

*Chsel*



FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE

THIS DATE Sept 8, 1983  
Administrative Law Division

A. JAMES MANCHIN  
SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE  
CHARLESTON 25305

STATE REGISTER FILING

I, Si Galperin, Jr., Executive Secretary,  
Title or position

Public Employees Insurance Board, hereby submit to record in  
Department or division

the State Register on 8½ x 11" paper two (2) copies of

- ( ) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- ( ) proposed rules and regulations superseding rules and regulations already on file;
- ( ) notice of hearing;
- ( ) findings and determinations;
- ( ) rules and regulations;
- ( X ) other - specify Amended legislative rules.

This filing pertains to

Chapter \_\_\_\_\_  
Article \_\_\_\_\_  
Series \_\_\_\_\_  
Section \_\_\_\_\_  
Page No. \_\_\_\_\_

- ( ) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- ( ) proposed rules and regulations are excluded from Legislative Rule Making Committee;

September 8, 1983  
Date Submitted

that the requirements of chapter twenty-nine-A [29A-1-1 et seq.] of the Virginia Code of 1931, as amended, are met.

FILED IN THE OFFICE OF  
**A. JAMES MANCHIN**  
SECRETARY OF STATE  
THIS DATE Sept 8, 1983  
Administrative Law Division

Section 2. Definitions

2.01. Definitions - The terms "Board", "employee", "retired employee", and "employer", as used in these rules shall have the same definitions as these terms are given in West Virginia Code 5-16-2. The following words and phrases as used in these rules, unless a different meaning is clearly indicated by context, shall have the following meanings:

(a) "Carrier" shall mean any agency, corporation, insurance company, state fund, or service organization engaged in the business of providing insurance coverage contemplated by the Board.

(b) "Children" shall mean unmarried children between birth and age nineteen and shall include: (1) The employee's natural children, (2) legally adopted children, including children living with the employee during the period of probation, (3) step-children residing in the employee's household, and (4) other children fully dependent upon the employee for support and maintenance and residing in the household of which the employee is head and actually being supported by the employee. Children may be included after the attainment of age nineteen, but not beyond the attainment of age twenty-five, if they are enrolled as full-time students, are unmarried, and are fully dependent upon the employee for support. Children may also be included after the attainment of age nineteen while incapable of self-support because of a mental retardation or a physical handicap, if the child was a dependent upon the employee for support and maintenance at the onset of the mental retardation or physical handicap.

(c) "Dependent" shall mean the employee's spouse, if legally married, and eligible children, as defined in (b) above.

5.04. Payment of Costs During Period of Continued Coverage - During the period of continued coverage in section 5.03 above:

(a) An employee who has paid their share of the cost for the required twelve months prior to termination shall pay no additional amount for the continued coverage.

(b) An employee who has not paid their share of the cost for the required twelve months prior to termination shall continue paying their share of the cost, not to exceed twelve months total, to the payroll location of that prior termination, during the period of continued coverage.

5.05 Re-employment After Involuntary Termination - If an employee in section 5.03 above is again employed or recalled within twelve months of the last date on the payroll, the employee shall not be considered a new enrollee.

5.06. Responsibility of Payroll Location - The payroll location shall be responsible for the termination of employees no longer eligible for coverage under the Plan.

5.07. Coverage for dependents shall terminate at the end of the month in which they no longer meet the definition of "dependent" set forth in section 2.01 of these rules.

#### Section 6. Appeals Process

6.01. In the event there is a disagreement between the carrier and any insured, the insured shall first apply to the carrier for a determination of the issue.

6.02. Disagreements between the carrier and the insured which cannot be reconciled by the procedure provided by section 6.01 above, and issues arising under the provisions of article 16, chapter 5 of the West Virginia Code of 1931, as amended, or under these rules, shall be submitted in writing to the Executive Secretary for a decision.

6.03. Decisions under section 6.02 above shall be issued in writing by the Executive Secretary. The notice of the decision shall give the parties thirty days in which to apply, in writing, to the Board for review.

6.04. In the event that such review is requested in writing within the above specified time period, and in the event the Board deems such review necessary, the Board shall direct the Executive Secretary to request the Attorney General of the State of West Virginia to provide a qualified, impartial Hearing Examiner, or direct the Executive Secretary to provide a qualified, impartial Hearing Examiner, unless otherwise directed by the Chairman, for the purpose of rendering a determination. Decisions of the Board shall be final.

Section 7. Non-State Agencies

7.01. Participation Agreement - A participation agreement shall be executed between the participating non-state agency and the West Virginia Public Employees Insurance Board governing the participation of said non-state agency in the West Virginia Public Employees Insurance Plan.

7.02. Withdrawal from the Plan - When any participating non-state agency chooses to withdraw from or terminate the West Virginia Public Employees Insurance Plan:

(a) Written ninety days notice shall be required prior to formal withdrawal from the Plan.

(b) All non-state agency retirees participating in the Public Employees Retirement System and covered by the Public Employees Insurance Plan prior to the effective date of these rules shall remain so covered under the conditions of their present coverage.


(c) All non-state agency retirees participating in the Public Employees Retirement System and covered by the Public Employees Insurance

State Auditor  
Glen B. Gainer, Jr., Chairman  
State Treasurer  
Larrie Bailey, Member  
Workmen's Compensation  
Commissioner  
Dorothy O. Lewis, Member



JOHN D. ROCKEFELLER, IV  
GOVERNOR  
PUBLIC EMPLOYEES INSURANCE BOARD

Embleton Building, Second Floor  
922 Quarrier Street  
Charleston, West Virginia 25301  
Telephone (304) 348-7850

TO: Legislative Rule-Making Review Committee  
FROM: Richard A. Folio   
Acting Executive Secretary  
SUBJECT: Amendment to 2.01(b)(4) of proposed legislative rules  
DATE: June 14, 1983

After a careful review of the analysis prepared by your analyst, Mr. Edward R. Fleming, Jr., we wish to recommend the following amendment to proposed section 2.01(b)(4), as it was never the intent of the Board to exclude students over age 19 who became incapable of self support due to an accident or otherwise:

2.01. (b) (4), last sentence:

Children may also be included after the attainment of age 19 while incapable of self-support because of a mental retardation or a physical handicap, if the child was covered as a dependent upon the employee for support and maintenance at the onset of the mental retardation or physical handicap.

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State Treasurer  
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Workmen's Compensation  
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PUBLIC EMPLOYEES INSURANCE BOARD

TO: Legislative Rule-Making Review Committee  
FROM: Si Galperin, Jr. *SUG*  
Executive Secretary  
SUBJECT: Additional amendments to proposed legislative rules  
DATE: August 15, 1983

In addition to the amendment submitted to the committee on June 14, 1983, we wish to recommend the following amendments to our proposed legislative rules:

A. / 2.01. (b), first sentence:

"Children" shall mean ~~never~~ unmarried children...

B. / 2.01. (b), second sentence:

Children may be included after the attainment of age nineteen, but not beyond the attainment of age twenty-five, if they are enrolled as full-time students, ~~have-never-been~~ are unmarried...

C. 6.03., second sentence:

The notice of the decision shall give the parties thirty days in which to apply, in writing, to the ~~Executive-Secretary~~ Board for review.

D. In response to NB-6, we wish to add an additional section designated section 5.07. as follows:

✓ Coverage for dependents shall terminate at the end of the month in which they no longer meet the definition of "dependent" set forth in section 2.01 of these rules.



\* A G E N C Y A P P \*

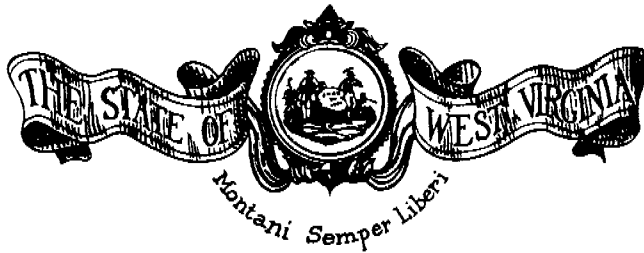
obsolete by  
Reg. Filed 8-6-84

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- SECTION 5. SUMMARY
- SECTION 6. STATEMENT OF CIRCUMSTANCES
- SECTION 7. FISCAL NOTE
- SECTION 8. LRMRC QUESTIONNAIRE

FILED IN THE OFFICE OF  
**A. JAMES MANCHIN**  
SECRETARY OF STATE

THIS DATE May 16, 1983  
Administrative Law Division



OFFICE OF THE SECRETARY OF STATE  
CHARLESTON 25305

A. JAMES MANCHIN  
SECRETARY OF STATE

STATE REGISTER FILING

I, RICHARD A. FOLIO, ACTING EXECUTIVE SECRETARY  
Title or position

PUBLIC EMPLOYEES INSURANCE BD., hereby submit to record in  
Department or division

the State Register on 8½ x 11" paper two (2) copies of

- ( ) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- () proposed rules and regulations superseding rules and regulation already on file;
- ( ) notice of hearing;
- ( ) findings and determinations;
- ( ) rules and regulations;
- ( ) other - specify

This filing pertains to

Chapter 5  
Article 16  
Series I  
Section 1-19  
Page No. \_\_\_\_\_

FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE May 16, 1983  
Administrative Law Division

- () proposed rules and regulations are required to go to Legislative Rule Making Committee;
- ( ) proposed rules and regulations are excluded from Legislative Rule Making Committee;

May 16, 1983  
Date Submitted

Richard Folio  
Authorized signature of filing pers

State Auditor  
Glen B. Gainer, Jr., Chairman  
State Treasurer  
Larrie Bailey, Member  
Workmen's Compensation  
Commissioner  
Gretchen O. Lewis, Member  
Executive Secretary



JOHN D. ROCKEFELLER, IV  
GOVERNOR  
PUBLIC EMPLOYEES INSURANCE BOARD

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Charleston, West Virginia 25301  
Telephone (304) 348-7850

NOTICE OF APPROVAL

PROPOSED LEGISLATIVE RULES  
WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT  
Chapter 5-16-1 et seq.  
Series I  
(1983)  
amended

The above titled Legislative rules constitute the official rules approved by the West Virginia Public Employees Insurance Board on March 29, 1983, and filed pursuant to law in the Office of the Secretary of State, State of West Virginia and with the Legislative Rule-Making Review Committee.

Richard A. Folio  
Acting Executive Secretary  
West Virginia Public Employees Insurance Board

---

Entered

State Auditor  
Glen B. Gainer, Jr., Chairman

State Treasurer  
Larrie Bailey, Member

Workmen's Compensation  
Commissioner  
Gretchen O. Lewis, Member  
Executive Secretary



JOHN D. ROCKEFELLER, IV  
GOVERNOR

**PUBLIC EMPLOYEES INSURANCE BOARD**

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NOTICE OF SUBMISSION

PROPOSED LEGISLATIVE RULES  
WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT  
Chapter 5-16-1 et seq.  
Series I  
(1983)  
amended

Fifteen copies of the above titled Legislative rules are hereby submitted to the Legislative Rule-Making Review Committee in compliance with section eleven, article three, chapter twenty-nine-A of the West Virginia Code of 1931, as amended.

Richard A. Folio  
Acting Executive Secretary  
West Virginia Public Employees Insurance Board

---

Entered

State Auditor  
Glen B. Gainer, Jr., Chairman

State Treasurer  
Larrie Bailey, Member  
Workmen's Compensation  
Commissioner  
Gretchen O. Lewis, Member  
Executive Secretary



JOHN D. ROCKEFELLER, IV  
GOVERNOR

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STATEMENT OF CIRCUMSTANCES

[29A-3-11(a)(3)]

PROPOSED LEGISLATIVE RULES  
WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT  
Chapter 5-16-1 et seq.  
Series I  
(1983)  
amended

Since the establishment and implementation of the West Virginia Public Employees Insurance Act and the promulgation of administrative rules and regulations (1972), the West Virginia Public Employees Insurance Plan has undergone many changes, due both to changes in the West Virginia Code and to changes in response to the many issues which have arisen over the past twelve years.

Among the more significant changes are the inclusion of non-state agencies in the Plan (1973), the self-insuring of health benefits (1975), and the Health Maintenance Organization Act of 1977, which gives certain employees the option of remaining in the Public Employees Insurance Plan or taking the HMO Option.

Other more recent changes include the extension of coverage to dependents of deceased covered members (Nelson vs. The West Virginia Public Employees Insurance Board, 300 S.E. 2d 86, W.Va. 1982), and the extension of additional coverage to involuntarily terminated employees by amendment to §5-16-12 West Virginia Code (Chapter 117, Acts of Legislature 1982).

These changes, coupled with the inability of the current rules to address many important issues past and present, have brought about an obvious need for new legislative rules.

Respectfully submitted,

Richard A. Folio

FISCAL NOTE FOR PROPOSED RULES

Rule No. 5-16-1 (Series I) Subject General Administration of the WV Public Employees Insurance Plan,

Type of Rule:  Legislative  Interpretive  Procedural

Agency Public Employees Ins. Board Address 922 Quarrier Street  
Charleston, West Virginia

Authorized Representative Richard A. Folio Phone 348-7850

RECEIVED  
 MAY 1 2 1983

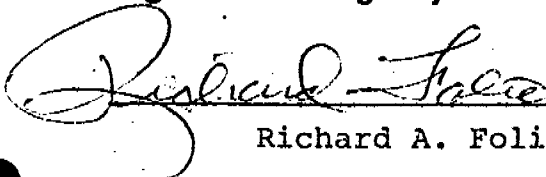
1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Others					

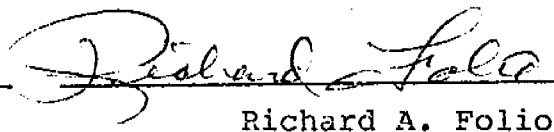
2. Explanation of above estimates.  
 No Fiscal or Economic Impact.

3. Date May 16, 1983 Agency Public Employees Insurance Board

Signature of Agency Head

Signature of Authorized Representative

  
 Richard A. Folio

  
 Richard A. Folio

STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS.

Agency Public Employees Insurance Board

Rule No. 5-16-1 (Series I)

Subject General Adm. of Plan.

1. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

No Economic Impact.

B. Economic Impact on Political Subdivisions; Specific Industries;  
Specific groups of citizens.

No Economic Impact.

C. Economic Impact on Citizens/Public at Large.

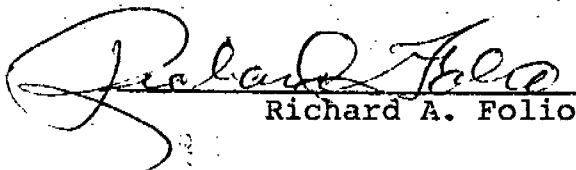
No Economic Impact.

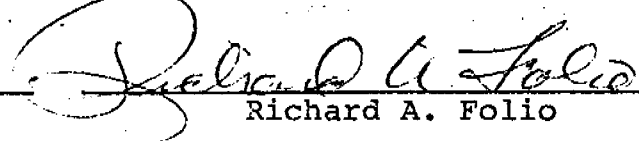
Date May 16, 1983

Agency Public Employees Insurance Board

Signature of Agency Head

Signature of Authorized Representative

  
Richard A. Folio

  
Richard A. Folio

DATE:

TO: WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE BOARD

FROM: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

SUBJECT: INFORMATION TO BE SUPPLIED TO THE COMMITTEE

RULES: 5-16-1 et seq. (Series I)

RECEIVED  
MAY 13 1983  
Legislative Services

INFORMATION REQUIRED

1. Please give the citation of the statute which authorizes your promulgation of these rules.

§5-16-5

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§5-16-7

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§5-16-18

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2. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation: (29A-3-5)

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

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- b. Was the hearing held on the date scheduled and were all interested parties permitted to be heard?

Not applicable

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- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

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d. Is the transcript of all evidence received preserved and available for public inspection and copying?

Not applicable

3. For all rules promulgated:

a. When did you file the rules in the State Register together with notice of a hearing time, date and location? (29A-3-5)

December 20, 1982

b. Did you give at least 30 days notice and no more than 60 days notice? (29A-3-7)

Yes

c. What other notice, including advertising, did you give of the hearing? (29A-3-5)

Press Release to Capitol Press Corp, plus notice

mailed to each payroll location of each agency participating in the Plan.

d. Was the hearing held on the scheduled date? If not, why not?

Yes

e. Was the opportunity given for all interested parties to submit data, objections, suggested amendments, views, evidence or arguments?

Yes; No comments received.

f. List all persons who appeared at the hearing and what type of comment they made about the proposed rules (for, against, suggested and amendments). Please attach a copy of the minutes of the hearing.

See attached minutes and attendance record.

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g. On what date did you file in the State Register notice of your action on the proposed rules together with the text of such rules?

May 16, 1983

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Signature of department head,  
board chairman or executive  
secretary.

State Auditor  
Glen B. Gainer, Jr., Chairman  
State Treasurer  
Larrie Bailey, Member  
Workmen's Compensation  
Commissioner  
Gretchen O. Lewis, Member  
Executive Secretary



JOHN D. ROCKEFELLER, IV  
GOVERNOR

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MINUTES OF PUBLIC HEARING

Pursuant to section five, article three, chapter twenty-nine-A of the West Virginia Code of 1931, as amended, the Public Employees Insurance Board convened a public hearing in the Conference Center, Capitol Complex, Charleston, West Virginia, on Monday, January 24, 1983, at 5:00 p.m., for the purpose of taking evidence pertaining to the filing of proposed legislative and procedural rules. Present were:

Mr. Henry H. Chinn, III, Technical Assistant, WVPEIB  
Mr. Lawrence Barker, Jr., Eligibility Supervisor, WVPEIB  
Ms. Donna Acord, Claims Supervisor, WVPEIB  
Mr. G. Patrick Jacobs, WVPEIB Legal Counsel  
Ms. Ann Lanier, Department of Natural Resources  
Mr. Robert Cline, Department of Welfare  
Ms. Pennie Stafford, Department of Highways

There being no comments pertaining to the proposed rules, the hearing was adjourned after a brief discussion of material not related to the proposed rules.

Respectfully submitted,

Henry H. Chinn, III  
Technical Assistant

PUBLIC HEARING ATTENDANCE RECORD

In re PROPOSED LEGISLATIVE AND PROCEDURAL RULES

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT

CHAPTER 5-16-1 et seq.

SERIES I & II

P L E A S E P R I N T

Name ANN LANIER

Address 1800 E. WASHINGTON ST E

Representing DEPT. of NATURAL RESOURCES

Do you wish to make a comment? yes \_\_\_\_\_ no X

Name ROBERT R. CLINE

Address 1900 WASHINGTON ST E

Representing WELFARE DEPARTMENT

Do you wish to make a comment? yes \_\_\_\_\_ no X

Name Pennie Stafford

Address 1000 Wash. St. E. Rm A949

Representing Dept. of Highways

Do you wish to make a comment? yes \_\_\_\_\_ no X

P L E A S E P R I N T

PROPOSED LEGISLATIVE RULES  
WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT  
Chapter 5-16-1 et seq.

Series I  
(1983)  
amended

SUMMARY

- Section 1. General...Section 1.05. Refiling Date deleted.
- Section 2. Definitions...amended definitions of "full-time" and "dependent"; deleted definitions of "retired" and "insured"; and added definitions of "dependent of a deceased covered member", "enrollment period", and "children".
- Section 3. Establishment and Implementation of the Plan...this section combines sections three and four of current rules. Section 3.02. amended to elaborate upon eligible groups. Section 3.04. of current rules moved to section 4.04.(b). New section 3.04. Informational Material added.
- Section 4. Participation in the Plan...section 5 under current rules. Entire section amended to deal with specific eligibility requirements of each eligible group specified in proposed section 3.02.
- Section 5. Termination of Coverage...new section necessary due to H. B. 1625, passed during 1982 Legislative session, amending §5-16-12 to grant three months additional coverage to involuntarily terminated employees at no additional cost to the employee.
- Section 6. Appeals Process...section title changed. Added section 6.04. that a Hearing Examiner shall be appointed to assist the Board in making a final determination of issues arising under this section.
- Section 7. Non-State Agencies...new section necessary because no rules currently exist to deal with non-state agencies, permitted to participate in the Plan since 1973.
- Section 8. Health Maintenance Organizations...new section necessary because of the Health Maintenance Act of 1977, giving employees the option of remaining under the terms of their present coverage or taking the HMO option.

SUMMARY

(cont)

Section 9. Refund Policy...new section necessary to deal with the problems created by agencies submitting late refund requests.

Section 10. Administrative Expense Fund...section 7. Expense Fund under current rules. Amended to delete the specific dollar amount of \$5.00.

Section 11. Miscellaneous...new section necessary to include subjects not covered under existing sections and not sufficiently large to merit a complete section.

PROPOSED LEGISLATIVE RULES

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT

Chapter 5-16-1 et seq.

Series I

(1983)

amended

Subject: Legislative rules pertaining to the general administration of the West Virginia Public Employees Insurance Plan.

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Section 1. General

1.01. Scope - These rules implement the provisions of article 16, chapter 5 of the West Virginia Code of 1931, as amended, pertaining to the general administration of the West Virginia Public Employees Insurance Plan.

1.02. Authority - These rules are issued under the authority of said article 16, chapter 5, particularly section five, which authorizes and empowers the Board to make all rules and regulations necessary to effectuate the provisions of this article, section seven, which authorizes and empowers the Board to establish and promulgate rules and regulations for the administration of such plans, and section eighteen, which authorizes the Board to promulgate such rules and regulations as may be required for the effective administration of the provisions of this article.

1.03. Filing Date - These rules are promulgated on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and filed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the Office of the Secretary of State.

1.04. Effective Date - These rules become effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

1.05. Amendments to Rules - Amendments to these rules may be made at any meeting of the Board, by vote of a majority of the quorum, provided

that the requirements of chapter twenty-nine-A [29A-1-1 et seq.] of the West Virginia Code of 1931, as amended, are met.

## Section 2. Definitions

2.01. Definitions - The terms "Board", "employee", "retired employee", and "employer", as used in these rules shall have the same definitions as these terms are given in West Virginia Code 5-16-2. The following words and phrases as used in these rules, unless a different meaning is clearly indicated by context, shall have the following meanings:

(a) ~~"Full-time"---(referring-to-employment)---a-position-which normally-requires-twelve-(12)-months-per-year-service-and/or-requires-at least-twenty-(20)-hours-per-week-or-1,040-hours-per-year-in-that-position and-contribution-to-a-State-Retirement-System.~~

(b) ~~---"Dependent"---a-spouse-and/or-unmarried-children-(natural, adopted-or-step)-not-employed-on-a-full-time-basis,-dependent-on-the employee-for-support,---(Coverage-of-dependents-may,-however,-be-limited by-the-terms-of-the-plan-and-by-the-terms-of-the-insurance-contracts entered-into-by-the-Board)~~

(c) ~~---"Retired"---a-former-employee-retired-voluntarily-or-by-mandate (before-reaching-the-age-of-sixty-five-years)-after-April-29,-1971,-who receives-periodic-benefit-from-a-State-Retirement-System,---Former employees-of-the-West-Virginia-Board-of-Regents-and-a-County-Board-of Education-are-eligible-retirees-after-April-21,-1972.~~

(d) ~~---"Insured"---an-employee,-or-retired-employee,-enrolled-in-the plan,---Also,-where-required-by-context,-this-term-shall-include-the spouse,-eligible-children,-and-any-named-beneficiaries.~~

(e) "Carrier" shall mean any agency, corporation, insurance company, state fund, or service organization engaged in the business of providing

insurance coverage contemplated by ~~these rules~~ the Board.

(b) "Children" shall mean never married children between birth and age nineteen and shall include: (1) The employee's natural children, (2) legally adopted children, including children living with the employee during the period of probation, (3) step-children residing in the employee's household, and (4) other children fully dependent upon the employee for support and maintenance and residing in the household of which the employee is head and actually being supported by the employee. Children may be included after the attainment of age nineteen, but not beyond the attainment of age twenty-five, if they are enrolled as full-time students, have never been married, and are fully dependent upon the employee for support. Children may also be included after the attainment of age nineteen while incapable of self-support because of a mental retardation or a physical handicap, if the child was covered as a dependent at the onset of the mental retardation or physical handicap.

(c) "Dependent" shall mean the employee's spouse, if legally married, and eligible children, as defined in (b) above.

(d) "Dependent of a Deceased Covered Member" shall mean the surviving spouse and/or eligible children of a deceased employee or retiree of the State of West Virginia who died on or after February 1, 1972, and the surviving spouse and/or eligible children of a deceased employee or retiree of all other participating agencies who died on or after November 1, 1972.

(e) "Enrollment period" shall mean the period of time in which a member of an eligible group specified in section 3.02 of these rules may enroll in the Plan without submitting evidence of insurability.

(f) "Full-time" shall mean a permanent position that is considered

full-time by the participating agency and that requires at least twenty hours per week or 1,040 hours per year in that position, unless otherwise exempted from this requirement by West Virginia Code.

(g) "Plan" shall mean the West Virginia Public Employees Insurance Plan.

Section 3. Establishment and Implementation of the Plan

3.01. Preliminary Negotiations - The Chairman or, at the direction of the Board, the Executive Secretary, may enter into preliminary negotiations with carriers for the purpose of obtaining information for the Board in establishing plans.

3.02. Determination of Participants ~~--All-full-time-employees,-their spouses-and-eligible-children,-and-retired-employees,-their-spouses-and eligible-children-are-eligible-to-participate-in-the-plans.~~

(a) All elected officials and full-time employees of the State of West Virginia, West Virginia Board of Regents, county boards of education, counties, cities and towns, and other governmental bodies so specified in the West Virginia Code 5-16-2, and their dependents as defined by these rules, may participate in the Plan, subject to the criteria set forth in section four of these rules.

(b) All employees of the State of West Virginia who retired after April 29, 1971; all employees of the West Virginia Board of Regents or of the county boards of education who retired after April 21, 1972; all employees of any county, city or other participating agency who retired after July 13, 1973; all employees who have been compelled or required by law to retire before reaching the age of sixty-five years; and their dependents as defined by these rules may participate at their own expense for the total cost of the coverage, subject to the criteria set forth in

section four of these rules.

(c) All dependents of deceased covered members, as defined by these rules, may participate at their own expense for the total cost of the coverage, subject to the criteria set forth in section four of these rules.

3.03. Benefits - The coverages provided for the various classes of participants shall be limited by the provisions of article 16, chapter 5 ~~Cede-of-West-Virginia~~ of the West Virginia Code of 1931, as amended, by these rules, and by the terms of the insurance contracts entered into by the Board.

~~3.04. ---Premium-Payment-for-Retired-Employees---Premiums-shall-be-with-held-from-retirement-benefits-and-paid-to-the-Board-by-the-Board-of-Trustees of-a-State-Retirement-System.~~

3.04. Informational Material

(a) The Board shall provide to each participant informational material, in booklet or other format deemed appropriate, setting forth the benefits to which the participant is entitled, to whom such benefits shall be payable, to whom claims shall be submitted, and a summary of the provisions of any such contract or contracts as they affect the participant.

(b) Such informational material shall not, however, constitute any binding agreement or any obligation on behalf of the Board to provide services, and any interpretation by anyone other than the Board shall be invalid.

(c) The Board shall periodically prepare and distribute revised informational material for the purpose of notifying participants of their current benefits and any significant changes in the plan provisions, policies, or procedures.

(d) In the interim period between the preparation and distribution

of such revised informational material, the Board shall be responsible for notifying the participating agencies of such changes, and the participating agencies shall, in turn, be responsible for the dissemination of such information to the participants.

~~Section 4--Implementation of the Plans~~

~~4.01~~

3.05. Bids

(a) Following the development of the plan or plans, the Board shall, in writing, invite competent bids from all carriers who are determined by the State Department of Insurance to be properly qualified and licensed to provide the desired coverage. The invitations shall prescribe the time limit for filing bids.

~~4.02~~

(b) Contracts shall be awarded by the Board within a reasonable time after the time limit prescribed by the invitations for filing bids.

~~Section 5--Participation in the Plans~~

~~5.01--Enrollment~~

~~(a)--Eligible employees may enroll by completing a form prescribed by the Board and filing same with the payroll officer of the employing agency.~~

~~(b)--Eligible retirees may enroll by completing a form prescribed by the Board and filing same with a State Retirement System.~~

~~(c)--Eligible employees and retirees choosing not to enroll must complete a form prescribed by the Board for such purpose and filing same with the payroll officer, or in the case of retirees, by filing with a State Retirement System.~~

~~(d)--All forms completed by employees and retirees in (a), (b), and (c) above and forms for subsequent changes shall be transmitted to the~~

~~Executive-Secretary-for-safe-keeping.~~

~~5.02.--Certification-of-Eligibility---The-official-receiving-the enrollment-form-shall-certify-the-eligibility-of-the-enrollee-to-the Executive-Secretary-and-shall-make-the-appropriate-provision-for-deduction of-premium-payments.~~

~~5.03.--Changes-in-Coverage---Discontinuance,-resumption,-addition-and reduction-of-coverage-may-be-effected-by-filing-a-prescribed-form-with-the appropriate-official-as-set-out-in-section-5.01-above.~~

#### Section 4. Participation in the Plan

##### 4.01. Employee Participation

(a) Eligible employees and their dependents may enroll in the Plan by completing a form prescribed by the Board and filing same with the payroll officer of the employing agency.

(b) The enrollment period for eligible employees and their dependents shall be the month in which the employee becomes employed by a participating agency and the immediately following month.

(c) The enrollment period for newly acquired dependents of a participating employee shall, however, be the month in which the dependent becomes an eligible dependent and the immediately following month.

(d) If the enrollment forms are completed within the enrollment period, coverage shall become effective on the first day of the month following the month in which the enrollment forms are completed.

(e) If the enrollment forms are not completed within the enrollment period, evidence of insurability shall be required, except that employees and dependents who chose not to participate in the Plan because of family coverage on the spouse's plan, and who later lose their spouse by divorce or death, and who enroll in the Plan during the month

the death or divorce occurs or the immediately following month shall not be required to submit evidence of insurability.

#### 4.02. Retiree Participation

(a) Participating employees and dependents may continue in the Plan upon the employee's retirement by completing a form prescribed by the Board and filing same with the payroll officer of the agency from which the employee is retiring.

(b) The enrollment period for persons in (a) above shall be the month in which the employee retires and the immediately following month.

(c) The enrollment period for newly acquired dependents of participating retirees shall, however, be the month in which the dependent becomes an eligible dependent and the immediately following month.

(d) Non-participating employees and dependents desiring coverage in the Plan upon the employee's retirement shall be required to submit evidence of insurability.

(e) If the enrollment forms are not completed within the enrollment period, evidence of insurability shall be required.

#### 4.03. Dependents of Deceased Covered Members Participation

(a) Dependents of deceased covered members may continue their health coverage in the Plan, provided that they were covered as a dependent on the deceased employee's or retiree's enrollment at the time of death, by completing a form prescribed by the Board and filing same with the payroll officer of the deceased employee's agency, or in the case of a deceased retiree, with the respective retirement system.

(b) Dependents of deceased covered members that do not contemplate enrolling as surviving dependents may continue under the terms of their prior enrollment, upon payment of the monthly contribution, for three

months following the end of the month in which death occurs.

(c) Newly acquired dependents of the surviving spouse shall not be permitted to enroll in the Plan, except that a surviving spouse who is pregnant at the time of death shall be permitted to enroll the newborn child(ren).

(d) Eligible dependents of participating employees or retirees who died prior to February 4, 1982 may enroll at any time without requirement of submitting evidence of insurability.

(e) Eligible dependents of participating employees or retirees who died on or after February 4, 1982 may enroll during the month in which the participating employee or retiree died or the immediately following month without requirement of submitting evidence of insurability.

#### 4.04. Miscellaneous

(a) The official receiving the enrollment form shall certify the eligibility of the enrollee to the Executive Secretary and shall make the appropriate provision for the deduction of premium payments.

(b) In the case of retirees, premiums shall be withheld from retirement benefits and paid to the Board by the Board of Trustees of the respective retirement system.

(c) In the event that the retirement benefits are insufficient to cover the cost of the coverage, the retiree shall be responsible for submitting the entire premium to the Public Employees Insurance Board.

(d) In the case of dependents of deceased covered members, premiums must be submitted to said dependent to the last payroll location of the deceased former member.

(e) All forms completed by the participants and forms for subsequent changes shall be transmitted to the Executive Secretary for safe-keeping.

Section 5. Termination of Coverage

5.01. Voluntary Termination - If an employee resigns voluntarily, coverage terminates at the end of the month in which the employee last appears on the payroll.

5.02. Involuntary Termination Prior to March 13, 1982 - If an employee is terminated involuntarily or in a reduction of work force prior to March 13, 1982, coverage terminates at the end of the month in which the employee last appears on the payroll.

5.03. Involuntary Termination On or After March 13, 1982 - If an employee is terminated from employment involuntarily or in a reduction of work force on or after March 13, 1982, the employee's coverage shall terminate three months from the end of the month in which the employee last appears on the payroll: Provided,

(a) That an employee discharged for misconduct shall not be eligible for continued benefits under this section.

(b) That coverage may be continued up to the maximum period of three months while administrative remedies contesting the charge of misconduct are pursued.

(c) That should the discharge for misconduct be upheld, the full cost of the continued coverage shall be reimbursed by the employee.

5.04. Payment of Costs During Period of Continued Coverage - During the period of continued coverage in section 5.03 above:

(a) An employee who has paid their share of the cost for the required twelve months prior to termination shall pay no additional amount for the continued coverage.

(b) An employee who has not paid their share of the cost for the required twelve months prior to termination shall continue paying their

share of the cost, not to exceed twelve months total, to the payroll location of that prior termination, during the period of continued coverage.

5.05. Re-employment After Involuntary Termination - If an employee in section 5.03 above is again employed or recalled within twelve months of the last date on the payroll, the employee shall not be considered a new enrollee.

5.06. Responsibility of Payroll Location - The payroll location shall be responsible for the termination of employees no longer eligible for coverage under the Plan.

#### Section 6. Review Appeals Process

6.01. In the event there is a disagreement between the carrier and any insured, the insured shall first apply to the carrier for a determination of the issue.

6.02. Disagreements between the carrier and the insured which cannot be reconciled by the procedure provided by section 6.01 above, and issues arising under the provisions of article 16, chapter 5 code-of-West-Virginia of the West Virginia Code of 1931, as amended, or under these rules and regulations, shall be submitted in writing to the Executive Secretary for a decision.

6.03. Decisions under section 6.02 shall be issued in writing by the Executive Secretary. The notice of the decision shall give the parties thirty days in which to apply, in writing, to the Board Executive Secretary for review. ~~Decisions-of-the-Board-shall-be-final.~~

6.04. In the event that such review is requested in writing within the above specified time period, and in the event the Board deems such review necessary, the Board shall direct the Executive Secretary to request the Attorney General of the State of West Virginia to provide a qualified,

impartial Hearing Examiner, or direct the Executive Secretary to provide a qualified, impartial Hearing Examiner, unless otherwise directed by the Chairman, for the purpose of rendering a determination. Decisions of the Board shall be final.

Section 7. Non-State Agencies

7.01. Participation Agreement - A participation agreement shall be executed between the participating non-state agency and the West Virginia Public Employees Insurance Board governing the participation of said non-state agency in the West Virginia Public Employees Insurance Plan.

7.02. Withdrawal from the Plan - When any participating non-state agency chooses to withdraw from or terminate the West Virginia Public Employees Insurance Plan:

(a) Written ninety days notice shall be required prior to formal withdrawal from the Plan.

(b) All non-state agency retirees participating in the Public Employees Retirement System and covered by the Public Employees Insurance Plan prior to the effective date of these rules shall remain so covered under the conditions of their present coverage.

(c) All non-state agency retirees participating in the Public Employees Retirement System and covered by the Public Employees Insurance Plan on or after the effective date of these rules shall look to the withdrawing non-state agency for coverage.

(d) All non-state agency retirees not participating in the Public Employees Retirement System shall look to the withdrawing non-state agency for coverage.

(e) A twelve month waiting period shall be imposed by the Board for any such non-state agency choosing to re-enter the Plan.

7.03. Participation Fee - All non-state agencies admitted to the Plan on or after the effective date of these rules shall, upon their formal request to participate in the Plan or for re-admission to the Plan, have a one-time charge of twelve dollars per participating employee.

7.04. Prior Charges

(a) When any participating non-state agency chooses to withdraw from or terminate the Public Employees Insurance Plan, all covered charges incurred for expenses on dates up to 12:01 A.M. on the date of termination shall be the responsibility of the Public Employees Insurance Plan.

(b) When any non-state agency joins or rejoins the Public Employees Insurance Plan, all charges incurred prior to the date of coverage shall be payable by said non-state agency or their carrier. All covered charges incurred on or after the date of coverage shall be the responsibility of the Public Employees Insurance Plan.

Section 8. Health Maintenance Organizations (HMO)

8.01. The HMO Option - Eligible employees and dependents who live within the specified area in which a Health Maintenance Organization has been authorized to operate by the Insurance Commissioner of the State of West Virginia shall have the option of remaining with the Public Employees Insurance Plan or joining the HMO for a contract period of one year.

Should the employee choose the HMO Option:

(a) An enrollment form prescribed by the Board must be completed during the period from May 1 to June 30.

(b) A copy of the HMO application must accompany the enrollment form prescribed by the Board.

(c) The one year contract period shall be from July 1 of a given year to June 30 of the following year.

(d) The Basic life insurance coverage and the Optional life insurance coverage may be continued under the Public Employees Insurance Plan.

8.02. Terminations

(a) If, during the course of the one year contract period while covered by the HMO plan, the insured wishes to terminate coverage under the HMO plan, written thirty days notice must be given the insuring HMO. However, the insured will not be allowed to continue health coverage under the Public Employees Insurance Plan until the end of the one year contract period, unless either the HMO becomes insolvent, or the employee is transferred outside of the area in which the HMO has been authorized to operate.

(b) If, at the end of the one year contract period, the insured wishes to terminate coverage under the HMO plan, evidence of insurability shall not be required to re-enroll for health coverage in the Public Employees Insurance Plan, provided that the employee completes a form prescribed by the Board within thirty-one days after the end of the contract period.

8.03. Contributions

(a) In the case of General Revenue accounts, the Public Employees Insurance Board shall pay to the HMO that portion of the premium that is normally appropriated for health coverage.

(b) Any amount due the HMO in excess of the Public Employees Insurance Board premium shall be the responsibility of the employee.

(c) In the case of Special Revenue accounts, the agency shall be billed directly by the HMO.

Section 9. Refund Policy

9.01. Agency Error - Where the error occurred on the part of the participating agency:

(a) A refund due with incurred date within the current fiscal year shall be refunded during that current fiscal year from current fiscal year funds.

(b) A refund due with incurred date in an immediately previous fiscal year and received up to and including July 31 of the current fiscal year shall be made and considered as refunds out of said immediately past fiscal year funds.

(c) A refund due with incurred date in an immediately previous fiscal year and received after July 31 of the current fiscal year shall be submitted to the Court of Claims by the participating agency.

9.02. Board Error - Where the error occurred on the part of the Public Employees Insurance Board, refunds shall be made without regard to time lapsed.

Section 7. -- Expense Fund

7.01. -- Each participating division, agency, board, commission or department of the state, which operates out of special revenue funds or federal funds or both, shall pay to the Expense Fund the sum of \$5.00 per year per employee member, retiree, and member receiving disability benefits, said sum due at the time any individual becomes a member of the program and payable upon a statement from the West Virginia Public Employee's Insurance Board. -- Contributions shall not be prorated in the event a member terminates membership in the program or ceases to receive benefits before completion of a year of membership. -- General membership billings will occur on October 1, 1972, covering administrative costs of the insurance plan for the first year's operation, and July 1 thereafter of each year.

Section 10. Administrative Expense Fund

10.01. The Board shall annually determine such sums as may be necessary to pay the administrative costs of the Plan.

10.02. The Board shall request a General Revenue appropriation on a per capita basis to pay the proportionate share of such costs for each General Revenue employee.

10.03. Each division, agency, board, commission or department of the State which operates out of Special Revenue funds or federal funds or both, shall pay its proportionate share of such costs on a per capita basis, said sums due at the time any individual becomes a member of the program and payable upon a request from the Board.

10.04. The administrative expense fee for an individual shall not be prorated in the event a member terminates membership in the program or ceases to receive benefits before the completion of a year of membership.

10.05. General membership billings will occur on July 1 of each year.

Section 11. Miscellaneous

11.01. Subrogation - In the event that benefits are paid to any insured for bodily injury caused by a third party, the Public Employees Insurance Board shall be and is hereby subrogated (substituted) with respect to any insured's right (to the extent of the value of the benefits paid) to any claim against such third party causing such bodily injury. Acceptance of such benefits hereunder shall constitute such subrogation. The insured shall, at the request of the Public Employees Insurance Board, execute and deliver to the Board such additional evidence as the Board may from time to time require. Failure to execute such evidence as may be required shall make the insured liable to the Public Employees Insurance

Board for all costs and expenses heretofore incurred by it in the insured's behalf because of such bodily injury.

11.02. Claims Records - The carrier shall be responsible for the retention of original claim records for a period of five years.

11.03. Open Enrollment - All authority to establish an open enrollment shall rest with the Board.