

Report From Agency
State of Wisconsin
Department of Employee Trust Funds
Group Insurance Board

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #16-034

An order to repeal ETF 10.01 (2) (a) 1. and 2., and 50.10 (1) (a) to (c) and (2); to renumber and amend ETF 50.10 (1) (intro.); and to amend ETF 10.01 (2) (a); relating to technical and minor substantive changes in existing ETF administrative rules.

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The scope statement for this rule, SS 007-16, was approved by the Governor on January 27, 2016, published in Register No. 722A1, on February 1, 2016, and approved by ETF Secretary Robert Conlin on February 11, 2016.

Agency Person to be Contacted for Questions

Please direct any questions about the proposed rule to David Nispel, General Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707. Telephone: (608) 264-6936. E-mail address: david.nispel@etf.wi.gov.

Statement Explaining Need for Rule

This rule-making is needed to make technical updates to existing ETF rules, create consistency with statutes recently amended by the legislature, and to make other minor substantive changes.

Analysis Prepared by the Department of Employee Trust Funds

1. Statutes interpreted:
Sections 40.02 (20) and 40.61 (3), Stats.
2. Statutory authority:
Sections 40.03 (2) (ig) and 227.11 (2) (a), Stats.
3. Explanation of agency authority:
By statute, the ETF Secretary is expressly authorized, with approval by the Group Insurance Board, to promulgate rules required for the administration of the income continuation and life insurance plans established under subchs. IV to VI of ch. 40 of the Wisconsin statutes.

In addition, each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

4. Related statutes or rules:

There are no other related statutes or administrative rules directly related to this technical rule.

5. Plain language analysis:

The objective of this rule is to make technical updates to existing ETF rules, create consistency with provisions in 2015 Wisconsin Act 55 related to Income Continuation Insurance (ICI), and make other minor substantive changes. Two specific changes are made in this rule:

- Modifies the definition of “Dependent” for purposes of group life insurance offered to Wisconsin Retirement System members by removing the requirement that the dependent be unmarried, removing the requirement that the employee be responsible for at least 50 percent of support and maintenance for the dependent, removing the requirement that the dependent be more than 14 days old, and changing the upper age limit for being considered a dependent from up to age 25 to up to age 26 in order to match the age limit for health insurance.
- Modifies the eligibility requirements related to ICI offered by local units of government in order to make them consistent with eligibility changes made to ICI offered to state employees in the 2015-2017 state budget.

6. Summary of, and comparison with, existing or proposed federal statutes and regulations:

The only federal regulations that may be affected by this proposed rule are provisions of the Internal Revenue Code regulating qualified pension plans. The Wisconsin Retirement System is required to be maintained as a qualified plan by s. 40.015, Stats.

7. Comparison with rules in adjacent states:

Periodically, retirement systems in adjacent states promulgate technical rules to update existing administrative rules.

8. Summary of factual data and analytical methodologies:

The department is proposing this rule to update existing rules and interpretations of existing statutes.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

This rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System. Please see attached economic impact analysis.

10. Effect on small business:

The rule has no effect on small businesses.

Regulatory Flexibility Analysis:

The proposed rule has no effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Fiscal Estimate and Economic Impact Statement:

Please see the attached Fiscal Estimate and Economic Impact Statement.

Text of Proposed Rule

SECTION 1. ETF 10.01 (2) (a) is amended to read:

ETF 10.01 (2) “Dependent” means:

(a) For life insurance purposes, an eligible employee's spouse or domestic partner and an employee's ~~unmarried~~ child, including natural child, stepchild, child of the domestic partner, adopted child, and a child in an adoptive placement under s. 48.837 (1), Stats., who is ~~dependent upon the employee for at least 50% of support and maintenance under the age of 26 and or~~ who is ~~any~~ of the following:

SECTION 2. ETF 10.01 (2) (a) 1. and 2. are repealed.

SECTION 3. ETF 50.10 (1) (intro.) is renumbered (1) and amended to read:

ETF 50.10 (1) An employee of an employer, other than the state, shall be eligible for income continuation insurance under s. 40.61 (3), Stats., if the requirements of ss. 40.02 (46) and 40.22, Stats., ~~and the following conditions are satisfied:~~ are satisfied.

SECTION 4. ETF 50.10 (1) (a) to (c) and (2) are repealed.

SECTION 5. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Response to Legislative Council Staff Recommendations

ETF implemented all of the Legislative Council Staff recommendations contained in the Clearinghouse Report.

List of Persons Who Appeared or Registered at the Public Hearing.

No persons appeared or registered either for or against the rule at the public hearing on June 15, 2016.

Summary of Public Comments.

No person wished to testify concerning the rule. The record was held open for written comments until 4:30 p.m. on June 15, 2016, but no comments were received.

Modifications to Rule as Originally Proposed as a Result of Public Comments.

None.

Modifications to the Analysis Accompanying the Proposed Rule.

None.

Modifications to the Initial Fiscal Estimate.

None.

Board Authorization for Promulgation.

This final draft report on Clearinghouse Rule #16-034 has been duly approved for promulgation and submission to the Governor and Legislature by the Department of Employee Trust Funds and by the Group Insurance Board at its meeting on November 30, 2016. At the meeting, the Board made one change to the language of CR #16-034. The change deleted the requirement that a dependent for life insurance purposes who is between ages 19 and 25 be a full-time student. This better accomplishes one of the purposes of the rule amendment, which is to better synch dependent eligibility for life insurance with dependent eligibility for health insurance.

Effective Date.

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Respectfully submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS

Robert J. Conlin
Secretary

Date: _____