

**The National Conference for Public Employee Retirement Systems (NCPERS) has provided the following information in Q & A format to give eligible public safety officers further information concerning the impact of the Pension Protection Act (HELPS).**

**The following information has been provided by NCPERS. The information does not constitute nor should be interpreted as legal or tax advice provided by the Firemen's Annuity & Benefit Fund of Chicago or NCPERS.**

### **Frequently Asked Questions (FAQs) for Eligible Retired Public Safety Officers**

*Note: The Internal Revenue Service will have final say on the how the HELPS Retirees law will be administered. Unfortunately, it is doubtful the IRS will issue its guidance before the January 1, 2007 implementation date of the law. Thus, NCPERS is providing its perspective on frequently asked questions. Based upon our intent when we drafted the HELPS Retirees legislation, we feel the following are reasonable, good-faith interpretations of the HELPS Retirees law and the federal tax code. However, legal opinions may differ, so we strongly encourage beneficiaries to consult with their pension fund.*

#### **Q1: What does the HELPS Retirees benefit provide?**

*A: The HELPS Retirees provision of the Pension Protection Act of 2006 allows eligible retired public safety officers to use up to \$3,000 per year from their qualified government retirement plan, on a pre-tax basis, to pay for health insurance or long-term care insurance premiums. In order for you to get the pre-tax benefit, the money must be paid directly from your pension fund to a health or long-term care insurance company.*

#### **Q2: Who are public safety officers?**

*A: Public safety officers are law enforcement officers, firefighters, members of a rescue squad or ambulance crew, or chaplains to a fire or police department. Law enforcement officers also include—but are not limited to—police, corrections, probation, parole, and judicial officers.*

#### **Q3: I believe I am/was a public safety officer, but not in one of the listed categories; do I qualify for this benefit?**

*A: Ultimately, the IRS or the Department of Justice will determine who is eligible for this benefit. However, until then, it may be a local decision as to who is deemed a public safety officer and eligible for this benefit. Consult with your pension fund if you have any questions.*

#### **Q4: Which retirees are eligible to take advantage of this benefit?**

*A: Those public safety officers who have separated from service as a public safety officer and have attained normal retirement age or who are separated due to a disability are eligible for the benefit. To take advantage of this benefit, a retiree must be receiving his or her monthly pension.*

**Q5: What if my fund doesn't use retirement age and therefore doesn't have a definition for a "normal retirement age?"**

*A: Ultimately the IRS will determine who is eligible for this benefit. NCPERS' position is that an employee who meets the criteria for retirement established by their plan would be eligible for the benefit. For those plans that have no "normal retirement age," it would seem that attainment of the requisite years of service or combination of age plus years for those plans using a "point system" would be deemed the equivalent of "normal retirement age."*

**Q6: What if I took an early retirement with an actuarially reduced pension benefit. Do I qualify for this benefit?**

*A: NCPERS has requested that when the IRS issues its guidance, this question is one that should be addressed. The HELPS Retirees law says that an eligible retired public safety officer is "an individual who, by reason of disability or attainment of normal retirement age, is separate from service as a public safety officer...." The IRS could decide that this provision eliminates the HELPS Retirees benefit for someone who took an early retirement with an actuarial reduction. However, NCPERS' view is that if you took early retirement, then you will not be eligible for this benefit until you reach the age at which you would have attained normal retirement. When NCPERS drafted this legislation, we sought to make this benefit available to as many retirees as possible. Our intent in using the term "normal retirement age" was not to tighten eligibility, but to limit potential abuses of this tax benefit. Thus, if you took early retirement at age 52, instead of normal retirement at 55, for the first three years until you reach age 55, you would not be eligible for this benefit. In this example, once you reach age 55, NCPERS' goal in drafting the legislation was that you should be eligible for the benefit. This is an area where you must consult with your pension fund.*

**Q7: OK, I know that I'm an eligible retired public safety officer. What do I need to do to get this benefit?**

*A: If you haven't been notified about the process for taking advantage of this benefit, contact your pension fund and ask about the HELPS Retiree \$3,000 pre-tax benefit for purchasing health insurance or long-term care insurance.*

**Q8: What happens if both my spouse and I are eligible retired public safety officers?**

*A: Both you and your spouse would be eligible to use up to \$3,000 each on a pre-tax basis to purchase health insurance or long-term care insurance for a total family limit of \$6,000. But the premiums would have to be directly deducted from both you and your spouse.*

**Q9: What health insurance or long-term care insurance premium qualifies for the pre-tax payments?**

*A: While long-term care insurance is defined in the legislation (26 USC 7702B(b)), accident or health insurance is not. However, it is reasonable to say that an employer or pension fund sponsored health plan premium qualifies. Additionally, Medicare Part B, Medicare Advantage, Medicare Part D, and Medicare supplemental insurance premiums would qualify. Individually purchased health, dental, and vision plan premiums also would qualify. The HELPS provisions cover single and family coverage. Just remember that the premiums must be directly deducted from your pension check in order for this law to apply.*

**Q10: What pension money can I use?**

*A: Direct disbursements to health and long-term care insurance companies from your defined benefit, 403(b), or 457 plans are eligible for the favorable tax treatment. However, the total amount eligible to be disbursed from all of your plans for pre-tax payments is limited to \$3,000 per year.*

**Q11: If my spouse or dependent who are not eligible public safety retirees survive me, would they be able to continue to use \$3,000 on a pre-tax basis to purchase health or long-term care insurance?**

*A: The HELPS Retirees law is silent on this question. Commentators have disagreed on whether there is a survivor benefit, and it will remain uncertain until the IRS provides guidance. Consult your pension fund to see how they are handling this issue.*

**Q12: What should I do if my pension fund will not establish a program or process to allow me to take advantage of this benefit?**

*A: The HELPS Retirees law does not require pension funds to make available this benefit. And if funds chose to establish a program or process to allow eligible public safety officers to take advantage of this benefit, they can place some limitations on it. If your fund will not participate in HELPS Retirees or places unreasonable limitations, NCPERS suggests you contact your fund's administrator and trustees in writing to urge them to establish a program or process so that you may receive this benefit.*