

These rules are the first published policy regarding the implementation of the VEBA HRA for state of Montana employees.

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1950 POLICY AND OBJECTIVES

(1) By enacting Senate Bill 52, the 51st regular session of the Montana Legislature directed the Department to develop and operate a VEBA program for public employees. The "Montana Voluntary Employee Beneficiary Act" is codified at Title 2, Chapter 18, Part 13, MCA (2003). This Act provides a means for employees to convert unused sick leave, which is accumulated under 2-18-601, MCA, to fund individual health reimbursement accounts (HRA) that pay for qualified health care expenses.

(2) It is the policy of the state of Montana to offer access to the Montana VEBA HRA program to assist employees, former employees, their dependents, and beneficiaries in the payment of qualified health care expenses.

(3) It is the objective of this policy to establish procedures for state government implementation of the Montana VEBA HRA.

(4) The Department has adopted two policies to implement the VEBA program in State government, this policy and the Montana VEBA HRA Policy (MOM 3-0565). Both policies apply to State of Montana employees.

1951 DEFINITIONS

As used in this policy, the following definitions apply:

(1) "Agency" means an office, department, board, commission, institution, university, college, and any other administrative unit of state government.

(2) "Contracting agency" means an agency who, as provided in 2-18-1310, MCA, has contracted with the department to participate in the Montana VEBA HRA.

(3) "Department" means the department of administration established in 2-15-1001, MCA.

(4) "Election group" is a collection of employees employed by the same agency and identified by the head of the agency as having common characteristics or interests for the purpose of conducting a VEBA election vote. A group must include at least two employees and may not be considered if the group would not meet requirements for non-discrimination.

(5) "Employee" means a person employed by an agency who is:

(a) in a pay status at least 1,040 hours each year;

- (b) active in a state retirement system;
- (c) eligible to earn sick leave; and
- (d) eligible to receive the state share for health insurance.

For the purposes of this policy, a short-term worker, a student intern, or a person hired under a personal services contract or as an independent contractor is not an employee.

(6) "HRA" means health reimbursement account. This is a tax-exempt account established for the payment of qualified health care expenses. State Statute provides for funding the Montana VEBA HRA accounts through agency contributions and investment earnings. At any time after a member's account has been established, the member may access funds in the account in a manner prescribed by the department. The funds may be accessed only for the payment of qualified health care expenses, which is defined to include medical plan premiums, until the funds have been exhausted.

(7) "in a pay status" means the hours an employee is paid. This includes hours an employee is paid for annual leave, sick leave, and the use of compensatory time. It also includes paid time off on a holiday and time worked on a holiday. For the purposes of this policy, the term does not include hours worked that exceed 40 hours in a work week which are paid as overtime hours or recorded as compensatory time.

(8) "Member" means a current or former employee for whom agency deposits have been received by Montana VEBA HRA and whose account has a positive balance.

(9) "VEBA group" means a collection of employees who are employed by the same agency who elect to form a voluntary employees' beneficiary association (VEBA).

(10) "VEBA participant" means an employee who belongs to a VEBA Group enrolled in the Montana VEBA HRA, established under 2-18-1310, MCA.

1952 PLAN ADMINISTRATION

- (1) The department must:
 - (a) provide educational presentations to agency management and employees about Montana VEBA HRA;
 - (b) review agency proposals for participation in the Montana VEBA HRA and determine whether the agency may become a contracting agency;
 - (c) review and approve the types of state employer contributions to the HRA available to a VEBA group;
 - (d) determine whether current employees can become members or whether an employee must terminate employment to become a member;
 - (e) develop policies and procedures for administration of the Montana VEBA HRA; and
 - (f) enforce the participation requirements by not allowing illegal or discriminatory VEBA groups to form or by refusing to administer funds from VEBA groups that do not continue to comply with the department's requirements.
- (2) Agencies must:
 - (a) allow the department to make educational presentations about

Montana VEBA HRA to employees;

(b) facilitate an election to determine whether employees will form a VEBA group for the purpose of participating in the Montana VEBA HRA. When at least 25 per cent of the employees request an election, an employer or agency must facilitate the election within 60 calendar days from the request.

(c) notify the Montana VEBA HRA when a VEBA participant becomes a member; and

(d) determine and process contributions as provided by the department in accordance with IRS tax law restrictions.

(3) The effective date of a VEBA group must begin no later than 30 days following completion of a vote and announcement of an election outcome which creates a VEBA group.

(4) Employers may notify employees of an impending vote 15 days prior to the date the vote commences.

1953 ELIGIBILITY

(1) Only state employees and former employees who are VEBA participants are eligible to participate in the Montana VEBA HRA.

1954 ELECTIONS

(1) An Election group may include an agency's employees or a specified group of employees within the agency provided the group is not discriminatory or formed solely to allow individual choice regarding VEBA participation as prohibited by the IRS.

(2) Employees who are members of a collective bargaining unit may decide to either participate with other employees in the formation of an Election group or to initiate the election through the bargaining unit. If the employees decide to participate with other employees, a written memorandum of understanding from the union representing the bargaining unit employees must be obtained by the agency.

(3) Once participants in an Election group are identified by the head of an agency, employees in that Election group will not participate in the election of another Election group they also qualify for unless they request and receive approval to switch to that Election group. An election vote may be initiated at the request of 25% of the Election group or by the head of an agency.

(4) Employers must make a reasonable effort when conducting an election to maintain the privacy of each individual ballot. Employers also must include provisions for absentee voting for those employees not present during and election.

1955 CLOSING

(1) The provisions of this policy not required by statute shall be followed unless they conflict with negotiated labor contracts, which will take precedence to the extent applicable.