

Mary Taylor, CPA Auditor of State

Bulletin 2009-003

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To: Township Officials
Independent Public Accounting Firms

From: Mary Taylor, CPA
Ohio Auditor of State

Subject: House Bill 458 – Changes to Dependent Health Care Coverage and to R.C. 5705.05 & R.C. 5705.06

Effective December 30, 2008, House Bill 458 (the Bill) made relevant changes and clarified how the Auditor of State will be auditing health care reimbursements for township officials, employees, and their dependents. The Bill also lessened the restrictions on a township's authority to use proceeds from a general levy for current expenses. These changes are discussed below.

Ohio Rev. Code Section 505.60

The changes to this section concern, in part, reimbursements made to township officers and employees for dependent health care coverage obtained by alternative means, such as through a spouse. Division (A) now contains language that a board shall provide uniform coverage for township officers and full-time employees and their immediate dependents for any policies it procures under R.C. 505.60. Furthermore, what is now division (D) under the Bill has been amended to read:

(D) If any township officer or employee is denied coverage under a health care plan procured under this section or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits described in division (A) of this section that the officer or employee otherwise obtains, but not to exceed an amount equal to the average premium paid by the township for its officers and employees under any health care plan it procures under this section (amended language is underlined).

The Bill also clarifies that the requirements governing township-procured health insurance coverage apply equally to township-paid coverage through a health insuring corporation contract as follows:

- that an officer or employee may decline coverage under either method without affecting the availability of coverage to other officers and employees
- that either method may provide the same kinds of coverage
- that coverage under either method is to be paid from the same township sources used to pay employee and officer compensation
- that immediate dependents may be covered under either method
- that reimbursement of an officer or employee for premiums paid for alternative coverage (e.g., through a spouse) is only for the part of the premium paid for the same kinds of coverage offered by the township's plan, whether it be provided through insurance or a health insuring corporation contract

Ohio Rev. Code Section 505.601

The Bill makes similar changes to R.C. 505.601 (reimbursement when a township does not offer health insurance to its officers/employees) regarding reimbursements made to township officers/employees for dependant health care coverage. The Bill clarifies that the reimbursement is only for the part of the out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits that the board could have provided under R.C. 505.60(A), and that the reimbursement covers immediate dependents in addition to the officer or employee.

As was the case with former R.C. 505.601, a board of township trustees proceeding under this section must adopt a resolution that:

- states that the township has chosen not to procure a health care plan under R.C. 505.60 and has chosen instead to reimburse its officers and employees for each out-of-pocket premium attributable to the coverage provided for them for insurance benefits described in R.C. 505.60(A) that they otherwise obtain.
- provides for a uniform maximum monthly or yearly payment amount for each officer or employee to cover themselves and their immediate dependents, beyond which the township will not reimburse the officer or employee.
- states the specific benefits listed in R.C. 505.60(A) for which the township will reimburse all officers and employees of the township. The township may not reimburse officers and employees for benefits other than those listed in R.C. 505.60(A).

Findings for Recovery

The Bill also includes uncodified language addressing previously issued Findings for Recovery that were based on those provisions of R.C. 505.60 and 505.601 amended by the Bill. This language includes the following:

- Relieves township officers/employees from any obligation to repay a Finding for Recovery resulting from the board of trustees having elected to provide township officer or township employee health care coverage, or reimbursement to a township officer or employee for such coverage, in violation of those provisions of R.C. 505.60 and 505.601 amended by the Bill.
- Prohibits the Attorney General and county prosecuting attorneys from acting on a Finding for Recovery issued by the Auditor of State.
- Prior Findings for Recovery issued under these circumstances are considered resolved for purposes of the R.C. 9.24 FFR database.
- Any amount repaid as a result of such a Finding for Recovery shall be paid to that person from the treasury of the public office that received the repayment.

Be aware that there may be prior Findings for Recovery that have been issued under R.C. 505.60 or 505.601 that do not fall within the changes made by the Bill and, thus, their status and validity is unaffected. Examples of these would be Findings for Recovery that were issued as a result of an official's/employee's health insurance reimbursement exceeding the maximum monthly amount set by the board of township trustees and Findings for Recovery issued as a result of payments made by the township that were not supported by actual health care expenses.

The Bill makes it clear that for those Findings for Recovery that were repaid, and whose status has been affected by the Bill, that the amounts in question are to be paid from the treasury of the township which originally received the repayment. As such, this is an issue best addressed between the township and the officer or employee seeking payment of funds previously repaid. The payment should be made from the township fund to which the Finding for Recovery repayment was allocated.

Also, as stated above, the Bill requires such previously issued Findings for Recovery to be treated as resolved for purposes of the database maintained by the Auditor of State pursuant to R.C. 9.24. Therefore, AOS will notify the Attorney General that those Findings for Recovery affected by the Bill are considered resolved. A copy of this notification letter will be sent to the township officials named in each such Finding for Recovery.

Finally, it should be noted that the preconditions for township reimbursement of health care costs have not been significantly altered by the Bill. As was the case before the Bill, in order for a township to reimburse an officer or employee for certain out-of-pocket premiums under R.C. 505.60, the officer or employee must first be denied coverage under a health care plan procured by the township or elect not to participate in the township plan. Similarly, a township officer or employee can only seek reimbursement under R.C. 505.601 if the township does not procure and offer a health insurance policy. For example, if a trustee elects to receive health care coverage offered by the township, they cannot then be reimbursed for additional coverage, such as Medicare premiums.

House Bill 458 Changes to R.C. 5705.05 and 5705.06

Formerly, pursuant to R.C. 5705.05 and 5705.06, townships were prohibited from using proceeds from a general levy for current expenses for the construction, reconstruction, resurfacing, or repair of roads and bridges. This had been interpreted as also prohibiting transfers from a township's general fund to their road and bridge fund, unless the general levy monies were segregated from those unrestricted portions of the general fund. The Bill, however, removes this statutory prohibition, and townships are no longer restricted from using general levy money for road and bridge purposes.

Questions concerning this bulletin should be addressed to the Legal Division of the State Auditor's Office at (800) 282-0370.

A handwritten signature in black ink that reads "Mary Taylor". The signature is written in a cursive, flowing style.

Mary Taylor, CPA
Auditor of State