

145-4-02

**Health care fund.**

- (A) Within the funds described in section 145.23 of the Revised Code, there shall be a separate ~~accounts~~ account established pursuant to ~~section 401(h) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401,~~ and section 115 of the Internal Revenue Code of 1986, 26 U.S.C.A. 115, for the purpose of funding the coverage authorized under sections 145.58 and 145.584 of the Revised Code. ~~These accounts~~ The account shall be known as the "health care fund." The assets in the health care fund shall be accounted for separately from the other assets of the public employees retirement system, but may be commingled with the other assets of the system for investment purposes. Investment earnings and expenses shall be allocated on a reasonable basis. All assets in the health care fund shall be held in trust for the exclusive benefit of members, benefit recipients, and eligible dependents.
- (B) Contributions to the health care fund shall be funded by employer contributions as described in sections 145.48, 145.51, 145.58 and 145.584 of the Revised Code. Contributions to the health care fund are subordinate to the contributions to the funds for retirement benefits under the traditional pension plan and combined plan. ~~At no time shall contributions to the 401(h) account be in excess of twenty-five per cent of the total aggregate actual contributions made to the trust for the traditional pension plan and combined plan, excluding contributions to fund past service credit. In any event, such~~ Such contributions shall be reasonable and ascertainable.
- (C) Forfeitures shall be used to fund health care coverage, qualified medical expenses, dental and vision coverage, administrative expenses of the health care fund, reimbursement of the medicare part A and B premiums, if provided by the system, and as provided in rule 145-4-44 of the Administrative Code and section 145.584 of the Revised Code.
- (D) The assets of the health care fund shall only be used for the payment of health care coverage, qualified medical expenses, dental and vision coverage, and reimbursement of the medicare part A and B premiums, if provided by the system.
- (E) At no time prior to the satisfaction of all liabilities under this rule and sections 145.58 and 145.584 of the Revised Code shall any assets in the health care fund be used for, or diverted to, any purpose other than as provided in paragraph (D) of this rule and for the payment of administrative expenses. Assets in the health care fund may not be used for retirement, disability, or survivor benefits, or for any other purpose for which the other funds of the system are used.
- (F) ~~Upon satisfaction of all liabilities under this rule, any assets in the 401(h) account, if any, that are not used as provided in paragraph (E) of this rule shall be returned to the employers, in accordance with section 401(h)(5) of the Internal Revenue Code. Upon satisfaction of all liabilities under this rule, any assets in the 115 trust, if any, that are not used as provided in paragraph (E) of this rule shall revert to a vehicle~~

~~designated by the public employees retirement board, and in no case will the assets be distributed to any entity that is not a state, a political subdivision of a state, or an entity the income of which is excluded from gross income under section 115 of the Internal Revenue Code.~~

(1) Effective as of July 1, 2016, the public employees retirement board herein terminates the accounts established pursuant to section 401(h) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401. Upon satisfaction of all liabilities to be paid from the prior 401(h) account under this rule, as required by the Internal Revenue Code, the public employees retirement system has the authority, acting on behalf of itself and as the employers' agent, to terminate the 401(h) account. Upon termination, the assets in the 401(h) account, if any, shall be returned to the retirement system, as the employers' agent, in accordance with section 401(h)(5) of the Internal Revenue Code. The system shall notionally credit each contributing employer with the contributing employer's respective share of the terminated 401(h) account assets and immediately assess each employer a contribution due to the 115 trust in an equal amount.

(2) Upon satisfaction of all liabilities under this rule, any assets in the 115 trust, if any, that are not used as provided in paragraph (E) of this rule shall revert to a vehicle designated by the public employees retirement board, and in no case will the assets be distributed to any entity that is not a state, a political subdivision of a state, or an entity the income of which is excluded from gross income under section 115 of the Internal Revenue Code.

(G) It is the intent of the public employees retirement board in adopting this rule to comply in all respects with sections 115, 401(a) and 401(h) (for purposes of compliance with the section 401(h) termination requirements) of the Internal Revenue Code and regulations interpreting those sections. In applying this rule, the board will apply the interpretation that achieves compliance with those sections and preserves the qualified status of the system as a governmental plan in accordance with sections 401(a) and 414(d) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401 and 414.

(H) This rule is intended to codify past practices and procedures of the system with respect to funding the coverage authorized under sections 145.58 and 145.584 of the Revised Code and does not confer any new rights to members, retirants, survivors, beneficiaries, or their dependents.

Effective: 07/01/2016

CERTIFIED ELECTRONICALLY

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Certification

06/15/2016

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09, 145.58  
Rule Amplifies: 145.58, 145.584  
Prior Effective Dates: 1/1/07, 1/1/09, 1/7/13 (Emer.), 3/24/13; 1/1/14, 1/1/16, 4/20/16, (Emer)