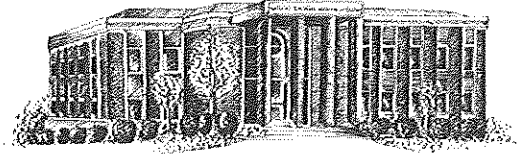


TEACHERS' RETIREMENT SYSTEM OF KENTUCKY

GARY L. HARBIN, CPA
Executive Secretary
(502) 848-8500



SERVING KENTUCKY TEACHERS SINCE 1940

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October 01, 2015

CC:PA:LPD:PR (Notice 2015-52)
Room 5203
Internal Revenue Service
P. O. Box 7604
Ben Franklin Station
Washington, DC 20044

Sent Via Electronic Mail to Notice.comments@irs.counsel.treas.gov

RE: NOTICE 2015-52 Section 4980I—Excise Tax on High Cost Employer-Sponsored Health Coverage

The Kentucky Teachers' Retirement System (KTRS) is thankful for the opportunity to comment on the potential federal excise tax regulations provided in Notice 2015-52 as part of the Patient Protection and Affordable Care Act (PPACA).

KTRS provides health coverage to 45,000 retired Kentucky educators. The Medicare eligible retirees are covered by a fully-insured Medicare Advantage plan and a self-funded Medicare Part D drug plan (EGWP) combined to create the KTRS Medicare Eligible Health Plan (MEHP) where KTRS functions as the plan sponsor. The pre-Medicare eligible retirees are covered by the Kentucky Employees' Health Plan (KEHP) which covers a total of 260,000 active teachers and state employees, as well. The KEHP is a self-funded commercial plan that has about 40% of its participants in a consumer driven health plan model.

KTRS understands and applauds the health care reform efforts that strive to cover millions of uninsured in an effort to bring down our nation's healthcare costs as a whole. KTRS acknowledges the moral hazard of "Cadillac" health plans causing exorbitant costs in that unmanaged health plans with rich benefits do produce high utilization and healthcare costs. However, high utilization and healthcare costs can many times be the result of age and geographic location and not be a direct result of any rich benefit plan designs. The KTRS MEHP and KEHP described above have industry best practices in terms of managed care via the Medicare Advantage and consumer driven health plan models including disease management, case management, medication therapy management, and prior authorization to name a few.

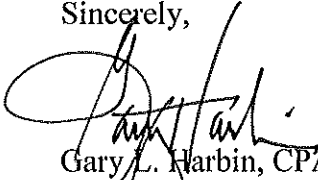
KTRS would like to comment as follows on the additional issues addressed in Notice 2015-52 that supplement the previous Notice 2015-16.

- When determining the “person that administers the plan benefits” under approach one, KTRS concurs that the identity of the “person” that administers the plan benefits could be unclear because our MEHP uses UnitedHealthcare as the third party administrator under an insured arrangement and uses Express Scripts as the pharmaceutical benefit manager under a self-funded arrangement. In addition, our KEHP uses Anthem as the third party administrator and CVS Caremark as the pharmaceutical benefit manager, both under a self-funded arrangement including HRA dollars as part of a consumer driven health plan option.
- Under approach two, KTRS also concurs that the “person” that administers the plan benefits could also be unclear due to the KEHP having multiple employers participating. This lack of clarity amongst employers was just experienced in Kentucky determining who is responsible for the reporting and paying of the employer and individual mandates under the Employer Reporting Requirements of the PPACA. In most circumstances, a retirement system is not considered the employer.
- Under the Employer Aggregation, Cost of Applicable Coverage, and the Age and Gender Adjustment sections, there will be practical challenges presented to our KEHP as there are several hundred or more separate and autonomous employers inside the KEHP as mentioned above. Again, in most circumstances, a retirement system is not considered the employer.

Those drafting the federal excise tax regulations assume that employers/plan sponsors will decrease healthcare benefits in an attempt to avoid the 40% excise tax penalty, and that those benefit reductions will be resurrected in the form of increased taxable salaries producing more revenue to help pay for covering the uninsured. This assumption is incorrect for many public sector state government retirement plans like KTRS, however, as the pension annuity calculations and cost of living adjustments are established by state statute. With no corresponding increase in pension annuities available to offset reduced healthcare benefits, a reduction in those benefits would be very harmful to retired Kentucky educators who would have no means of making up for the lost benefits. They would also be harmed with the continuance of the existing benefits as plan sponsors, in order to maintain costs, would be required to shift the cost of the federal excise tax back to the retirees in the form of higher premiums. The result is that retired Kentucky educators would be presented with two “no win” options. In addition, valuable healthcare benefits are necessary for retired Kentucky educators and other state educators as they do not have the guaranteed financial safety net of Social Security (or that of a spouse’s) to supplement their retirement savings and the average retired Kentucky teacher pension is modest. In short, the proposed federal excise tax would have a very significant and detrimental effect on the standard of living of thousands of retired Kentuckians living on a fixed income.

With the above responses and explanations, KTRS again respectfully requests repeal of the federal excise tax. Thank you for your consideration.

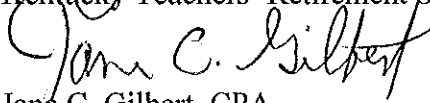
Sincerely,

A handwritten signature in black ink, appearing to read "Gary L. Harbin". The signature is fluid and cursive, with a large initial "G" and "H".

Gary L. Harbin, CPA

Executive Secretary

Kentucky Teachers' Retirement System

A handwritten signature in black ink, appearing to read "Jane C. Gilbert". The signature is cursive, with a large initial "J" and "G".

Jane C. Gilbert, CPA

Director of Retiree Health Care

Kentucky Teachers' Retirement System