

## **PLAN OPERATIONS**

---

### ***PLAN ADMINISTRATION***

The Bureau of Personnel is the State agency responsible for designing and administering the Plan, including the administration and payment of claims. The Plan Administrator reserves the right to change the Plan design, modify coverages, and change contributions or funding mechanisms at any time it deems necessary, with or without notice. The Plan Administrator or other fiduciary designated by the Plan Sponsor shall have final authority to make a determination with respect to such issues or such provisions, unless such determination is found to be arbitrary and capricious by a court of appropriate jurisdiction. The information contained in this document and its interpretation by the Plan Administrator's designee supersedes all verbal representations of the Plan provisions.

### ***RIGHT TO RELEASE AND OBTAIN NECESSARY INFORMATION***

The Plan Administrator may, without the consent of or notice to any person, release to or obtain from any other person or organization any information which it deems needed to:

- (a) Determine if a Plan provision applies; and
- (b) Implement its terms or the terms of any provision of similar purpose of any other Plan.

Any claimant under this Plan shall furnish to the Plan Administrator the necessary information as may be needed to implement this provision.

### ***FACILITY OF PAYMENT***

If the payments which should have been made by this Plan under the terms of this provision are made under other Plans, the Plan Administrator may, at its discretion, pay to any person making such payment the amount it determines satisfies the intent of this provision. To the extent of the amount of those payments, the Plan Administrator shall be discharged from liability under this Plan.

### ***RIGHT TO RECOVERY***

If the Plan Administrator makes payments with respect to Group Term Life Coverage in a total amount which is, at any time, in excess of the payment necessary at the time to satisfy the intent of this provision, it will have the right to recover such excess from:

- (a) Any persons to or for or with respect to whom such payments were made; and
- (b) Any organization which should have made the payments.

## ***PLAN MODIFICATION AND AMENDMENT***

The State of South Dakota fully intends to continue the Plan or a similar Plan indefinitely. However, the Plan may be modified and amended at any time by the State of South Dakota or the Bureau of Personnel upon its due approval of such modification or amendment. The modification or amendment shall be effective on the date of approval or on such date as the State of South Dakota may determine in connection therewith. Such modification or amendment shall be duly incorporated in writing into the master copy of the Plan.

## ***PLAN TERMINATION***

The State of South Dakota or the Bureau of Personnel may terminate the Plan at any time as of the date it authorizes. In the event of such termination, the State of South Dakota shall have no obligation under the Plan beyond paying the difference between:

- (a) The claims incurred (even though later filed) and expenses of the Plan due up to the date of termination plus extended benefits, if any, provided under the Plan; and
- (b) The funds available to pay such claims and expenses and extended benefits.

Such claims and expenses shall be paid from the funds in the Plan. No benefits will be paid for expenses incurred after the date the Plan ends.

The Bureau of Personnel has the final and binding authority to determine claims and direct the payment thereof. The Bureau of Personnel shall incur no liability for failure to make payment of any claim or to make ratable distribution on any claim without regard to the reasons therefore. The Bureau of Personnel shall have the right to employ third party administrators (TPA) under the Plan to aid it in the discharge of its duties hereunder.

## ***SUBROGATION FOR LIFE BENEFITS***

Occasionally, benefits are paid under the life coverage of the Plan for benefits paid as a result of the employee caused by the actions of a third party. If this happens, the Plan is subrogated, unless otherwise prohibited by law, to the rights of recovery that the Employee's beneficiary(ies) may have against any person or organization who may acknowledge liability or be found liable by a court of competent jurisdiction for the death of the member Employee.

The beneficiary(ies) will be required to reimburse the Plan out of any monies the beneficiary(ies) receives from any other person or organization as a result of judgment, settlement, or otherwise. The beneficiary(ies) will not be required to reimburse the Plan more than the amount the beneficiary(ies) recover for the death of the member.

Subrogation rights apply only to the extent that benefits are paid under the life coverage of the Plan. Any fees and costs associated with the recovery shall be borne by the Plan Administrator.

The State of South Dakota also reserves the right to pursue recovery from the third party at its discretion should the beneficiary(ies) decide not to attempt recovery. The beneficiary(ies) agree to cooperate with the Plan in seeking such a recovery as a condition of benefit they receive.