

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 489

An Act to amend and reenact § 2.2-1204 of the Code of Virginia, relating to the local choice health insurance pool; inclusion of employees of area agencies on aging.

[H 2179]

Approved March 24, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1204 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-1204. Health insurance program for employees of local governments, local officers, teachers, etc.; definitions.

A. The Department shall establish a plan or plans, hereinafter "plan" or "plans," subject to the approval of the Governor, for providing health insurance coverage for employees of local governments, local officers, teachers, *employees of area agencies on aging*, and retirees, and the dependents of such employees, officers, teachers, *employees of area agencies on aging*, and retirees. The plan or plans shall be rated separately from the plan established pursuant to § 2.2-2818 to provide health and related insurance coverage for state employees. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, ~~or~~ by the local school board in the case of teachers, *or by the governing body of an area agency on aging in the case of its employees*, and (iii) subject to regulations adopted by the Department. In addition, at the option of a governing body ~~or~~, school board, *or area agency on aging* that has elected to participate in the health insurance plan or plans offered by the Department, the governing body ~~or~~, school board, *or area agency on aging* may elect to participate in the long-term care or other benefit program that the Department may make available to the governing body ~~or~~, school board, *or area agency on aging*.

B. The plan established by the Department shall satisfy the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), shall consist of a flexible benefits structure that permits the creation of multiple plans of benefits and may provide for separate rating groups based upon criteria established by the Department. The Department shall adopt regulations regarding the establishment of such a plan or plans, including, but not limited to, requirements for eligibility, participation, access and egress, mandatory employer contributions and financial reserves, and the administration of the plan or plans. The Department may engage the services of other professional advisors and vendors as necessary for the prudent administration of the plan or plans. The assets of the plan or plans, together with all appropriations, premiums and other payments, shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance fund. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge reasonable fees to recover the actual costs of investing the assets of the plan or plans.

In establishing the participation requirements, the Department may provide that those employees, officers, and teachers without access to employer-sponsored health care coverage may participate in the plan. It shall collect all premiums directly from the employers of such employees, officers, and teachers.

C. In the event that the financial reserves of the plan fall to an unacceptably low level as determined by the Department, it shall have the authority to secure from the State Treasurer a loan sufficient to raise the reserve level to one that is considered adequate. The State Treasurer may make such a loan, to be repaid on such terms and conditions as established by him.

D. For the purposes of this section:

"Area agency on aging" means any agency designated pursuant to § 2.2-703.

"Employees of local governments" shall include all officers and employees of the governing body of any county, city or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300, 15.2-1303, or similar statutes, provided that the officers and employees of a social services department, welfare board, mental health, mental retardation and substance abuse services board, center for independent living funded in whole or in part by the Department of Rehabilitative Services pursuant to the provisions of Chapter 6 (§ 51.5-23 et seq.) of Title 51.5, or library board of a county, city, or town shall be deemed to be employees of local government.

"Governing body," with regard to a center for independent living, means the governing board of an applicant established to operate the center for independent living as required by subsection B of § 51.5-23.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board.

E. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., that is directly attributable to the health insurance plan or plans established for employees of local governments, local officers, teachers, *employees of area agencies on aging*, and retirees, and the dependents of such employees, officers, teachers and retirees, pursuant to subsection A (hereinafter referred to as the local choice plan distribution) shall be deposited in the state treasury to the credit of the employee health insurance fund to be used as provided in this subsection. Such distribution shall not include any cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with such conversion that was assumed as general fund revenue in Chapter 912 of the 1996 Acts of Assembly. All other stock and cash received by the Commonwealth pursuant to such conversion of Blue Cross and Blue Shield of Virginia to a stock corporation shall be allocated as provided in subsection B of § 23-284.

The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as soon as practicable following its receipt, subject to any lockup period or other restriction on its sale, and the proceeds therefrom shall be deposited in the state treasury to the credit of the employee health insurance fund. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not be liable for any losses incurred from the sale or distribution of such stock.

The Department of Human Resource Management shall use any stock, or the proceeds therefrom, and cash received pursuant to the local choice plan distribution to reduce premiums payable by employers participating in a plan or plans established pursuant to subsection A. In setting health insurance premiums for such plan or plans, the Director of the Department of Human Resource Management shall allocate the value of such stock, or proceeds therefrom, and cash among each participating employer. Such allocation shall be based on the proportionate amounts of premiums previously paid by each participating employer. If a participating employer withdraws from such plan or plans before all of the value allocated to it has been used for the benefit of the participating employer, the remaining value shall be transferred to such participating employer upon his withdrawal.