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**Act 4 of 2009
 Extended Coverage
 for Dependents
 Through Age 29**

In addition to signing the Mini-COBRA bill (*Act 2*) on June 10, 2009, Governor Rendell signed a bill that will provide extended childcare coverage through age 29; **it goes into effect on Sept. 8, 2009.** At the discretion of the policy holder, the plan may provide extended coverage to dependents as long as they meet the following eligibility requirements:

1. *The dependent is unmarried,*
2. *The dependent has no dependents,*
3. *The dependent is a resident of Pennsylvania or is enrolled as a full-time student at an institute of higher education;*
4. *The dependent does not have coverage as the subscriber or dependent under another group or individual policy; and*
5. *The dependent is not entitled to enroll, or is enrolled, in any government health care benefits program.*

Insurers may determine the premium increases related to this continued coverage. However, the additional premium is the responsibility of the employee.

If this extended coverage interests your employees, you should speak with your health care provider, labor attorney and municipal solicitor.

**Pension Funding and the 2010 - 2011
 Minimum Municipal Obligation
 (MMO) Report**

*By William C. Asay, CEBS
 President
 (412) 394-9332
 bill.asay@MBGbenefits.com*



We're all well aware of the declining stock market and the huge losses that most municipal pension plans suffered in 2008. We also know that another actuarial valuation for police, general and fire pension plans is to be completed using a Jan. 1, 2009 date. What we don't know is how much 2010 MMO's will increase and how they'll affect budgets.

Act 205 Requirements for MMO's

First, let me explain the requirements of Act 205 when completing the 2010 MMO. You'll need to use the certified numbers from the last actuarial valuation report as well as the Act 205 forms submitted to the state (*that may be the 2007 or 2009 actuarial reports*).

Since the state doesn't distribute Act 205 forms to municipalities until late summer or fall 2009, you'll be able to use the certified numbers from the 2007 actuarial report when determining the 2010 MMO's. This may allow you to control your pension cost for 2010; and, that annual cost will be close to the 2009 MMO, depending on payroll.

Keep in mind that if you use the 2007 actuarial report to create 2010 MMO's, and your annual cost has increased (*and in some cases increased dramatically*), the difference between the amount contributed and the higher amount that was actually needed based on the 2009 actuarial valuation is a loss in the next actuarial valuation; and, you'll start out being that much behind. It could take significant gains in the years 2010 and 2011 when calculating the 2011 actuarial valuation to just break even.

This remedy is already included in pension statutes that can help with 2010 MMO's.

Help for Funding Concerns

The state legislature is aware of current funding concerns facing local government and has been working on different funding alternatives to ease requirements. And, state and school district pension plans are also having funding issues. Just like the state pension systems, many local government systems suffered large investment losses.

Over the next few months, you'll hear many ideas and proposed legislation to fix short term problems for your municipal budgets. However, from a purely pension funding perspective, the problem is long term and any short term fix may just exacerbate the long term predicament. Actuaries can only use life expectancy tables and assumptions to estimate the cost. And, unfortunately, the exact costs will not be known for many years. If the state enacts legislation that reduces your costs now, you'll be pushing the actual costs on to future years.

The primary methods to actually reduce future costs are to:

- reduce benefits (*no chance*),
- increase return (*you have some control, but not a lot*),
- increase employee contributions (*tough negotiations*),
- get more money from the state (*good luck*),
- or, increase pension payments from the municipal general fund.

Since you're the plan fiduciaries and funding is the responsibility of the governing body, you need to take the time and make the effort to understand all options. There's no magic bullet from the state or otherwise that's going to fix pension funding issues.

Mini-COBRA Is Here – Act 2 of 2009

For employers with 20 or more employees, Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1986; it applies to plans in the private sector and those sponsored by state and local governments. As most of you know, COBRA provided coverage for the continuation of group health that otherwise would be terminated.

COBRA contains provisions giving certain former employees, retirees, spouses and dependent children the right to temporary continued health coverage at group rates. This coverage, however, is only available under specific instances.

COBRA contains provisions giving certain former employees, retirees, spouses and dependent children the right to temporary continued health coverage at group rates. This coverage, however, is only available under specific instances. Recently, the American Recovery and Reinvestment Act of 2009 (ARRA - known as the stimulus bill) amended COBRA to provide a premium assistance of 65 percent of the COBRA premium under certain situations and for a limited amount of time. There are 39 states with varying Mini-COBRA statutes. Pennsylvania recently enacted its own Mini-COBRA statute allowing qualified participants to enjoy the premium assistance offered by the ARRA through the end of 2009.

What is Mini-COBRA?

Mini-COBRA, like COBRA, is a statute that gives certain former employees, retirees, spouses and dependent children the right to temporary continuation of health insurance coverage at group rates. However, **unlike COBRA**, this state statute requires employers with employee populations of two to 19 employees with a group policy to comply with this new structure. Employees and their eligible dependents terminating coverage because of qualifying events will be offered up to nine months of coverage at no more than 105 percent of their previous employer's group rate. The coverage continuation included under this act must contain the same benefits in the group policy.

Timelines Need to be Followed

- The employer is required to notify the covered employee or eligible dependent within 45 days of the qualifying event.

- The covered employee or eligible dependent has 30 days to notify the employer of his desire to enroll in the policy.
- The employer will then have 14 days to notify the insurance company of the election to enroll.
- Coverage will begin at the date of the qualifying event.
- There will be no break in coverage as long as the premiums are paid and the participant is eligible to participate.

The Effective Date of this Statute is July 10, 2009

We expect the state to develop regulations for program implementation and administration. You should discuss this benefit with your health care provider, labor attorney and municipal solicitor.

Whether you're required to follow COBRA, or the new Mini-COBRA, employer requirements are very stringent and the fines are quite hefty. If you have less than 20 or more employees, start discussions now about the ramifications of the Mini-Cobra process on your municipality along with a review of your current COBRA administrative processes. **However, no matter how many employees you have, you should consider if there is premium assistance available to your recently involuntarily terminated employees and how the ARRA of 2009 will impact your administrative responsibilities.**

Analyst Receives CEBS Designation

Carrie Troutman, an MBG actuarial analyst, has been designated a Certified Employee Benefit Specialist (CEBS) by the International Foundation of Employee Benefit Plans and the Wharton School of the University of Pennsylvania. Troutman qualified for the designation by passing a series of college level national examinations on employee benefit subjects, and by meeting and attesting to high standards of business and professional conduct. She's one of more than 11,000 CEBS graduates worldwide.



Troutman began with Mockenhaupt Benefits Group in 2000; she left the firm briefly in 2005 to obtain her master's degree and came back in 2007.

The 2009 National CEBS Conferment Ceremony will take place at the 28th Annual Employee Benefits Symposium of the International Society of Certified Employee Benefit Specialists (ISCEBS) in Las Vegas Aug. 9-12. ISCEBS, the graduate society of CEBS designees, is headquartered at the International Foundation of Employee Benefit Plans in Brookfield, Wisconsin.

Our Consultants:

All Mockenhaupt Benefits Group consultants have at least 20 years of experience working with public employee benefit plans.



- William C. Asay, CEBS (President)** bill.asay@mbgbenefits.com
Tammy Cappel (MEIT Client Manager) tammy.cappel@mbgbenefits.com
Colleen Deer (Vice President) colleen.deer@mbgbenefits.com
G. Herbert Loomis (Consulting Actuary)... herb.loomis@mbgbenefits.com
M. Dean Ross (Senior Consultant) dean.ross@mbgbenefits.com

Is “Asset Smoothing” Right For Funding Your Pension Plans?

Over the years, we’ve received many questions regarding the assumptions used when completing an actuarial valuation.

In the mid-1990s, when yields were typically double digit, a common question was *“We earned 15 percent each year over the last two years; why are you still using 7.5 percent as an interest assumption? You’re making us pay too much.”*

In early 2000, that question changed to *“We earned four percent each of the last two years; why are you using 7.5 percent as an interest assumption? We’re not paying enough.”*

The answer is the same for both: *Aggregate assumptions are set for the valuation by the actuary and the municipality to best reflect the future experience of the pension plan.*

You may receive conflicting assumption recommendations from different actuaries, so it’s important to use assumptions that are “reasonable” and not considered too far off base. If you have concerns, or just want to understand why a particular assumption is being selected, discuss it with your plan actuary.

Investment Losses Impact Plans

In addition to this year’s assumptions, you’ll also need to consider the monumental investment losses most municipal pension plans suffered in 2008. Their governing bodies are likely to be wondering how these losses will impact future MMOs and budgets.

The plan actuary will review the assumptions to be used when completing the valuation and make recommendations to the governing body. And, you could be asked to consider the effect of “asset smoothing” on the annual funding if your actuary seeks municipal input. If this happens, the actuary will be asking if you want to pay higher plan costs now or possibly pay much higher plan costs later, if experience is not favorable. At a minimum, you should know how this could affect your future funding requirements.

Keep in mind that the individual participant benefit cost is based on your plan provisions and will not change. If an individual’s monthly benefit costs \$250,000 over the participant’s lifetime, the actual cost will not change. You’re only considering how to fund the benefit.

Although assumptions are used to calculate future annual costs, the real cost is based on the actual plan experience.

Asset Smoothing Q&A

What is “asset smoothing?”

“Asset Smoothing” is an actuarial technique used to determine the actuarial value of assets rather than using the “market value” of the pension plan assets when completing the valuation.

What specifically do you do to smooth the assets?

You take a percentage of the annual gain or loss from each year in the smoothing period to create the actuarial value of assets. For instance, for a 2009 actuarial valuation, if the smoothing period is four years, you would take 25 percent of the investment gains and losses for each year 2005 - 2008. In two years, when the next valuation is due, you would do the same only with the years 2007 - 2010. This would be done using a maximum corridor of 80 - 120 percent of the market value of asset.

What does “asset smoothing” accomplish?

“Asset smoothing” has a primary objective of reducing contribution unpredictability. It’s designed to take the peaks and valleys out of pension plan funding requirements...especially when plan investment returns suffer great losses or enjoy large gains when compared to the expected long-term rate of return.

What happens to the costs of a plan using “asset smoothing” when times are good and the market exceeds the assumed rate of return in the actuarial valuation?

As in the prior example, the plan experiences investment gains and 25 percent of each year’s gains offset past losses. In the case of extended excess returns, the “smoothed” actuarial value of assets will drop below the market value in order to offset potential future losses.

What happens to the costs of a plan using “asset smoothing” when times are bad and the market does not exceed the assumed rate of return in the actuarial valuation?

Remember, plan costs were reduced originally because of smoothing the

assets. So if the plan’s investment rate of return does not reach the assumed rate of return in the valuation, the losses will be recognized at a rate of 25 percent per year. The plan will also incur an additional loss based on the reduced contribution.

A Final Thought...

Many plans initially implemented “asset smoothing” in the 2003 actuarial valuation because of the negative return in 2001 and 2002. And, most of those plans’ investment returns rebounded; the 2007 actuarial report reflected an actuarial value of assets within two percent of market value, and in many cases above market value. The investment markets between 2009 and 2012 will determine the outcome of this round of losses.

Questions to consider are: *“Do you believe that the markets will be returning and the excess interest will make up for those reduced contributions; or, do you believe that the investment markets will not rebound and that you should be funding the higher amount now?” “With which pattern of contributions, is the municipality comfortable paying more now or later?”*

These are decisions that the board, as the plan fiduciary, will need to consider.

Pennsylvania Act 62

Effective July 1, 2009, Act 62 (*the Autism Insurance law*) took effect. This new state law requires some health insurance plans to cover a broad range of autism related services that were previously paid for by Medical Assistance. The mandate will cover children under age 21.

The law will not apply to covered children until the health plan renews. The majority of health plans will be affected by this change on Jan. 1, 2010. If you have questions about Act 62, contact your insurance plan administrator or MEIT Service Representative, if you’re covered through the MEIT. Additional information can also be found at the www.PAAutismInsurance.org.



Suite 1475
One Gateway Center
420 Fort Duquesne Blvd.
Pittsburgh, PA 15222

www.mockenhauptbenefits.com

Deferred Option Retirement Plan (DROP) Update... *Court Decisions Begin to Appear*

A DROP is a provision in a defined benefit pension plan (*like your police plan*) that allows a participant to retire from the pension plan, keep working for the department for a specified number of years, and have the monthly pension payments go into either a separate account or just be tracked singly until separation. At the time of separation, the participant receives all monthly payments with interest and begins retirement from the department. This amount can be \$250,000 to \$350,000. And, it's a great way to start retirement.

Previously, the Department of the Auditor General's stance was that DROP's were acceptable with the municipality getting a legal opinion from its solicitor. Since then, the number of DROP provisions across the state has grown significantly and the Auditor General hasn't given audit findings for DROP provisions unless the municipality adopted a "back-DROP" (A "*back-DROP*"

is a retroactive DROP allowing the beginning DROP participation date to be made retroactively to a past date; the municipality would also have had to receive state aid during that period. The Auditor General and Public Employee Retirement Commission believed that to be unwarranted.)

Over the past six months, two Common Pleas court decisions have vacated interest arbitration awards ordering the implementation of DROP provisions. The first case was issued in December 2008 regarding Bucks County; that case dealt with the County Code. The most recently vacated interest arbitration award dealing with a DROP provision was the Ellwood City, Lawrence County case; it was in regard to Act 600.

If you've adopted a DROP provision or are in negotiations and a DROP has been requested, you should speak with your solicitor or labor attorney to determine how to proceed.

Contact Information

Mockenhaupt Benefits Group
Suite 1475, One Gateway Center
420 Fort Duquesne Blvd.
Pittsburgh, PA 15222

Toll Free Phone
1-800-405-3620

Local Phone
(412) 394-9660

Fax
(412) 394-6339



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Actuarial Services**