been married to (Name of Employee Spouse) from (Date of Marriage) through (either September 30, 2011 or June 30, 2012 – as appropriate).

I hereby declare that to the best of my knowledge, information and belief, the information herein is true, correct and complete.

In Witness Whereof I have hereunto signed my name and affixed my seal this .... day of ...., 2012.

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(Signature of Employee)

State of Connecticut )

 ) ss: (City)

County of .... )

On this the .... day of ...., 2012, before me, (Name of Officer), the undersigned officer, personally appeared (Name of Employee), known to me (or satisfactorily proven) to be the person whose name appears above, subscribed to the within instrument and acknowledged that .... he .... executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

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 Notary Public/Commissioner of the Superior Court