



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

Benefits Administrator Memo #15-01

To: Benefits Administrators
From: State and Local Health Benefits Programs
CC: All OHB
Date: January 5, 2015
Re: Health Insurance during Military Leave Without Pay (LWOP)

Effective January 1, 2015, active health insurance for employees going on Military LWOP will no longer be terminated in the Benefits Eligibility System (BES). The process of using a special extended coverage (COBRA) category in BES to provide continuation coverage to employees and/or their covered dependents during periods of Military LWOP greater than 14 days has been eliminated.

When state employees are called to active military service, The Uniformed Services Employment and Reemployment Rights Act (USERRA) provides for continuation of employer sponsored health benefits coverage (continuation coverage) for a period of up to 24 months of military leave. Military leave continuation coverage is available only for employees and eligible dependents who already have employer health plan coverage before the employee's absence from employment due to military service. When employees are entered into the Personnel Management Information System (PMIS) or BES in Military LWOP, the active BES record will continue for 24 months.

State employees on Military LWOP may continue health benefits for themselves and covered dependents **with the state's premium contribution**. The employee contribution for health care will be based on the membership level that is selected. Military leave continuation coverage is available to covered dependents only if the employee elects to continue coverage. Like most types of LWOP, this coverage runs concurrently with Extended Coverage (COBRA). As such, all qualified beneficiaries who experience this qualifying event must be provided with an Extended Coverage Election Notice and may elect to exercise their individual Extended Coverage rights, regardless of choices related to USERRA.

The Healthcare Flexible Spending Account (FSA) may be continued through the end of the 24-month period of military leave continuation coverage. Like other types of LWOP, the Dependent Care FSA may be continued only until the end of the current plan year.

Employees who go on Military LWOP have the same Qualifying Midyear Event election rights for health insurance and the Healthcare FSA as most other types of LWOP. If the employee does not wish to continue active state health insurance coverage and/or FSA enrollment, the employee may waive active coverage and cancel FSA enrollment. Otherwise, the agency will collect premiums and FSA contributions in the same manner as other types of LWOP. If premium payments and/or FSA contributions are not received timely, the agency will cancel coverage for non-payment based on the 59-day rule for retroactivity.

Attached is a sample letter that may be used as a guide to notify employees going on Military LWOP about their rights and responsibilities pertaining to the State Health Benefits Program. Employees currently on Military LWOP and enrolled in the special extended coverage (COBRA) group for Military LWOP have been notified that effective January 1, 2015, premium payments and/or FSA contributions will be made directly to the agency.