

145-4-02

**Health care fund.**

- (A) Within the funds described in section 145.23 of the Revised Code, there shall be a separate account established pursuant to section 401(h) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401 for the purpose of funding the coverage authorized under sections 145.58 and 145.584 of the Revised Code. This account shall be known as the "401(h) account." The assets in the 401(h) account 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 401(h) account shall be held in trust for the exclusive benefit of members, benefit recipients, and eligible dependents.
- (B) Contributions to the 401(h) account 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 401(h) account 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 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 401(h) account, and to reimburse the medicare part B premium if provided by the system, and as provided in rule 145-4-30 of the Administrative Code.
- (D) The assets of the 401(h) account shall only be used for the payment of health care coverage, qualified medical expenses, dental and vision coverage, and to reimburse the medicare part B premium 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 401(h) account 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 401(h) account 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.
- (G) It is the intent of the public employees retirement board in adopting this rule to comply in all respects with sections 401(a) and 401(h) of the ~~internal revenue code~~

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 the funding and payment of health care coverage and does not confer any new rights to members, retirees, survivors, beneficiaries, or their dependents.

Effective:

R.C. 119.032 review dates: 10/08/2013

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Certification

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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