

Public Agenda Item #6

Call Meeting of the Board of Trustees to Order

December 7, 2021

Public Agenda Item #7

*Consideration of the Minutes to the August 25, 2021
Board of Trustees Meeting – (Action)*

December 7, 2021

Questions?
Action Item

Public Agenda Item #8

Executive Session

In accordance with section 551.074, Texas Government Code, the Board of Trustees will meet in executive session to deliberate the employment, evaluation and duties of the Internal Auditor of ERS, and in accordance with section 551.071, Texas Government Code, the Board of Trustees will meet in executive session to consult with legal counsel regarding contemplated litigation.

Thereafter, the Board may consider appropriate action in open session.

December 7, 2021

Public Agenda Item #9

*Consideration of Readoption of Proposed Rules of the Board of Trustees, Texas Administrative Code, Title 34, Part IV, Chapter 61 (Terms and Phrases), Chapter 63 (Board of Trustees), and Chapter 65 (Executive Director), with Proposed Amendments - (**Action**)*

December 7, 2021

Keith Yawn, Director of Strategic Initiatives

Administrative Code Review

Chapters 61, 63 and 65



- Texas Government Code, Section 2001.039 directs agencies to regularly review administrative rules to assess whether the reasons for their adoption continue to exist.
- Chapter 63 (Board of Trustees) includes new language to implement legislation passed by the 87th Texas Legislature.

Proposed Amendments to Chapter 61

Terms and Phrases



- Chapter 61 provides definitions of certain terms and phrases used throughout ERS administrative rules for consistency and clarity.
- Exhibit A provides the detailed revisions as publicly posted.
- Reason for revisions: to clarify and simplify the language used in the rules for a public audience; not intended to change the meaning or application of the rules from previous versions.

Proposed Amendments to Chapter 63

Board of Trustees



- Chapter 63 covers Board of Trustee operations, including duties, election activities, and advisory committees.
- Exhibit B provides the detailed revisions as publicly posted.
- Reason for revisions: (1) to implement the provisions of House Bill 917 (87th session) to allow a retiree to serve as a trustee; and (2) to clarify and simplify the language used in the rules for a public audience.

Proposed Amendments to Chapter 63

Board of Trustees – Nomination Process



- Statute allows a retiree to hold 1 of the 3 elected trustee position
- Retirees can run in a board election for the first time in 2023
- An active member may not be nominated to the Board if they are employed by the same agency as another trustee
- A retiree or active member may not be nominated to the Board if they were employed by ERS within the past six years

Proposed Amendments to Chapter 65

Executive Director



- Chapter 65 addresses the authority of the ERS Executive Director, including duties and delegation authority.
- Exhibit C provides the detailed revisions as publicly posted.
- Reason for revisions: to clarify and simplify the language used in the rules for a public audience, and ensure alignment with authorizing statute.

Public Posting and Comment

Chapters 61, 63 and 65



Notices of the proposed amendments to Chapter 61, Chapter 63 and Chapter 65 were published in the October 22, 2021 issue of the Texas Register (46 TexReg 7194).

ERS did not receive any comments on the proposed rule amendments.

Staff Recommendation

Proposed amendments to Chapters 61, 63 and 65



Re-adopt Chapter 61 (Terms and Phrases), Chapter 63 (Board of Trustees), and Chapter 65 (Executive Director) as amended in Exhibits A, B and C of this agenda item and publicly posted to the Texas Register, as the reasons for their adoption continue to exist.

Questions?
Action Item

Public Agenda Item #10

Consideration of Readoption of Rules of the Board of Trustees, Texas Administrative Code, Title 34, Part IV, Chapter 69 (Membership and Refunds), with Proposed Amendments, Including New Provisions Regarding Pension Forfeiture Resulting from Criminal Convictions; and Consideration of Proposed Amendments to Chapter 85 (Flexible Benefits) - (Action)

December, 7, 2021

Emily Miller, Assistant General Counsel
Diana Kongevick, Director, Group Benefits

Proposed Re-adoption of Chapter 69 with Amendments

Membership, Annuity Termination, and Refunds



- **Required Rule Review**

- Pursuant to Tex. Gov't Code § 2001.039
- ERS staff reviewed Chapter 69 and determined that the reasons for adopting the chapter continue to exist.

- **Proposed Rule Amendments**

- Sections 69.1 and 69.9
 - Non-substantive amendments
 - Intended to clarify and simplify the existing rule language

Proposed Re-adoption of Chapter 69 with Amendments

Membership, Annuity Termination, and Refunds



- **Repealed Sections**

- Sections 69.3 (Members of Governing Boards) and 69.7 (Reinstatement of Refunded Accounts within 15 days) were moved to §§ 69.7 and 69.8 to accommodate new provisions.
- Section 69.5 (Interest Payable at Time of Refund) was repealed because it is obsolete.

- **New Annuity Termination Provisions**

- Sections 69.2 through 69.6
 - Required by Tex. Gov't Code §§ 810.003 and 810.004
 - The purpose is to delineate when and how ERS will terminate the annuity of an elected official or corrections officer who is convicted of a qualifying felony.

Proposed Re-adoption of Chapter 69 with Amendments

Membership, Annuity Termination, and Refunds



Key Points

- ERS will terminate the annuity of an elected official or corrections officer who is convicted of a “qualifying felony” related to the person’s office or employment.
 - Remaining retirement contributions will be refunded.
 - ERS will reinstate the annuity if the conviction is overturned or actual innocence is established and ERS receives (1) an application to reinstate and (2) repayment of any refund within 120 days.
- If an annuitant fails to provide timely notice of a conviction and thus continues to receive annuity payments, he or she must repay ERS.

Proposed Re-adoption of Chapter 69 with Amendments

Membership, Annuity Termination, and Refunds



Key Points (cont'd)

- For a QDRO that pre-dates the termination statute, ERS will continue to pay the alternate payee if payment has begun. If payment has not begun, ERS will pay the alternate payee a portion of any refund.
- A court may award part of a terminated annuity to a spouse who is not convicted of the qualifying felony or an offense arising out of the same criminal episode. The rules cap a spousal award at 50%.

Proposed Re-adoption of Chapter 69 with Amendments

Membership, Annuity Termination, and Refunds



- Notice of the proposed rules for Chapter 69 was published in the October 29, 2021 issue of the *Texas Register* (46 TexReg 7360).
- Notice of the proposed rules was also included in the ERS newsletter.
- ERS did not receive comments regarding the proposed amendments.

Questions?

Proposed Amendments to Chapter 85

Flexible Benefits



- Rule amendments to Chapter 85 are proposed pursuant to Tex. Insurance Code § 1551.052 and Tex. Insurance Code § 1551.206(b).
- Chapter 85 serves as the TexFlex Program's plan document.
- Rule amendments:
 - Sections 85.1 (Introduction and Definitions)
 - 85.4 (Separate Plans)
 - 85.6 (Relief Options due to the Coronavirus (COVID-19))
 - 85.7 (Enrollment)

Proposed Amendments to Chapter 85

Commuter Spending Account



- **Repealed Sections**

- Section 85.4 Separate Plans – repeal subsection (d) Qualified transportation benefit plan because it is obsolete.

Key Points

- May 2021: Board approved to terminate the Commuter Spending Account effective August 31, 2021, with a runout period ending December 31, 2021. The remaining eligible balances will be refunded to participants on a taxable basis.

Proposed Amendments to Chapter 85

Relief Options due to the Coronavirus (COVID-19)



- **New Relief Options Provisions**

- Section 85.6 (Relief Options due to the Coronavirus (COVID-19)) is added to define the temporary relief options for Plan Years 2020 and 2021 as allowed under the federal Consolidated Appropriations Act of 2021.
- Options are available for dependent care reimbursement accounts and health care FSAs, including limited purpose FSAs.
- ERS administered the COVID-19 relief options for TexFlex participants as permitted under federal regulations.
- Options must be adopted into plan document by December 31, 2021.

Proposed Amendments to Chapter 85

Relief Options due to the Coronavirus (COVID-19)



Key Points

COVID-19 relief options are temporary provisions to the program to help address challenges for participants who were unable to use their FSA benefits as participants originally intended.

- Removed FSA carryover limits for both 2020 and 2021 plan years
- Adopted spend-down provisions for plan years ending 2020 and 2021, to allow those who leave the plan to submit claims up to the contribution amount for dates of service during the entire plan year

Proposed Amendments to Chapter 85

Relief Options due to the Coronavirus (COVID-19)



Key Points (cont'd)

- Adopted the special carry forward rule for dependent care reimbursement where dependents aged out during the pandemic.
“Eligible employee” may be reimbursed for an eligible dependent who is not yet age 14 for purposes of determining the dependent care assistance, which may be paid or reimbursed under the dependent care reimbursement account.
- Allowed prospective FSA elections for PY21 without a qualifying life event

Proposed Amendments to Chapter 85

Definitions and Enrollment



- **Proposed Rule Amendments**

- Section 85.1 (Introduction and Definitions) amends subsection (c) Definitions to include applicable references to new rule 85.6, when appropriate
- Section 85.7 (Enrollment) amends subsections (e) Forfeiture of Account Balances and (g) Carryover of Unexpended Balances to include references to the new rule 85.6, when appropriate

Public Posting and Participant Communications

Flexible Benefits



Public Posting

- Notice of the proposed amendments to Chapter 85 was published in the October 22, 2021 issue of the *Texas Register* (46 TexReg 7198).
- Notice of the proposed rules was also included in the ERS newsletter.
- ERS did not receive comments regarding the proposed amendments.

Communication

- WageWorks, Inc. notified
 - CSA participants of benefit closing
 - FSA participants of temporary relief options available
- ERS included benefit changes on ERS website

Staff Recommendation

Re-adoption of Chapter 69 with Amendments



Re-adopt Texas Administrative Code, Title 34, Part IV, Chapter 69 (Membership and Refunds), as revised by the proposed amendments detailed in Exhibit A to item 10 on the Board's agenda, including changes to the text published in the *Texas Register*.

Staff Recommendation

Adopt Proposed Amendments to Chapter 85



Adopt the proposed amendments to Texas Administrative Code, Title 34, Part IV, Chapter 85 (Flexible Benefits), as detailed in Exhibit B to item 10 on the Board's agenda.

Questions?
Action Item

Public Agenda Item #11

Report of the Group Benefits Advisory Committee

December 7, 2021

Bernie Hajovsky, Director of Enterprise Planning

Megan LaVoie, Group Benefits Advisory Committee Member

GBAC Annual Report

Committee Background



- 11-member committee provides stakeholder and expert input in the planning and development of the Group Benefits Program
- Committee charter sets the framework for structure and activities
- Committee meets twice each year

GBAC Annual Report

Recap of 2021 Meetings



Topics Discussed in March

- ❑ 2021 legislative session
- ❑ COVID-19 impact on health plans
- ❑ Fertility benefits and coverage
- ❑ Resources to support GBP participants

Topics Discussed in October

- ❑ New legislation from the 2021 session
- ❑ ERS Rider 17 on alternative methods for delivering current GBP benefits
- ❑ GBP and wellness updates

GBAC Annual Report

Committee Feedback



- ❑ No formal recommendations for the Board of Trustees
- ❑ Suggestions for staff consideration
 - Maintain the existing fertility benefits and coverage currently available to GBP health plan participants without expansion
 - Explore offering additional benefits with impact to more participants
 - Increase awareness of GBP wellness opportunities
 - Explore the possibility of hosting virtual sessions to provide healthy eating tips for health plan participants

Questions?

Public Agenda Item #12

Appointment of Group Benefits Advisory Committee Members- (Action)

December 7, 2021

Bernie Hajovsky, Director of Enterprise Planning Office

Appointment of GBAC Members



Membership

- ❑ Up to 11 committee members
- ❑ Requires at least one (1) year of GBP enrollment and employer support
- ❑ Serve 3-year staggered terms
- ❑ **Serve at the will of the Board**

Appointment of GBAC Members

Committee Representation



- ❑ (2) State agencies, large (800+ FTEs)
- ❑ (2) State agencies, mid-sized (100-799 FTEs)
- ❑ (1) State agencies, small (<100 FTEs)
- ❑ (1) Institutions of higher education, 4-year
- ❑ (1) Institutions of higher education, 2-year
- ❑ (1) Health-related institution (academic, administrator or practitioner)
- ❑ (2) Retirees (1 Medicare, 1 non-Medicare)
- ❑ (1) Insurance or benefits design professional (GBP eligibility does not apply)

Appointment of GBAC Members

Vacancies Within Two Categories



- ❑ State agencies, large
- ❑ State agencies, mid-sized
- ❑ State agencies, small
- ❑ ***Institutions of higher education, 4-year (1)***
- ❑ Institutions of higher education, 2-year
- ❑ Health-related institution (academic, administrator or practitioner)
- ❑ ***Retirees (1)***
- ❑ Insurance or benefits design professional (GBP eligibility does not apply)

Appointment of GBAC Members

Staff Recommendations for Three-Year Terms Beginning in 2022



Nominee	Category	Organization	Title
Janet Bezner *	State Institution of Higher Education, Four-Year	Texas State University	Professor and Chair, Department of Physical Therapy
Gary White *	Retiree	N/A	N/A

* Current GBAC Member

Agenda Item 12 – Board of Trustees Meeting, December 7, 2021

Questions?
Action Item

Public Agenda Item #13

Health Insurance Financial Update for Fiscal Year 2021 and Outlook for Fiscal Year 2022

December 7, 2021

Diana Kongevick, Director of Group Benefits
Blaise Duran, FSA, Actuarial and Reporting Services, Group Benefits
Phil S. Dial, FSA, Rudd and Wisdom, Inc.

HealthSelect of Texas[®] Review



Trends

	PY19	PY20	PY21 Estimated Trend	PY21 over PY19 Annualized Trend
Medical Trend	3.0%	-0.8%	12.8%	5.7%
Pharmacy Trend	7.2%	5.6%	8.7%	7.1%
Combined Medical and Pharmacy Trend	4.1%	1.0%	11.6%	6.1%

HealthSelect Review

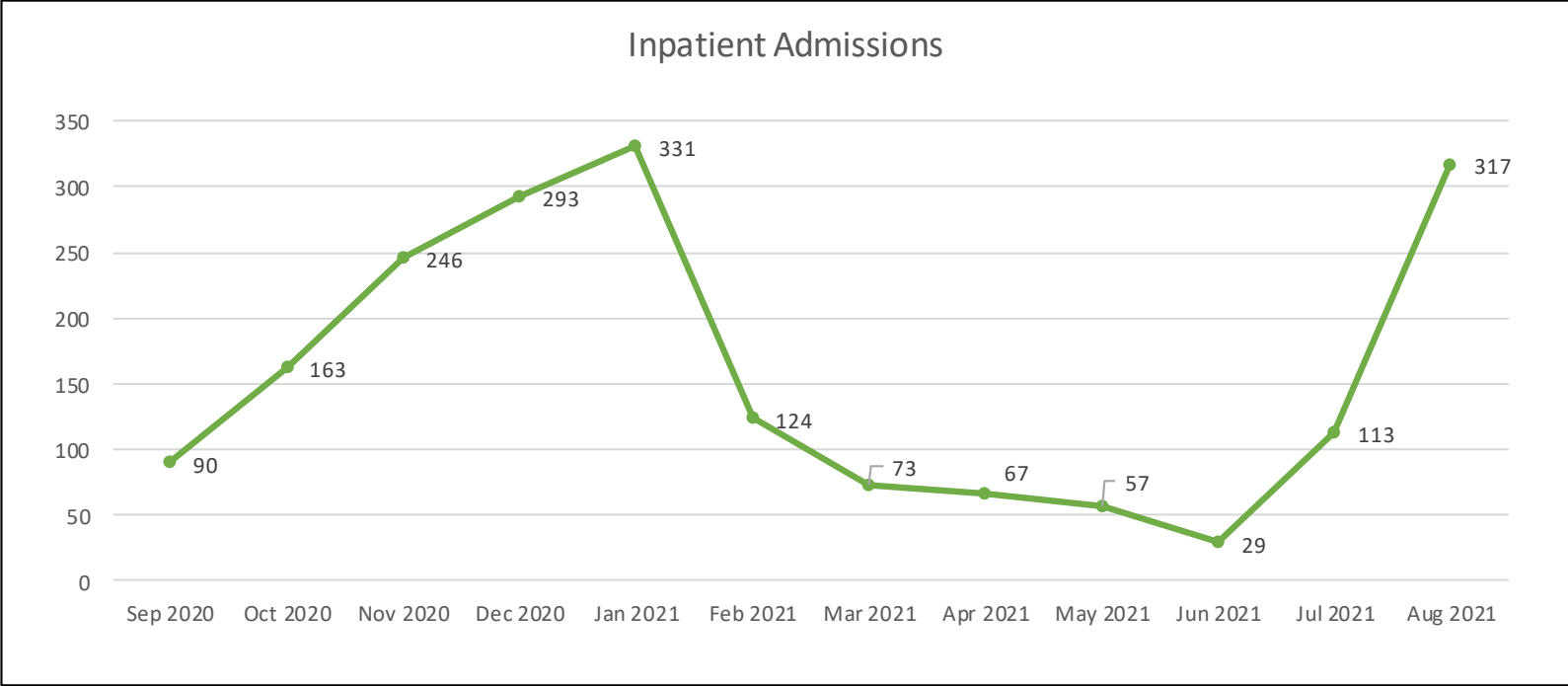
Impact of the COVID-19 Pandemic



- Based on claims data, HealthSelect had approximately 41,000 cases in PY21 with an estimated cost of \$126.9 million.
- The plan spent an additional estimated \$20.7 million on tests and vaccine administration.
- Participants used fewer services than expected due to the pandemic. As a result, the plan spent \$61.7 million less on services unrelated to COVID-19 than expected.
- The PY21 net cost impact due to the pandemic resulted in an estimated \$85.9 million increase.
 - Net cost impact: The cost of COVID-19 claims, testing, and vaccine administration less the reduction in the use of services unrelated to COVID-19.

HealthSelect Review

Seasonality of the Pandemic



Fiscal Year Projections

Plan Year 2022 Financial Outlook



- As vaccination rates rise, PY22 should reflect a reduction in cases.
- Even with an expected increase in cases this winter, fewer cases are expected than the winter of PY21.
- Without large surges in the number of COVID-19 cases, the use of services is expected to return to normal.
- Assuming no significant COVID-19 case rate surges, we expect trend to return to normal in PY23 and beyond.

Fiscal Year Projections



Group Benefit Health Plan Performance (in millions)

	FY20	FY21 Estimated	FY22 Projected	FY23 Projected	FY24 Projected	FY25 Projected	FY26 Projected	FY27 Projected
Revenue	\$4,112	\$4,139	\$4,121	\$4,197	\$4,283	\$4,369.	\$4,455	\$4,541
Expenditures	\$3,508	3,732	3,932	4,192	4,557	4,937	5,335	5,772
Net Gain (Loss)	604	407	189	5	(274)	(568)	(880)	(1,231)
Contingency Fund Balance	2,696	3,103	3,292	3,297	3,023	2,455	1,575	344

Includes all GBP health plans

Questions?

Public Agenda Item #14

Review of Compliance and Operational Updates Related to the Texas Employees Group Benefits Program

December 7, 2021

Diana Kongevick, Director of Group Benefits

Georgina Bouton, CTCM, Assistant Director of Group Benefits

Nora Alvarado, CTCM, Voluntary Income Plans, Group Benefits