

Resolution 2012-09

Definition of “Benefits Normally Provided”

December 20, 2012

This Resolution supersedes Resolution 2012-01

WHEREAS, pursuant to Utah Code Annotated §49-11-103, the Utah State Retirement Act “shall be liberally construed to provide maximum benefits and protections consistent with sound fiduciary and actuarial principles[;]” and

WHEREAS, that one of the purposes of the Utah State Retirement and Insurance Benefit Act as stated in Utah Code Annotated §49-11-103(1)(a)(i) is to “establish retirement systems . . . for members which provide a uniform system of membership;”

WHEREAS, pursuant to Utah Code Annotated § 49-11-203(k), the Board has the authority to “develop broad policy for the long-term operation of the various retirement systems, plans, and programs under broad discretion and power to perform the board’s policymaking functions, including the specific authority to interpret and define any provision or term under this title when the board or office provides written documentation which demonstrates that the interpretation or definition promotes uniformity in the administration of the systems or maintains the actuarial soundness of the systems, plans, or programs [;]” and

WHEREAS, both Utah Code Annotated §§ 49-12-102, and 49-13-102 define “Regular full-time employee” in part as “an employee . . . whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer[;]” and

WHEREAS, a regular full-time employee of a participating employer is eligible for service credit in both the Public Employees’ Contributory and Non-Contributory Systems; and

WHEREAS, the term “benefits normally provided” is not defined by the Utah Code; and

WHEREAS, the Board recognizes that different employers offer different employment benefits to their employees; and

WHEREAS, the experience of the Office in administering the “benefits normally provided” section of the statute is that the number and types of benefits, perks and other forms of remuneration has multiplied over the years and it has become increasingly difficult to educate employers and monitor compliance; and

WHEREAS, the Board desires to have a uniform rule governing the definition of “benefits normally provided” in an effort to treat members fairly, and make administration of the systems more efficient.

NOW, THEREFORE, BE IT RESOLVED that an employee is considered to receive “benefits normally provided,” as it is used in the definition of “regular full-time employee” for purposes of eligibility in the Public Employees’ Contributory System created under Chapter 12 of Title 49, the Public Employees’ Non-Contributory System created under Chapter 13 of Title 49 and the Public Employees’ Tier II Contributory System created under Chapter 22 of Title 49, when the employee receives one or more benefits provided by a participating employer to its employees.

THEREFORE BE IT FURTHER RESOLVED that benefits, for determining “benefits normally provided” include: (1) Annual Leave, Sick Leave, and Paid-Time-Off (PTO) in lieu of Annual Leave and/or Sick Leave; (2) Insurance coverage of any kind if the employer pays some portion of the premium for such coverage; or (3) retirement benefits of any kind if the employer pays a portion of the cost.

THEREFORE BE IT FURTHER RESOLVED that benefits, for determining “benefits normally provided” shall not include social security, worker’s compensation insurance, unemployment insurance, Medicare or other similar payments or any benefits required by law.

THEREFORE BE IT FURTHER RESOLVED that for those benefits not listed, the executive director shall have sole discretion to determine what constitutes a benefit under this resolution.

This resolution shall be effective December 20, 2012.