

## **Minnesota Department of Human Services Correctional Employees Retirement Plan (CERP) Policy and Procedure**

### **Overview**

#### **Description:**

The Minnesota Department of Human Services (DHS) shall seek statutory authority for all classes of employee meeting the statutory requirement for coverage by the Correctional Employees Retirement Plan (CERP) as determined by the Commissioner of Human Services.

#### **Reason for Policy:**

DHS aims to establish guidelines and procedures for administering Correctional Employees Retirement Plan coverage and to create a process for employees to request such coverage.

#### **Applicability:**

This policy applies to employees working directly with patients/clients at the Minnesota Security Hospital (MSH), Minnesota Sex Offender Program (MSOP), or the Minnesota Extended Treatment Option program (METO) and whose position requires the employee to (1) work in close physical proximity with patients/clients, (2) have direct responsibility for patients/clients, (3) actively/physically intervene in patient/client incidents, (4) work with groups of patients/clients in situations where security staff are not present, (5) be responsible for controlling the behavior and/or activities of patients/clients, and (6) be engaged in the treatment, rehabilitation, custody, or supervision of patients/clients for at least 75% of their work time.

#### **Failure to Comply:**

Failure to comply with this policy and its procedures may result in disciplinary action or termination.

#### **Policy:**

The Department of Human Services will, at a minimum, annually review employee and/or classification eligibility for coverage in the CERP and will establish a procedure for moving individual employees and job classifications into and out of the plan. In addition, the agency will seek statutory authority for all classes meeting the statutory requirement for coverage by the correctional employee's retirement plan as determined by the Commissioner of Human Services.

#### **Procedures that apply:**

- I. Employee or Supervisory Initiated Requests for Classifications Already Authorized by Minn. Stat. 352.91
  - The employee (or an exclusive representative on behalf of an employee) must complete the CERP Certification Review Form attach a position description and submit the request to his/her supervisor.
  - The supervisor receiving an employee-initiated request will review the request with all documentation and certify that it contains accurate information by signing.
  - The supervisor will send the signed form to the local HR director along with a letter outlining how and when the position changed to warrant coverage.
  - The local HR Director will evaluate if the request for inclusion meets the criteria outlined in the Minn. Statutes and if the initial service date corresponds to the documentation provided by the supervisor.

- The local HR Director will send the request and his/her evaluation to their HR Manager.
- The HR Manager will evaluate the request and document whether the request for inclusion should be granted.
- If the position is recommended for coverage in the CERP, then the HR Manager will direct transactions to change the employee's retirement plan to CERP using the "initial service date."
- The HR Manager will notice the employee, the local HR Director, and Minnesota State Retirement System (MSRS) of the initial service date. If the employee does not agree with the initial service date determination, the employee may file an appeal with the agency human resource director for consideration by the CERP Review Committee.
- If the position is not recommended for coverage in the CERP, the HR Manager will notify the local HR Director, supervisor, and employee that the request is being forwarded to the agency human resource director for consideration by the CERP Review Committee.

#### II. Requesting an employee's retirement code be changed to the General Employee Retirement Plan

- The supervisor will update the position description and obtain the employee's signature.
- The supervisor will send the signed position description to the local HR Director along with a letter outlining how the position has changed over time that warrants changing the employee's retirement code to the General Plan.
- The local HR Director will send the request and his/her evaluation to their HR Manager.
- The HR Manager will evaluate the request and, if warranted, direct the transactions unit to change the employee's retirement code to the General Employee Retirement Plan.

#### III. Process for evaluating and recommending potential classifications and business lines be added to Minn. Stat. 352.91

- The requesting employee and/or supervisor must complete the CERP Initial Service Date form and submit the form along with a current signed position description to the local HR Director.
- The local HR Director will evaluate if the request for inclusion meets the criteria outlined in Minn. Statutes and if the initial service date corresponds to the documentation provided by the supervisor.
- The local HR Director will send the request and his/her evaluation to their HR Manager.
- The HR Manager will evaluate the request and forward to the agency HR Director with a recommendation. The agency HR Director will bring the request forward to the CERP Review Committee.
- The supervisor will update the position description and obtain the employee's signature.

#### IV. Agency Annual Review of Eligibility for CERP Inclusion

- The HR Manager in consultation with the local HR Director will annually review all classes/positions in their respective administration (SOS and MSOP) to determine the following:
- (a) If the current employees covered by CERP continue to meet the statutory requirement for inclusion (if not, follow II above); (b) If any additional employees should be added to CERP who

are currently in a class authorized by Minn. Stat. 325.91 (follow I above); (c) If any classifications not authorized by statute should be recommended for inclusion (follow III above).

- The HR Manager will prepare an annual report listing as follows:
- (a) Classifications proposed to be added to Minn. Stat. 325.91 with the agency's initial coverage date; (b) Classifications proposed to be removed from Minn. Stat. 352.91; (c) Initial service date appeals.
- The report will be reviewed, edited as appropriate, and signed by the head of MSOP or SOS.
- Final review of the report will be performed by the DHS HR Director.
- The final report will be sent to the CERP Review Committee and the Commissioner.

#### V. Responsibilities/Actions of the CERP Review and Appeals Committee

- The Agency HR Director will convene meetings of the CERP Review Committee.
- The CERP Review Committee will review all requests referred to the committee in accordance with policy and supporting documentation for coverage by the CERP.
- The CERP Review Committee will make a recommendation to the Commissioner as to which classifications and/or businesses meet the statutory requirement for recommended inclusion in statute and the correct initial service date for all individuals impacted by the addition of the class or business.
- The CERP Review Committee will make a recommendation to the Commissioner as to which classifications and/or businesses no longer meet the statutory requirement for inclusion in statute and recommend the removal from statute.
- The Agency HR Director will provide all affected employees and supervisors of vacancies with a notice of determination from the CERP Review Committee, including their right to appeal.
- Appeals must be filed with the Agency HR Director within 30 days of the date of the notice of determination. All appeals will be determined by the Commissioner whose decision is final.
- The Commissioner of Human Services will submit a written recommendation to the Legislature pursuant to Minnesota Statute documenting the classifications and/or businesses that should be added and those that should be removed based on the reviews and appeals conducted.
- The Agency HR Director will retain the documentation of each request process and the final determination.
- Appropriate information must be documented in the affected employee's personnel file.

#### VI. CERP Covered Employee Appointed to Temporary Assignments / Positions Not Covered by CERP.

- Employees on a leave of absence from their permanent CERP-eligible appointment and appointed to project positions in the unclassified service not covered by CERP will be moved to the General Retirement Plan after completing one year's service outside CERP-eligible duties and/or location per MSRS rules.
- Employees in work-out-of-class assignments not covered by CERP will continue their coverage for the period of individual assignment not to exceed 24 months. In addition, the employee will not be assigned for more than 24 months during any 36-month period excluding an assignment that coincides with an unclassified appointment.

- CERP covered employees who are on mobility assignments in other agencies that are not covered by CERP may continue their coverage for the period of individual assignment not to exceed 24 months. In addition, the employee will not be assigned for more than 24 months during any 36-month period excluding an assignment that coincides with an unclassified appointment.
- CERP covered employees who are on mobility assignments within the agency will follow the procedure for unclassified service appointments or work-out-of-class assignments as outlined in procedures of this policy.

#### VII. Requests to reclassify positions using reallocation

- HR will classify jobs without consideration of the pension plan covering the position. Therefore, a CERP covered employee's position may move to a job class not eligible for CERP coverage and be placed in the General Employees Retirement Plan.
- Should an employee believe that CERP coverage is warranted for the position, the employee must follow the procedures of this policy to request CERP coverage.

#### **Legal Authority:**

Minnesota Statute Chapter 352, State Retirement section 352.90, Policy, and section 352.91, Covered Correctional Service

#### **Definitions:**

**Correctional Employees Retirement Plan (CERP):** The retirement plan available to employees who work directly with patients in MSH, MSOP, or METO and whose position requires the employee to (1) work in close physical proximity with patients, (2) have direct responsibility for patients, (3) actively/physically intervene in patient incidents, (4) work with groups of patients in situations where security staff are not present, (5) be responsible for controlling the behavior and/or activities of patients, and (6) be engaged in treatment, rehabilitation, custody or supervision for at least 75% of their work time.

**Correctional Employees Retirement Plan (CERP) Review Committee:** The body that reviews and recommends classes and businesses to be included or removed from Minn. Stat. 325.91 for annual legislative proposals. The review committee also determines if incumbents of classes or positions determined for inclusion have prior agency employment which also qualified as correctional service and should be transferred from the general state employee's retirement plan to the CERP and the initial date for each potential service credit transfer. Members of this committee are: one representative of each affected exclusive representative (AFSCME, MAPE, MMA, SRSEA, and MNA), a representative from the Minnesota State Retirement System, representatives from the Department of Human Services (DHS) and Minnesota Management and Budget (MMB).

**Patient Contact:** The provision of treatment, rehabilitation, custody or supervision to patients in MSH, MSOP, or METO.

**Rehabilitation of Patients:** The provision of therapeutic services without the presence of security staff.

**Supervision of Patients:** The coordination, direction, monitoring and evaluation of patient activities.

**Treatment of Patients:** The provision of health care services (physical or psychological) without the presence of security staff.

**Custody of Patients:** The control of patient behavior in order to provide a secure setting.

**Initial Service Date:** The first date the employee performs covered duties for at least 75% time. This is sometimes referred to as initial coverage date.

**Policy Contact(s):**

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**Policy History:**

Established September 7, 2011

This policy and its procedures remain in effect until rescinded or updated.