

## Employee Benefits Division Policy Memorandum

**Number:** 122r3  
**Date Issued:** May 15, 2012  
**Policy File Ref:** A310  
**Subject:** PA/PE Health Insurance Buyouts

### Issue

Determine when an employee who elects to participate in a Participating Agency (PA) or Participating Employer (PE) health insurance buyout program may enroll in NYSHIP.

### Background

Some PA/PEs have buyout programs in which an employee of the PA/PE may decline health insurance enrollment in exchange for a cash payment or other benefit. Participation in the buyout allows the PA/PE to avoid paying premium for the enrollee during the buyout period. There has been confusion expressed regarding when, and under what circumstances, an employee who has elected to participate in a buyout program may enroll in NYSHIP. The Department is obligated to protect the Plan from the adverse selection of those who would take the buyout while healthy, but then seek to immediately enter the Plan when benefits would be advantageous to them. Additionally, retirement incentives and layoffs have resulted in the Department receiving questions that led to further examination of whether an individual who has elected to participate in a buyout program and is laid off or retires during the buyout period, is eligible to enroll in NYSHIP as a retiree, despite not having been enrolled in NYSHIP at the time of retirement.

### Policy

PA/PEs that offer buyouts of NYSHIP coverage must do so on an annual basis and only for those employees who have other employer sponsored coverage. "Other employer sponsored coverage" means coverage other than through NYSHIP. The buyout period must coincide with the annual option transfer period to allow enrollment in NYSHIP or an alternate agency sponsored plan at the end of the buyout period. Employees who accept the health insurance buyout will not be allowed to enroll in NYSHIP until the end of the buyout period, unless they experience a qualifying event as defined by §125 of the Internal Revenue Code. An employee who wishes to enroll in NYSHIP before the end of a buyout period must provide the employer with adequate documentation to establish that a qualifying event has occurred.

**Important:** If a PA/PE has an existing buyout program that allows for the other coverage to be NYSHIP coverage, that program may be grandfathered until the earlier of the following:

1. If the buyout program was established through collective bargaining, the first day of the plan year following the ratification of a new collective bargaining agreement; or

2. If the buyout program was established administratively by an employer, the first day of the plan year following the end of the employer's budget period that begins following the effective date of this policy. For example, if the employer's budget period runs from June 1 through May 31 of each year, this policy would take effect January 1, 2014.

Participation in a PA/PE's health insurance buyout will be considered participation in an alternate agency sponsored plan for the purpose of establishing eligibility to continue NYSHIP coverage in retirement. This includes those employees who leave active service during the buyout period either as a result of a retirement incentive or due to layoff. Retirement during the buyout period will be considered a qualifying event for the purpose of enrolling in NYSHIP immediately upon retirement; however, an employee who establishes eligibility to continue NYSHIP in retirement and is participating in the buyout, may defer enrollment as a retiree until a later date, subject to normal late enrollment waiting periods and buyout program rules, if still applicable to retirees. Employers must ensure that adequate documentation is maintained for those who participate in the buyout program and establish eligibility to continue coverage in retirement.

This policy is effective immediately.