

## FAQ for Members Married to Another State Employee

**Q: What is PEF's position regarding the eligibility of a PEF-represented state employee to enroll in the Opt-out Program if s/he is married to another state employee enrolled in NYSHIP family coverage?**

A: Article 9.2(j) of the 2011-2015 PS&T Contract identifies two requirements for a PEF-represented state employee to be eligible to enroll in the Opt-out Program: 1) the employee must be enrolled in NYSHIP prior to April 1<sup>st</sup> of the previous plan year; and 2) the employee must be able to demonstrate and attest to having *other coverage* (emphasis added). During bargaining, PEF did not agree to any restrictions or limitations on what is meant by *other coverage*. Therefore, it's PEF's position that a PEF-represented state employee who is covered as a spouse under another state employee's NYSHIP plan satisfies the requirement of having *other coverage*.

**Q: How does this differ from the Department of Civil Service's position regarding the eligibility of a PEF-represented state employee to enroll in the Opt-out Program if s/he is married to another state employee enrolled in NYSHIP family coverage?**

A: Based on the information that appears in the November 2011 *Planning for Option Transfer* flyer, the Department of Civil Service's interpretation of *other coverage* is different from PEF's interpretation. The Department of Civil Service is asserting that the PEF-represented employee's *other coverage* cannot be NYSHIP coverage provided through employment with the State of New York. This interpretation effectively prohibits a PEF-represented state employee married to another state employee, both of whom may be enrolled in NYSHIP, from meeting the eligibility requirements for the Opt-out Program.

**Q: How does PEF intend to resolve this dispute?**

A: We will first attempt to resolve it informally. If we are unsuccessful, PEF's Contract Administration Department will file a class-action contract grievance to challenge the State's interpretation of Article 9.2(j).

**Q: What is the likelihood that this dispute will be resolved before the deadline for enrolling in the Opt-out Program for 2012?**

A: To date, the State has given us no reason to believe that this dispute will be resolved informally. It's our expectation that, in order to resolve this dispute, we will have to pursue this grievance to arbitration before a neutral arbitrator. That process is time consuming. It is extremely unlikely that we will have a resolution of this dispute before the Opt-out Program enrollment deadline.

**Q: My spouse and I are both state employees, only one carries family NYSHIP coverage. Is the other eligible to enroll in the Opt-out Program for 2012?**

A: No. For many years, all of the NYS labor agreements, including PEF's have prohibited a "dual" State employee couple from having two family enrollments. Given this limitation, the Opt-out Program will not cover switching family enrollment from one "dual" spouse to the other.

That being said, there is no prohibition that stops the un-enrolled spouse from enrolling in individual coverage. If that's the case, and the spouse enrolls in individual coverage so that it is in effect by April 1, 2012, s/he would be eligible to opt-out and would receive the \$1000 incentive for each year s/he remains opted out.

**Q: Currently, my spouse is a State employee who is enrolled in family NYSHIP coverage and I am not enrolled in NYSHIP even though I am eligible to enroll in individual NYSHIP coverage. I intended to enroll in individual NYSHIP coverage so that my coverage would become effective prior to April 1, 2012. I do not want to enroll in individual NYSHIP coverage if there's no guarantee that I will be allowed to opt-out and receive the \$1,000 incentive payment. What should I do?**

A: We recognize the uncertainty regarding your eligibility for the Opt-out Program is a significant concern. Unfortunately, the grievance process can be lengthy and we cannot guarantee a favorable outcome. The decision to enroll in NYSHIP individual coverage does not have to be made immediately. To have your coverage in effect by April 1, 2012, the last day you will be able to submit your request for coverage is as follows:

- Institution Lag payroll – January 25, 2012
- Administration Lag payroll – February 1, 2012

That being said, at this time, we cannot guarantee that employees -- who have a State employee spouse enrolled in family NYSHIP coverage -- who enroll in individual NYSHIP coverage in 2012 to be eligible for the Opt-out Program for 2013, will in fact receive the \$1,000 opt-out incentive for 2013.

**Q: If I do choose to enroll in individual NYSHIP coverage in 2012, will I be able to voluntarily cancel it if the resolution of the grievance is not favorable?**

A: Not unless you file Form PS-404 with your agency Health Benefits Administrator at the time you request NYSHIP coverage indicating that you decline to participate in the Pre-Tax Contribution Program (PTCP). Under IRS rules, if you are enrolled in the PTCP, you cannot voluntarily cancel your coverage while you are still eligible for coverage unless the change stems from a PTCP-qualifying event. Since the resolution of the grievance would not be considered a PTCP-qualifying event, if you are enrolled in the PTCP, you would not be allowed to voluntarily cancel your coverage if the resolution is not favorable. Declining participation in the PTCP is not a decision to be made lightly. Under the PTCP, your health insurance premium is deducted from your gross wages before taxes are taken out. Making your contributions to your health insurance premium on a pre-tax basis effectively reduces your salary by the amount of your contribution. Therefore, you save money by paying lower taxes. The decision to decline participation in the PTCP may be a costly one.