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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
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April 18, 2019

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Approved by Fiscal Committee 5/10/19 Date

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 14:30-a, VI and RSA 21-I:30-c, authorization is requested by the Department of Administrative Services (DAS) to reduce the Active Trooper Health Benefit Statutory Reserve from 100% of estimated annual claims and administrative expenses to 75% of estimated annual claims and administrative expenses thereby releasing $913,000 to be made available for fluctuations in plan costs that occur on a monthly basis, effective upon Fiscal Committee and Governor and Executive Council approval.

EXPLANATION

Background: Employee and Retiree Benefit Risk Management Fund and Reserves

RSA 21-I:30-e establishes the Employee and Retiree Benefit Risk Management Fund and this fund is non-lapsing and continually appropriated. RSA 21-I:30-e further requires the active and retiree health benefits to be accounted for separately such that the funds accumulated for Active employee health benefits are accounted for in the fund and used solely to pay for Active health care expenses and administrative costs. Similarly, DAS is required to account for accumulated Retiree health benefit funds separately and to use those funds solely for the purposes of paying Retiree health care expenses and administrative costs.

RSA 21-I:30-b requires the State's self-insured Health Benefit Plan to maintain a reserve equal to a minimum of 3% of estimated annual claims and administrative costs of the health plan for the active employee and retiree benefit plans. While the statutory construct requires the reserve to be maintained at an Active and Retiree level, DAS further breaks out the accounting in the Active account into three major categories: Actives, Troopers and Dental. This separate accounting within the Active account is driven, in part, by the different working rates, or premium equivalents that are deposited into the account for Active, Trooper and Dental health benefits. The separate accounting for Active, Trooper and Dental benefits, also means that DAS maintains separate accounting for the reserve funds for each of these groups.

In general, DAS establishes the reserve amounts for a Fiscal Year in September after finalizing the financials for the prior Fiscal Year. As reported to the Fiscal Committee on January 4, 2019 in Informational Item FIS 19-019 dated December 21, 2019, RMU reported the updated FY2019 Statutory Reserve amounts. The FY2019 Health Benefit Plan Statutory Reserve amounts were maintained at 5% for Retirees, 5% for Actives, 3% for Dental and the Trooper Statutory Reserve was increased from 76% to 100% of projected annual claims and administrative costs. The Trooper reserve has historically been set at 100% of projected annual claims and administrative costs due to the volatility in claims within the small group (about 840 members as of March 2019). RMU updated the FY2019 Trooper Statutory Reserve and restored the reserve back to 100% given the better than projected claims experience in this account in calendar year 2018.

Administering a Health Benefit Plan

Each month, the HBP brings in revenue from the working rates paid by agencies and others authorized to participate in the plan as well as other sources of revenue. Revenues can vary from month to month based on variables like headcount and the number of pay periods in the month. The HBP also pays medical, prescription drug, and dental claims expenses each month. Claims expenses vary from month to month depending upon plan participants' utilization of their health and dental benefits. Therefore, on a monthly basis, revenues and claims expenses can increase or decrease the cash flow reserve on hand. To account for the normal monthly fluctuations of the HBP's revenue and expenses, DAS maintains funds in excess of the Statutory Reserves in each of the accounts as a cash flow reserve in order to pay claims invoices on a timely basis without having to access the Statutory Reserve funds.

The Trooper plan is a small group of about 840 members, as of March 2019, and its small group size often results in volatile monthly medical and prescription drug claims experience. In calendar year 2018, the Trooper plan claims experience was lower than projected resulting in the Trooper account's cash flow reserve balance totaling approximately $285,000 at the end of calendar year 2018. At the time the calendar year 2019 working rates were developed, they were based on 2018 favorable Trooper claims experience and projected medical and prescription drug trends. The amount collected through the 2019 working rates was projected to cover the Trooper medical and prescription drug claims in 2019. However, in the first quarter of 2019, high cost medical and prescription drug claims experience within the Trooper account has reduced the Trooper cash flow reserve on hand to $105,000 as of March 31, 2019, leaving only a thin margin of liquid funds on hand to pay for health care for Trooper health plan members should claims experience continue to run high.

Similar to the Employee and Retiree Benefit Risk Management Fund, the reserve is non-lapsing. In contrast to the fund, the reserve is not continually appropriated. See attached letter from Department of Justice dated July 18, 2016. For this reason, DAS is proactively submitting this Action Request to the Fiscal Committee, and later to the Governor and Executive Council, for authority to release $913,000 from Trooper Statutory Reserve funds into the Trooper cash flow reserve account to make funds available in the event of continuing unanticipated unfavorable claims experience.

The below chart demonstrates updated statutory reserve and cash flow reserve amounts based on the reduction of the Trooper statutory reserve to 75% of estimated annual claims and administrative expenses.

Current Trooper Reserve Detail

Current FY2019 Statutory Reserve Level (100% of projected annual expenditures)	$3,652,000
Cash Flow Reserve Balance as of 3/31/19	$105,000
Total Available Reserve Funds to Pay Claims	$3,757,000
Decrease Trooper Statutory Reserve Level by 25%	($913,000)
Updated Cash Flow Reserve Balance as of 3/31/19	**$1,018,000**
Updated Statutory Reserve Level as of 3/31/19	**$2,739,000**
Statutory reserve as a percentage of projected annual expenditures	*75%*

I am available to address any questions you may have.

Respectfully Submitted,

Charles M. Arlinghaus
Commissioner

Attachment: Letter from Department of Justice Dated July 18, 2016.

ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL

ANN M. RICE
DEPUTY ATTORNEY GENERAL

July 18, 2016

Vicki Quiram, Commissioner
Department of Administrative Services
25 Capitol Street
Concord, NH 03301

Dear Commissioner Quiram:

This letter addresses the use of the two funds related to the health benefit program – the "Reserve Fund" established by RSA 21-I:30-b and c, and the "Management Fund" established by RSA 21-I:30-e.

There are two issues: 1) the appropriate use of reserve funds; and 2) the mechanism by which those funds can be spent.

Appropriate Use of Reserve Funds

RSA 21-I:30-b requires a reserve of three percent of claims and administrative costs as well as "the unpaid portion of ultimate expected losses, including incurred but not reported claims, and related expenses incurred in the provision of benefits for eligible participants..." (RSA 21-I:30-b, I(b)). The Reserve Fund is established in RSA 21-I:30-c which states, in pertinent part, "a reserve fund shall be established to protect the state from unexpected losses and self-insured losses and related expenses incurred in the provision of such a plan."

RSA 21-I:30-b, I(b) also states that "if the state self-insures for more than one employee group plan, a reserve meeting the requirements of this paragraph must be maintained for each plan." You have indicated that a reserve is accounted for separately for each of the following groups – active employees, troopers, retirees and dental benefits. The trooper and dental accounts are for "active" benefits.

The primary function of a self-insured health benefit plan is the payment of medical claims. As discussed below, these claims are typically paid from the Management Fund. However, if the Management Fund could not cover claims it would be appropriate to use the Reserve Fund, as this would be an unexpected or self-insured loss and an expense incurred in the provision of a self-insured plan.

You have also specifically inquired about the funding of a study focused on the long term status (financial and otherwise) of the retiree health plan. As this study would be done with the

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objective of identifying options to maintain a financially viable plan for the benefit of retirees, it is our opinion that it would constitute a related expense incurred in the provision of the plan.

Mechanism to Spend Funds

While RSA 21-I:30-b discusses the establishment and use of the fund, RSA 21-I:30-c establishes the fund itself and states:

"In the event that the medical and surgical benefits under RSA 21-I:30 are provided using a self-funded alternative, a reserve fund shall be established to protect the state from unexpected losses and self-insured losses and related expenses incurred in the provision of such a plan. Such reserve fund shall be administered by the commissioner of administrative services and shall be nonlapsing."

RSA 21-I:30-e establishes the Management Fund to pay for active and retiree health care expenses and any administrative costs related thereto. That fund is nonlapsing and continually appropriated (RSA 21-I:30-e(I)).

As you know, a fund that is nonlapsing does not have its contents revert back to the general fund at the end of the fiscal year or biennium. Both funds are nonlapsing. However, only the Management Fund is "continually appropriated." This language has been consistently interpreted by Administrative Services and the Legislative Budget Assistant to mean that the funds have been authorized by appropriation of the legislature to be spent even if in excess of estimated levels. The Reserve Fund is not continually appropriated and, thus, a request of the Fiscal Committee, and to the extent necessary the Governor and Executive Council, to transfer or expend the funds would be necessary.

As we have discussed, in 2015, the Legislature authorized a reduction in the Reserve Fund from five percent to three percent in House Bill 2. This was, in effect, legislative authorization to transfer the two percent excess out of the Reserve. I understand that a decision was made to keep the Active and Retiree Reserve Funds at five percent. The Dental and Trooper reserves are kept at three percent and 100 percent respectively. However, as House Bill 2 is so recent and we are in the biennium which it covers, if the Department now wishes to reduce those amounts below five percent and release the funds for use pursuant to RSA 21-I:30-b and c, you could reasonably do so without further permission, based on the House Bill 2 authorization. However, absent legislative approval such as House Bill 2, or for use of funds from a reserve account that is already maintained at three percent, it is our opinion that releasing those funds for use would require Fiscal Committee approval.

I hope this analysis is helpful in your administration of the health benefit plan. Please do not hesitate to contact me with further questions.

Sincerely,

Christen Lavers
Assistant Attorney General