

PEIA INSURANCE PREMIUM REIMBURSEMENT

The following information is intended to be used as a procedural guide to address the specific situation in which an agency must recover insurance premiums paid on behalf of an employee maintaining health insurance for their ineligible ex-spouse through the West Virginia Public Employees Insurance Agency (PEIA). The general information it contains should not be construed to supersede any law, rule, or policy. In the case of any inconsistencies, the statutory and regulatory provisions shall prevail. Agencies must also refer to their internal policies, rules and regulations, as well as consult with the human resources office within his or her respective agency.

The following is a summary of the suggested actions to be taken:

- 1) Gather information prior to meeting with the employee. The information should include the applicable enrollment forms, supporting documentation, summary of the inappropriate deductions, total reimbursement required, etc.
- 2) Schedule a meeting with the employee to discuss the matter. It may or may not be considered a meeting to discuss disciplinary action depending on the facts of the specific situation and the approach the agency chooses to take in addressing the matter. If this meeting is considered disciplinary in nature, please refer to section 4 below for specific procedural guidelines. If it is determined that the employee owes the agency reimbursement, the employee should be given the options to pay the amount in a lump sum or to sign a voluntary wage assignment form in compliance with W. VA. CODE § 21-5-1 *et seq.*, *Wage Payment and Collection*. Even if the employee agrees to reimburse the agency, the employee may still be subject to prosecution or disciplinary action. If it is determined that the employee will be dismissed from employment the wage assignment would no longer be applicable.
- 3) If the employee refuses to voluntarily reimburse the agency for the premiums, one or more of the following actions may be considered:
 - a. Civil action to involuntarily garnish the employee's wages;
 - b. Referral to the Prosecuting Attorney's Office for consideration of criminal prosecution; and/or,
 - c. Disciplinary action.
- 4) Prior to taking disciplinary action for cause against a classified employee, the following must occur:
 - a. A predetermination conference must be held with the employee at which time the employee is informed that disciplinary action is being considered, and the employee is given the opportunity to articulate why the proposed action may be improper or inappropriate. Since the issue may be considered criminal in nature, the employee should be provided an administrative Garrity warning prior to being compelled to answer questions. In addition, the employee has a right to representation as provided in W. VA. CODE § 6C-2-1 *et seq.*, *West Virginia Public Employees Grievance Procedure*. However, the agency is not obligated to inform the employee of his or her right to representation.

- b. The facts gathered, including the employee's response at the predetermination conference, must be reviewed to determine what type of disciplinary action, if any, will be taken. Factors that may be considered when determining the appropriate level of discipline include, but are not limited to:
 - i. quality and length of tenure;
 - ii. mitigating factors;
 - iii. the employee's specific job responsibilities in relation to the offense;
 - iv. if the employee was aware or reasonably should have been aware of the impropriety of the behavior;
 - v. laws, rules, and policies violated; and,
 - vi. actions taken in similar situations (like penalties for like offenses).

- c. If disciplinary action will be taken, the West Virginia Division of Personnel's *Administrative Rule*, W. VA. CODE R. § 143-1-1 *et seq.*, requires that the employee be provided written notice, the opportunity to respond during the prescribed notice period, and the opportunity to appeal. The predetermination conference and notice may be withheld when the public interests are best served or when the cause of dismissal is gross misconduct.

This document is being provided with the understanding that the West Virginia Division of Personnel is not engaged in rendering legal services. If legal advice or assistance is required, the services of legal counsel should be sought. For technical assistance concerning disciplinary action, employees and employers may contact the Division of Personnel's Employee Relations Section at (304) 558-3950, extension 57209.