

HR/LR Memo 2021-1

Post-Retirement Option

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Authority: Enterprise Human Capital

GENERAL GUIDANCE AND INFORMATION

Agencies may develop Post-Retirement Option (PRO) positions to provide non-permanent employment to eligible individuals in order to complete project work or other short-term work. Before extending an offer of a PRO appointment, state agencies must first verify that the individual meets all eligibility criteria for the PRO position.

This general memo should be reviewed with the statewide policy, HR/LR Policy #1408 Post-Retirement Option, and with M.S. 43A.346 Post-Retirement Option. This general memo provides guidance and answers to frequently asked questions relating to the implementation of the statewide PRO policy.

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Abbreviations/Acronyms

- ERI – Early Retirement Incentive
- HCSP – Health Care Savings Plan
- MMB – Minnesota Management & Budget
- MSRS – Minnesota State Retirement System
- PERA – Public Employees Retirement Association
- PRO – Post-Retirement Option
- SEGIP – State Employee Group Insurance Program

Time Limits and Hours Calculations

1. Is there a maximum length of time for a PRO appointment?

Yes. The duration of a PRO appointment may be for an initial period of up to one (1) year. At the end of the initial period, the appointing authority has the sole discretion to renew, renew with modifications, or terminate the PRO appointment. The appointing authority may renew the PRO position for periods of up to one (1) year, not to exceed a total duration of five (5) years. No individual may be employed in one or more PRO positions for a combined total of more than five (5) years. All PRO appointments, whether initial or renewed, are at-will and can be terminated at any time at the discretion of the appointing authority.

2. How many PRO appointments may an individual have?

There is no limit on the number of PRO appointments an individual may have. However, regardless of the number of PRO appointments an individual has, during any 12 month period, the individual may not work more than 1,044 hours, and may not exceed 75 percent of their pre-retirement regularly scheduled work hours. Additionally, no individual may be employed in one or more PRO positions for a combined total of more than five (5) years.

3. Does the aggregate five year limit on PRO appointments include time between PRO appointments?

No. Only the actual time employed in PRO appointments counts toward the 5 year limit.

4. PRO appointment work schedules are limited to no more than 75 percent of the employee's number of pre-retirement scheduled work hours and 1,044 hours in any consecutive 12 month period. What is counted in the PRO appointment work schedule hours limit?

Hours worked or paid leave substituted for regularly scheduled hours are counted in the PRO appointment work schedule hours limit.

Premium pay is **not** counted. The following information provides examples of hours worked and how those hours count towards the 1,044 total:

- Regular hours: All regular hours worked count towards the PRO appointment work schedule hours limit.
- Vacation and Sick Leave: Vacation and/or sick leave substituted for regularly scheduled hours are counted towards the PRO appointment work schedule hours limit.
- Holiday Pay: Holiday pay hours on a day the employee is scheduled to work is counted toward the PRO appointment work schedule hours limit. Holiday hours converted to vacation leave and later used in substitution for regular hours is counted toward the limit at the time when the vacation leave is used to substitute for regularly scheduled hours. Holiday hours on a day off that are paid in cash are not counted.
- Overtime/Comp Time: Overtime is comprised of straight time pay for hours worked and a premium pay amount (e.g., the .5 hour payment in time and one-half). The straight time hours of overtime are counted toward the 1,044 hour limit. Premium pay that is paid out is not counted. Example: An employee works 3 hours of overtime and is eligible for time and one-half pay. Three hours are counted toward the PRO appointment work schedule hours limit. The 1.5 hours (3 hours x .5) of premium pay that is paid out is not counted.

However, if the overtime is converted to compensatory time and later used to substitute for regularly scheduled hours, the compensatory time used counts toward the PRO appointment work schedule hours limit.

- Call-In/Call Back Pay: If an employee is called in/called back to work, the hours worked count toward the PRO appointment work schedule hours limit. If a labor contract or compensation plan grants a minimum of call-in pay for reporting early to work, only time actually worked (for example, one hour worked of two hour minimum) counts toward the hours limit. The remainder of the minimum of call-in pay is premium pay and does not count toward the hours limit.
- On-Call Pay: On-call pay is provided to an employee to remain available to work during an off-duty period. On-call pay is premium pay and is not counted toward the PRO appointment work schedule hours limit.

5. What are the PRO appointment work schedule hours limits for employees who retire from less than full-time positions?

The PRO appointment must be BOTH a maximum of 1,044 hours in any 12 month period AND a reduction of at least 25 percent from the employee's number of regularly scheduled work hours immediately preceding the employee's retirement.

For example, an employee who was part-time and regularly scheduled for 40 hours per pay period prior to retirement may work no more than 30 hours per pay period during a PRO appointment (25 percent reduction from the employee's pre-retirement regularly scheduled work hours).

6. Does the PRO appointment work schedule hours limit include all PRO appointments in any consecutive 12 month period?

Yes. PRO employment may not exceed 1,044 hours in any 12 consecutive month period and may not exceed 75 percent of the employee's pre-retirement regularly scheduled work hours. This limit includes all PRO appointments in any consecutive 12 month period (a rolling 12 month period). Therefore, if an employee has more than one PRO appointment during a single consecutive 12 month period, regardless of agency or division, all PRO appointments are included toward the PRO appointment work schedule hours limit.

Example: An employee served in a PRO appointment beginning Jan. 1, 2019 for six months and worked 520 hours. That employee then began another PRO appointment for eight months starting Aug. 5, 2019. The PRO appointment work schedule cannot exceed 75 percent of the employee's number of pre-retirement regularly scheduled work hours. Additionally, the employee is limited to 524 hours between Aug. 5, 2019 and Jan. 1, 2020 ($1,044 - 520 = 524$).

The PRO appointment work schedule hours limit is statutory. Therefore, agencies must track all hours that are included toward the limit for employees in PRO appointments. When an employee is hired into a PRO appointment, agencies must check to see if they have had any previous PRO appointments in the preceding 12 month period.

7. Do hours worked in non-PRO appointments count towards the PRO appointment work schedule hours limit?

No. While employees may move back and forth between PRO and non-PRO appointments, only hours worked in PRO appointments count towards the PRO appointment work schedule hours limit. Example: An employee is in a PRO appointment that ends after eight months (600 hours). The employee immediately accepts a three-month temporary unclassified position (non-PRO; only one calendar day break required) and works 400 hours. The employee next accepts another PRO appointment (again only one calendar day break required). The 400 hours worked in the non-PRO appointment do not affect the number of hours the employee can work in the new PRO appointment.

8. Are employees able to work in a PRO appointment and a non-PRO appointment simultaneously?

No.

Work Schedules

9. Are employees able to work full-time for a period of time during their PRO appointment and then not work at all for a period of time?

An employee who was a full-time employee pre-retirement may work no more than 60 hours per pay period, averaged across two to three pay periods. For example, it is possible for an employee to average the 60 hours by working 80 hours one pay period and 50 hours in each of the next two pay periods. The average maximum of 60 hours per pay period must be maintained and should occur only across two to three pay periods.

Appointment end dates should reflect the point in time when the employee stops work. Therefore, there should not be long periods (more than one pay period) of no work within the time frame of one PRO appointment.

10. What if there is a significant period of time (more than two pay periods without any intent to average) that the PRO employee's actual number of work hours varies from the agreed-upon number of hours to be worked?

PRO appointment insurance eligibility (HCSP or SEGIP administered health coverage) relies on the scheduled number of hours of the PRO appointment and the employee's place in the Look Back if the employee returns to work within 13 weeks of their separation (or 26 weeks for educational institutions). If the employee's actual number of work hours varies from the agreed-upon number of hours for more than two pay periods, the PRO agreement should be amended to reflect the new schedule. Insurance eligibility must be re-evaluated based on the new schedule.

If the current PRO appointment was for less than 40 hours per pay period, and the new schedule anticipates 40 hours per pay period AND the agency desires to offer a contribution towards SEGIP administered health coverage, the agency should terminate the current PRO appointment and create a new PRO appointment with a new PRO agreement that accurately reflects the schedule and benefits eligibility.

REMINDER: Do not create a 12 month PRO appointment at 40 hours per pay period if the prior appointment had more than 40 hours per pay period unless there is a break between appointments; otherwise this would violate the 1,044 hour limit over a rolling 12 month period.

11. What if the agreed-upon work hours schedule anticipated eligibility for health coverage administered through SEGIP, but the actual work hours have changed to the point that the appointment is no longer eligible for SEGIP administered coverage?

The agency should terminate the current PRO appointment and create a new PRO appointment with a new PRO agreement that accurately reflects the schedule and benefits eligibility. The employee will no longer be eligible for SEGIP administered coverage, so the new PRO agreement must reflect no benefits eligibility. The employee will be eligible to revert to their retiree SEGIP administered coverage and will be responsible for the retiree premiums. The employee may be eligible for the HCSP contribution based on the scheduled hours under the new agreement.

Required Breaks in Service

12. Must employees have a break in service between retirement and a subsequent PRO appointment?

For individuals under age 62, the appointing authority may not make a written or oral offer of a PRO position until at least 30 calendar days after the individual's last working day .

Individuals age 62 and older must have a one calendar day break between their last working day and any subsequent PRO appointment.

13. Must there be a break in service between PRO appointments?

Employees may be eligible for a renewal of their PRO appointment if they are continuing their PRO appointment in the same agency. For renewals, there must be **no** break between the PRO appointments.

Employees who are starting a new PRO appointment that is not a renewal (for example, going to another agency or job class) must have a one calendar day break between PRO appointments.

14. Is a break in service required between a PRO appointment and a non-PRO appointment?

There must be at least a one calendar day break between a PRO appointment and non-PRO appointment or vice versa. Further, any employee under age 62 who begins a PRO appointment must have had at least a 30 day break between when the individual terminated state employment and the beginning of the PRO appointment.

15. Are employees returning to work on non-PRO appointments subject to the 30 calendar day break between their termination date and the beginning of any subsequent appointment?

Regardless of age, employees must have a 30 calendar day break in service before returning to employment in a non-PRO MSRS eligible position (this does not apply to non-PRO appointments that are not eligible for retirement deductions, *e.g.* temporary classified).

PRO Required Breaks in Service

Transaction	No Break	At least one calendar day break	At least 30 calendar day break before employment offer
Under age 62 – between termination and initial PRO appointment	N/A	N/A	X
Age 62 and over – between termination and PRO appointment	N/A	X	N/A
Between PRO and non-PRO appointments	N/A	X	N/A
Upon renewal*	X	N/A	N/A
Between PRO appointments that are not renewals regardless of age	N/A	X	N/A
Between non-PRO appointments after retirement regardless of age	N/A	X	N/A

*See HR/LR Policy #1408, Post-Retirement Option, for information on renewals. A renewal is when a PRO appointment is extended within the same agency with substantially the same duties although the working conditions may change. With renewals, there can be no break in service.

Benefits

Each PRO appointment requires its own PRO agreement, including renewal appointments. If a PRO appointment meets the eligibility requirements for SEGIP administered coverage, the employee must contact SEGIP at 651-355-0100 to determine what benefits may be elected, the effective dates, and to understand when and how to put retirement benefits on hold.

16. How is holiday pay computed for employees in PRO appointments?

Holiday pay is computed according to the applicable labor contract or compensation plan. Employees should have a base work schedule so that agencies can determine when to invoke the “holiday pay on a scheduled day of work” provisions or the “holiday on a scheduled day off” provisions.

17. Are employees in PRO appointments eligible for severance pay at the end of their PRO appointment?

The severance pay provisions of the applicable labor contract or compensation plan apply to PRO appointments. For example, several contracts and plans provide that employees who were eligible for severance pay when they previously left state service are again eligible for severance pay at the end of any subsequent appointment.

18. Must employees in PRO appointments have their vacation accruals liquidated and severance pay paid at the end of a PRO appointment?

Yes, vacation accrual liquidation and severance pay (if applicable) must be paid at the end of every PRO appointment according to the terms of the applicable labor contract or compensation plan, with the exception of renewals. If a PRO appointment is being renewed without a break in service, the benefits are not paid until the end of the renewed PRO appointment. Vacation accruals will be liquidated as provided in the applicable labor contract or compensation plan.

19. Are all PRO appointees eligible for either a HCSP contribution or an employer contribution towards coverage administered through SEGIP?

No, employees who receive an employer contribution to health or dental coverage offered through SEGIP as a result of an ERI or enhanced separation plan (for example, Corrections, State Patrol, or Faculty early retirement plan) are not eligible for either a HCSP contribution or an employer contribution to SEGIP administered coverage while in a PRO appointment.

20. Can a PRO appointee who is eligible to receive an employer contribution for SEGIP coverage instead choose to receive the HCSP contribution?

Yes. PRO appointees who qualify for the employer contribution to SEGIP administered health coverage but choose to waive (decline) that coverage may receive the HCSP contribution.

21. May a PRO appointee receive SEGIP administered health coverage as a dependent through their spouse and still receive an employer HCSP contribution?

Yes. A PRO appointee is eligible for the benefit set based on their PRO position and not on what their spouse receives.

22. Does the PRO appointment have to be for 12 consecutive months for the employee to be eligible for the employer contribution to SEGIP administered coverage?

Refer to the applicable labor contract or compensation plan regarding SEGIP eligibility.

23. Can a PRO appointee be eligible for both a state contribution for health coverage administered through SEGIP and a HCSP contribution during the same PRO appointment?

Yes. For example, a PRO appointee may be eligible for an employer contribution under ESR for a portion of a PRO appointment and a contribution to the HCSP for the remaining months. However, an employee may not receive a HCSP contribution during any month in which the employee received a state paid contribution to SEGIP administered health coverage.

24. How is the amount of the HCSP contribution calculated?

Refer to the Employer Contribution Schedule for Post-Retirement Option Employees on the [MMB Internet – SEGIP](#). Eligible hours worked are calculated the same as the calculation of the 1,044 PRO work schedule hours limit.

25. When is the HCSP contribution paid?

At the end of each PRO appointment, regardless of whether the PRO appointment is to be renewed.

26. When are PRO appointees able to access their HCSP contributions?

Rehired employees will not be eligible to request reimbursement of medical expenses incurred on or after the date they return to work. For more detail, contact MSRS at 1-800-657-5757 or visit www.msrs.state.mn.us/returning-to-work.

27. Are employees who are eligible for a HCSP contribution as part of their PRO appointment able to use their retiree insurance benefits while in the PRO appointment?

Yes. PRO appointees who are eligible to receive a HCSP contribution can continue to receive SEGIP administered benefits as an over 65 retiree.

28. Do labor contract or compensation plan provisions providing for an earnings contribution to the HCSP apply to employees in PRO appointments?

Yes, if the employee is under a labor contract or compensation plan that has the earnings contribution provision and the employee meets the requirement for the contribution.

Employees may not be able to access the HCSP contributions to reimburse medical expenses incurred on or after the date they return to work in a PRO appointment. Employees should contact MSRS at 1-800-657-5757 to discuss whether they may access certain HCSP amounts.

29. Do employees need to make their retiree insurance election at the time of their retirement even if they plan on securing a PRO appointment after their retirement date?

Yes. Any employee who plans to use the retiree benefits to provide coverage during any breaks or after their PRO appointments terminate needs to make that election within 30 days of retirement. Even employees who receive SEGIP coverage while in a PRO appointment need to make their retiree elections within 30 days of retirement. All PRO participants should contact the SEGIP service center when they retire, start PRO, stop PRO or have questions about how to coordinate paying for premiums while on breaks. The SEGIP service center can be reached at (651) 355-0100.

30. Is there an insurance coverage waiting period for employees in PRO appointments who are eligible for SEGIP coverage?

The answer will depend on how long the employee was separated from state service before accepting the PRO appointment and what the employee's place was in the Look Back at the time of separation.

- An employee who was full-time insurance eligible in the ESR Look Back at the time of separation and returns within 13 weeks of their separation (or 26 weeks for educational institutions) will continue health coverage as if there had been no break in service. There will be no waiting period. (At the time of separation the employee may have been in a Stability Period as full-time insurance eligible or in an Initial Measurement Period.)
- An employee who returns after a separation of more than 13/26 weeks or was not in the Look Back as a full-time insurance eligible employee at the time of separation will serve a waiting period.

31. Should employees contact SEGIP when they must serve a waiting period?

Yes. Employees who serve a 35-day waiting period have the choice to elect their retiree coverage to bridge the gap. Retiree insurance must be elected within 30 days of retirement. Employees should contact the SEGIP service center (651-355-0100) to avoid any lapse in coverage and to understand premium payments.

32. How are SEGIP premiums paid?

Retiree insurance has no employer contribution, but insurance for PRO appointments does. Employees who are covered under SEGIP administered retiree insurance will be billed and the complete insurance premium will be paid on a post-tax basis. Employees who are covered by SEGIP administered insurance under a PRO appointment will have their insurance premium taken pretax as a payroll deduction. Employees should contact the SEGIP service center (651-355-0100) to coordinate enrollment and premium payments between PRO and non-PRO appointments.

REFERENCES

HR/LR Policy 1408 Post-Retirement Option

HR/LR Procedure 1408P Post-Retirement Option

Post-Retirement Option Agreement Form

Employer Contribution Schedule for Post-Retirement Option Employees (See <https://mn.gov/mmb/segip/humanresources/processes-policies.jsp>)

CONTACTS

PRO Appointments

For question about PRO appointments, agency Human Resources should contact their MMB Agency and Applicant Services representative.

Insurance

Agencies and employees call SEGIP at 651-355-0100.

Retirement

Agencies and employees contact the appropriate state retirement system.

MSRS: 651-296-2761 or toll free 1-800-657-5757

PERA: 651-296-7460 or toll free 1-800-652-9026

SEMA4

For questions about job and appointment records, agencies contact their SEMA4 HR Specialist at MMB.

For questions about processing HCSP contributions, agencies contact MMB staff at deductions.mmb@state.mn.us