

Agency Human Resource Services

AHRS Periodical



Virginia Department of
HUMAN RESOURCE
MANAGEMENT

Health Insurance Premiums Used to Calculate the Enhanced Retirement Credit in the Severance Calculator

An agency has questioned why the health benefit premiums that are computed by the severance calculator do not match the amounts listed as the monthly premium rates on the DHRM website: <http://www.dhrm.virginia.gov/hbenefits/WTAPremiums.pdf>. Health insurance premiums are complicated by the Employee Premium Increase Credit (EPIC) that has been in effect in fiscal years 2009 and 2010.

Consider, for example, an employee with COVA Employee Plus One coverage. The rate schedule on the DHRM website indicates that the employee pays \$101 and the State pays \$797, for a total premium of \$898. The \$101 employee premium includes the EPIC discount of \$13. The unreduced employee premium is \$114.

In order to give employees a fair premium value in calculating the enhanced retirement credit, DHRM decided to include the state's share of the EPIC, but not the employee's share. The result is the amount that the state would have to pay if there were no EPIC in effect. The calculator does not include the employee's share of the EPIC because the employee would have to pay it, rather than the state, if there were no EPIC. Therefore, the severance calculator takes the total premium, \$898 and subtracts the total employee premium, \$114, to arrive at \$784.

While one could argue that the employee's enhanced retirement credit should be higher or, perhaps, lower, the calculator is correct based on DHRM's approach, and its amount should be used when agencies complete the VRS-11 form. The instructions on the VRS-11 are not inconsistent with this approach:

"The full state premium prior to the application of the Employee Premium Increase Credit (EPIC) should be used. Do not use the employee portion of the premium."

VRS staff are aware of, and accept, the methodology used by the DHRM severance calculator.

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Statewide Pay Action Summary Report July – September 2009

Reason	# Actions	# Pay Adjustments	Average % Adjustment
Agency Special Rate	47	47	8.48
Change of Duties Salary	168	168	7.35
Competitive Salary Offer	17	17	14.01
Competitive Voluntary Transfer	377	377	7.97
Disciplinary Demotion	8	8	-9.57
Disciplinary Pay Action	2	2	-5.89
Downward Role Change	16	16	-0.31
End Temp Pay: Acting Status	67	67	-8.79
End Temp Pay: Additional Duties	69	69	-6.73
End Temp Pay: Special Assgmt	15	15	-4.97
Exceptional Promotion	5	5	33.16
Internal Alignment Salary	239	239	5.22
Lateral Role Change	67	67	0.98
New Knowledge/Skills/Abilities	296	296	8.12
Non-Competitive Voluntry Trans	146	146	-0.40
Non-Routine	54	54	4.03
Performance Demotion	1	1	-5.00
Promotion	223	223	15.75
Reassignment	97	97	-0.05
Retention Salary Increase	66	66	8.88
Temp Pay: Additional Duties	56	56	7.08
Temp Pay: Special Assignment	31	31	6.71
Temporary Pay: Acting Status	59	59	10.03
Upward Role Change	89	89	7.58
Voluntary Demotion	35	35	-7.15
Change of Duties Bonus	11	11	2.56
Internal Alignment Bonus	1	1	4.65
New Knowledge/Skills/Abilities	15	15	3.91
Recognition Award Leave Hours	2401		
Recognition Award Monetary	432	461	0.76
Recognition Award Non-Monetary	74	64	0.14
Referral Bonus Pay Out	32	32	0.69
Retention Additional Leave	1		
Retention Bonus	11	14	5.66
Retention Bonus Pay Out	2	2	7.59
Sign-On Additional Leave	2		
Sign-On Advanced Leave	1		
Sign-On Bonus Pay-Out	39	39	2.77
Overall Approximate Totals	5272	2889	4.87

There were 1,604 increases averaging 9.44% and there were 220 reductions averaging -7.98% in this quarter.

Workforce Planning and the Periodical's Pay Action Summary data may vary within the same reporting period based on the timing of data runs, agency retraction requests, and the manual review and extraction of erroneous PMIS entries.

Recouping Unemployment Compensation Benefits

DHRM was recently asked to clarify the policy, law, and procedure governing the process of recouping unemployment compensation benefits awarded to terminated employees who are later reinstated with full back pay by a Hearing Officer. There is an apparent contradiction between the Code and DHRM and DEDR policies and procedures.

§ 60.2-634. Receiving back pay after reinstatement

Whenever the Commission (VEC) finds that a discharged employee has received back pay at his customary wage rate from his employer after reinstatement such employee shall be liable to repay any benefits paid to such person during the time he was unemployed. When such an employee is liable to repay benefits to the Commission, **such sum shall be collectible without interest by civil action in the name of the Commission**

DHRM Policy 1.60, Standards of Conduct

Interim earnings: A hearing officer's award of back pay shall be offset by any interim earnings that the employee received during the period of separation, including unemployment compensation received from the Virginia Employment Commission.

The Office of the Attorney General has advised that the DHRM and DEDR policies are correct. The DEDR rules **require** the agencies to offset any back pay by any interim earnings, which is defined to include unemployment benefits. Therefore, there can and should be an offset by the agencies; the VEC bills the agencies directly for whatever is awarded to the employee.

Please refer to
[Code of Virginia](#)
[§60.2-634](#)

&
[DHRM's Standards of](#)
[Conduct Policy 1.60](#)

My Employment Profile

As part of its continuing efforts to provide employees with career information and decision-making tools, DHRM has expanded [EmployeeDirect](#) to include the online application "My Employment Profile." This application provides a new level of transparency that gives employees access to information about their jobs, including salary and performance status, emergency contacts, and total compensation, which is expected to give the workforce a greater appreciation for the value of the Commonwealth's salary and benefits package.

[EmployeeDirect](#) is a secure portal that requires usernames and passwords in order to gain access to personal information. My Employment Profile can be accessed from the site's main menu.

My Employment Profile is primarily based on personnel data recorded by agencies in the Personnel Management Information System. Agencies should encourage employees to review their profiles and advise their agency human resource office of any questions or concerns.

Future enhancements are on the drawing board and suggestions for improvements are welcome. DHRM is particularly interested in employee reactions to this new service. Please send questions, comments, and suggestions to your assigned AHRM consultant.



Employment after Separation

DHRM recently held transition sessions for at-will employees who may be leaving state government at the end of the administration. In addition, many agencies have classified employees who are being separated as a result of budget reductions and the layoff process. Agency human resource staff should provide all employees leaving the work force with information concerning the following Code of Virginia requirements that affect employment after separation. These provisions impact employees who wish to become lobbyists or who have been involved in procurement functions in their state positions.

§ 2.2-3104. Prohibited conduct for certain officers and employees of state government.

In addition to the prohibitions contained in § [2.2-3103](#), no state officer or employee shall, during the one year after the termination of his public employment or service, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on any matter before the agency of which he was an officer or employee.

For the purposes of this section, "state officer or employee" shall mean (i) the Governor, Lieutenant Governor, Attorney General, and officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not, who are regularly employed on a full-time salaried basis; those officers and employees of executive branch agencies who report directly to the agency head; and those at the level immediately below those who report directly to the agency head and are at a pay band 6 or higher and (ii) the officers and professional employees of the legislative branch designated by the joint rules committee of the General Assembly. For the purposes of this section, the General Assembly and the legislative branch agencies shall be deemed one agency.

The prohibitions of this section shall apply only to persons engaged in activities that would require registration as a lobbyist under § [2.2-422](#).

Any person subject to the provisions of this section may apply to the Attorney General, as provided in § [2.2-3126](#), for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.



§ 2.2-4370. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the public body unless the employee or former employee provides written notification to the public body, or a public official if designated by the public body, or both, prior to commencement of employment by that bidder, offeror or contractor.

(1982, c. 647, § 11-76; 2001, c. 844.)

I-9 Updates

U.S. Citizenship and Immigration Services (USCIS) has released the updated version of the Form I-9, Employment Eligibility Verification. The new form and instructions are available at the [USCIS Web site](#).

The new form is dated August 7, 2009 and will expire August 31, 2012.

- You may use Form I-9 with the revision date of either August 7, 2009, or February 2, 2009, for all new hires or re-verifications. The two are the same except for the expiration dates.
- You do not need to complete new forms for existing employees for whom an I-9 has been properly completed.
- All documents presented during the verification process must be unexpired and employers may require only documents specified under the law.

The U.S. Immigration and Customs Enforcement (ICE) has announced that it will be reviewing I-9 records of 650 employers in the coming months as part of a nationwide audit. Businesses being most closely scrutinized are construction, manufacturing, and hotels and restaurants. Additional employers will be audited based on leads or other investigations.

- If you should receive a notice of inspection (NOI), the notice will specify the types of documents being reviewed. In addition to I-9 forms, ICE may request employee identification numbers, payroll records, and communications with the Social Security Administration regarding no-match letters.
- Should you receive a NOI, you have three days in which to send the documents or have them ready for inspection on site, depending upon the mode for the investigation. If you need an extension, you still must respond in a timely manner. Extension requests may or may not be granted. Please advise your AHRS consultant if you receive a NOI so that we can contact the AG's Office and ensure that the immigration attorneys contracted through OAG are alerted.
- ICE may also interview the employer. After the review, ICE may issue a "Notice of Intent to Fine," a list of undocumented workers that must be terminated, and a list of any "suspect documents." The employer may be required to complete new I-9s in some cases. Fines for incomplete or poor documentation range from \$110 to \$1100 per form. Criminal charges may be brought if ICE thinks that the employer has willfully hired illegal workers.
- It is imperative that you adhere to retention records for I-9 forms. If an I-9 form has been completed incorrectly for an inactive employee, the employer is still fined for the inappropriate documentation if the record is retained beyond the retention schedule. Employers must keep I-9s for three years after the employee is hired or one year after termination, whichever is **later**.
- Experts recommend conducting internal audits of your I-9 records annually to ensure compliance.



Additional information about the U.S. ICE's nationwide audit of I-9 records is available [here](#).

Overtime Eligibility Codes

In the mid-1990s, in order to reduce the number of special authorization requests, DHRM decentralized time-and-one-half overtime pay approval for specific job classes to agencies. The decentralization has worked well and presented few problems.

Effective October 1, 2009, the roles below have been added to the list of those that are pre-approved for time-and-one-half overtime pay.

- 49112 Registered Nurse I
- 49113 RN II/Nurse Practitioner I/Physician Asst
- 69072 Law Enforcement Officer II
- 69073 Law Enforcement Officer III
- 69091 Probation Officer I
- 69092 Probation Officer II
- 69114 Security Officer IV
- 69132 Forensic Scientist Specialist II/For Scientist I
- 79034 Trades Technician IV
- 79052 Equipment Services Repair Tech II
- 79094 Printing Technician IV

The primary reason for this change is that the P-14 process does not support the PMIS/CIPPS interface for payroll processing efficiently. DHRM will continue to explore other alternatives to improve the process. However, this initial step will eliminate the need for P-14 approval for 5,330 current employees, which should reduce administrative challenges significantly.

As with other job roles, agencies should limit time-and-one-half payments to employees in these roles to situations where the employees are non-exempt under the Fair Labor Standards Act (FLSA) or where labor market conditions require such payments.

Agencies should remember that an Overtime Eligibility Code of “Y” indicates approval to pay time-and-one-half overtime pay. It does not mean that all positions in the affected roles are FLSA non-exempt. Agencies must continue to determine FLSA exemption status on a position-by-position basis.

Deferred Compensation Payroll Authorization Forms

The Department of Accounts (DOA) has offered the following guidance to HR staff who are assisting employees with the completion of Deferred Compensation Payroll Authorization Forms for one-time deferrals related to lump-sum payments such as bonuses or leave payouts upon separation. If the full amount of the lump-sum payment, after required taxes, is to be deferred please enter "Net Pay" in the field rather than leaving the “amount” field blank. Doing so will ensure compliance with Federal and plan regulations and provide clear intention to the Payroll Office and the Plan Administrator.

H1N1 Virus and the Telework Policy

DHRM Policy 1.61 states that “[t]elework is not intended to serve as a substitute for child or adult care. If children or adults in need of primary care are in the alternate work location during employees’ work hours, some other individual must be present to provide the care.”

Agencies have asked whether the policy is consistent with instructions that were sent out from Karen Remley, M.D., MBA, *State Health Commissioner*. In her October 13, 2009, message to state employees, she stated,

You should review your emergency plans at home and at work. As part of your review of your emergency plans, you should consider how you will arrange to care for a child or other family member should he or she become ill. To date, the novel H1N1 virus has tended to disproportionately affect young people. VDH has been working closely with the Virginia Department of Education (VDOE) in order to provide information and guidance to local school districts. VDH and VDOE both believe that “Well children belong in school learning, ill children belong at home recovering.”

In addition, you should also give careful consideration, in conjunction with your supervisor, to available options for telecommuting. By enabling you to work from home, telecommuting is a tool that can help maintain distance between people who are ill and those who are not, thereby supporting our efforts to prevent the spread of disease. This can also enable you to work from home should you be required to help care for a child or other family member who is ill...

Human resource policy should follow sound management principles and support the interests of the taxpayers and of accomplishing agencies’ missions. Under normal circumstances, an employee who works a standard schedule should not care for children or elderly parents while teleworking.

However, in some cases, policy interpretations must be flexible in order to accomplish the goals stated above. In the case of the H1N1 pandemic, in addition to the normal goals, public health issues require that agencies do what they can to help limit the spread of the disease. Employees in direct contact with ill family members should stay at home and telework to the extent possible.

Employees who telecommute should keep track of their time to account for hours worked and hours not worked. For hours not worked, leave will be required or the employee’s schedule may be adjusted if the agency’s policy permits. Just as when employees are working in the office, they should not have to track every personal activity that is infrequent and/or of short duration. Of course, interruptions that are frequent and/or of longer duration may prevent the employee from accomplishing any productive work and the employee should report de minimis work activities as time not worked.



Applicants with Blue and Yellow Cards

If you have blue and yellow card applicants in the same applicant pool, you should consider:

1. whether or not the blue card applicant is minimally qualified. If so, (s)he should be considered competitively with any internal agency non-wage applicants who have applied for the job
2. If not, you should consider whether or not the yellow card applicants are minimally qualified.
 - If so, the yellow card applicants should be considered competitively with any internal agency applicants (including internal wage applicants)
 - If not minimally qualified, you may consider the entire pool competitively as no applicants have preferential employment rights at that point.



If you have both blue and yellow card applicants in the same applicant pool, a minimally qualified blue card applicant has preference over a minimally qualified yellow card applicant. The rationale is that the blue card applicant has already been laid off.

If you have more than one minimally qualified blue card applicant, they and any internal non-wage applicants compete for the position.

Adjunct Emergency Workforce

The website for the Adjunct Emergency Workforce (AEW) has a new look. We have added new job categories and made the site easier to navigate and more visually appealing.

As a reminder, the AEW provides opportunities for employees to be assigned to Virginia Emergency Response Teams (VERT) during periods of declared emergencies. It was not designed to accommodate agency requests for “backup” employees during periods of high employee absenteeism due to pandemic influenza or other emergency conditions. Therefore, agencies should not reference the AEW in their Continuity of Operations Plans as a supplemental staffing strategy to meet agency business needs.

Eligible employees—those whose positions are designated as “non-essential” during emergencies and whose supervisors approve their participation—may register for the AEW by logging in to the [EmployeeDirect](#) portal. Please encourage your supervisors to approve employee requests to participate in the AEW whenever possible.



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