

Proposed Rule Abstract

1. **Agency:** New Mexico Retiree Health Care Authority
2. **Rule Citation:** 2.81.11 NMAC, Establishing Subsidy Levels on the Basis of Years of Creditable Service
3. **Rulemaking Action:** Amendment
4. **Register Issue and Date of Notice of Proposed Rulemaking:** Vol. 29, Issue 17, September 11, 2018 and amended in Vol. 29, Issue 18, September 25, 2018
5. **Effective Date:** Upon publication in the New Mexico Register
6. **Citation to Specific Legal Authority:** Section 10-7C-7 NMSA 1978
7. **Short Explanation of the Rule's Purpose:** To increase the years of service needed to receive the maximum subsidy from the Retiree Health Care Authority and to establish a minimum age of 55 to receive a subsidy.
8. **Link to Full Text of the Rule:** <http://www.nmrhca.org/rule-change-proposal.aspx>
9. **How Information on the Rule Can Be Obtained:** <http://www.nmrhca.org/rule-change-proposal.aspx> or from Greg Archuleta, Director of Communication and Member Engagement, New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque New Mexico 87107 or gregoryr.archuleta@state.nm.us.
10. **Comment Period and Deadlines:** September 11, 2018 through October 19, 2018.
11. **Rule Hearing:** October 19, 2018, 9:30 a.m. to 11:30 a.m., New Mexico Retiree Health Care Authority Offices, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico
12. **Link to Permanent Agency Rulemaking Record:** http://statenm.force.com/public/SSP_RuleHearingSearchPublic

Summary of Proposed Rule

The September 25 issue of the *New Mexico Register* contained an Amended Notice of Proposed Rulemaking to amend the current rule establishing subsidy levels for medical plans provided by the New Mexico Retiree Health Care Authority (RHCA). The proposed rule increases the years of service required for a retiree to receive the maximum subsidy for RHCA medical plans from 20 years to 25 years and to provide that future retirees under 55 years of age will not be eligible for a subsidy. The proposed amendment comes as part of a plan to ensure the long-term solvency of the retiree health care fund.

Under the Retiree Health Care Authority, the **subsidy level** is the percentage of the total health insurance premium that is covered by the Retiree Health Care Authority. The **maximum subsidy** is the highest benefit a retiree can receive from the authority and is currently reserved for retirees with at least 20 years of public employment. The maximum subsidy amount is determined by the board and is not set by rule.

Analysis

The proposed rule would make three substantive changes to Part 11 of 2.81 NMAC:

- Change the subsidy schedule that determines the size of the subsidy a member receives for each year of service credit to align it with a 25-year employment schedule;
- Establish a minimum age of 55 to receive subsidized medical plans; and

- Create a distinction between most RHCA members and “members of an enhanced retirement plan.”

The rule change would only apply to RHCA members that retire after December 31, 2019 and would not apply to members receiving a disability retirement or some public safety employees.

**Retiree Health Care Authority
Members and Medical Claims**

Calendar Year 2017

Age of Member	Number of Members	Per Member Medical Claims
40 to 44	117	\$6,532
45 to 49	622	\$4,684
50 to 54	1,858	\$7,417
55 to 59	4,266	\$7,877
60 to 64	8,219	\$9,353
65 to 69	11,633	\$3,152
70 to 74	10,094	\$2,924
75 to 79	6,955	\$3,320
80 to 84	4,398	\$3,539
85 and Over	3,726	\$3,524
Total	51,888	

Note: Excludes members under age 40. Per member medical claims includes prescription drug claims.

Source: Retiree Health Care Authority

For example, a pre-Medicare retiree with 10 years of service receives a subsidy equal to 37.5 percent of 64 percent of the total premium, or 24 percent of the total premium. The retiree would pay 76 percent of the total premium.

If the retiree has coverage for a spouse, he or she would receive a subsidy of 37.5 percent of 36 percent of the premium, or 13.5 percent of the total premium. The retiree would pay 86.5 percent of the total premium for his or her spouse.

Retiree Health Care Benefits Under Current Rules. RHCA provides group health insurance benefits for retired employees of participating public agencies, including school districts, charter schools, regional education cooperatives, New Mexico School for the Blind and Visually Impaired, New Mexico School for the Deaf, New Mexico Military Institute, and higher education institutions other than University of New Mexico and New Mexico State University. Employees of participating agencies are required to pay a small percentage of their salary to RHCA in exchange for subsidized health insurance benefits during retirement.

RHCA’s medical plans are funded by a combination of retiree-paid premiums and the premium subsidies that are funded through employer and employee contributions during the retiree’s working life. Medical premiums are set by the board each year, and the amount of each member’s subsidy is determined based on the subsidy schedule established in rule and the maximum subsidy determined by the board when setting premium rates. See **Attachment 1: NMRHCA Medical Plan Monthly Premium Contributions for January 1, 2019 – December 31, 2019**. Since January 2016, the maximum health insurance subsidy paid on behalf of eligible retirees has been 64 percent of the total premium for pre-Medicare members, 36 percent of the total premium for spouses of pre-Medicare members, and 0 percent of the total premium for children. Subsidies for members eligible for Medicare are 50 percent for members, 25 percent for spouses, and 0 percent for children. Members with 20 years of service credit are currently eligible for the full maximum subsidy, but members with less service credit only receive a percentage of the maximum subsidy. Currently subsidies are reduced by 6.25 percent for each year under 20 years of service. Retirees must have worked for a participating employer for at least five years to receive benefits from RHCA.

Under current rules, there is no minimum age for participation and members become eligible for subsidized medical plans when they retire under the rules of the Educational Retirement Board (ERB) or the Public Employees Retirement Association (PERA). ERB members hired before FY11 are allowed to retire after 25 years of service, which could mean teachers hired in their early 20’s could retire in their late 40’s. According to RHCA, pre-Medicare retirees — those under age 65 — have higher claims costs than those covered by Medicare and pay higher premiums as a result.

Distinction Between Most Members and Members of An Enhanced Plan. The proposed changes would only apply to those who are not members of “enhanced retirement plan,” which the rule would define as those members eligible to receive a full pension after 20 years of service. However, the proposed definition could be problematic because Subsection H of Section 10-7C-15 NMSA 1978 defines the term differently. Under the State Rules Act, “a word or phrase defined in an applicable statute should not be defined in rule.” Although section 10-7C-15 NMSA 1978 is part of the Retiree Health Care Act, it may not be an “applicable statute” because it addresses only contributions and not plan subsidies, which is the topic of the proposed rule. However, if Section 10-7C-15 NMSA 1978 is considered an applicable statute the statutory definition would prevail over the proposed rule definition.

Definitions of “member of an enhanced retirement plan”

Under proposed rule (eligible for retirement after 20 years of service):

- Tier one of municipal police plans;
- Tier one of municipal fire plans.

In statute (specific plans cited):

- State police and adult correctional officer plan;
- Tier one and tier two of municipal police plans;
- Tier one and tier two of municipal fire plans;
- Municipal detention officer plan;
- Members retiring under Judicial Retirement Act.

Source: PERA Member Handbook

Minimum Age Requirement. The proposed rule would require retirees to reach 55 years of age before becoming eligible for subsidies from RHCA. Under the current rule, there is no minimum age requirement for eligibility; however, RHCA notes that ERB has a minimum retirement age of 55. Although ERB members first hired after July 1, 2013 have a minimum age of 55 to receive a full pension, tier one ERB member have no minimum retirement age. As such, the rule change could impact some tier one ERB members who would be eligible for full retirement under the age of 55 and would not be able to benefit from RHCA subsidies currently provided to younger retirees. For example, a tier one ERB employee hired at 22 years of age would be eligible for retirement after 25 years of service, or at age 47.

Changes to Plan Subsidies. The proposed rule reduces the percentage of the maximum subsidy that a member receives for each year of service credit to align the subsidies with a 25 year schedule rather than a 20 year schedule. This change would require those with shorter careers in public service to pay more for RHCA benefits and requiring member to work 25 years for a full subsidy. RHCA states this schedule aligns the system closer to the expectations of PERA and ERB. Most members that spend their entire career with a public employer must have at least 25 years of service credit before being eligible for retirement.

Tier one members of ERB must have 25 years of service credit, be 65 years of age, or qualify under the “Rule of 75,” meaning the member’s age plus years of service credit must equal at least 75. For tier two and tier three, members are required to have 30 years of service credit, be 67 years of age, or qualify under the “Rule of 80.” Although most ERB members will have at least 25 years of service credit before retirement, members that began public service careers later in life may not reach 25 years before retirement and would receive a smaller subsidy than they would under current rules.

RHCA Service Credit Schedule

Years of Service	Current Percent of Maximum Subsidy	Proposed Percent of Maximum Subsidy
5	6.25%	4.76%
6	12.50%	9.52%
7	18.75%	14.29%
8	25.00%	19.05%
9	31.25%	23.81%
10	37.50%	28.57%
11	43.75%	33.33%
12	50.00%	38.10%
13	56.25%	42.86%
14	62.50%	47.62%
15	68.75%	52.38%
16	75.00%	57.14%
17	81.25%	61.90%
18	87.50%	66.67%
19	93.75%	71.43%
20	100.00%	76.19%
21	100.00%	80.95%
22	100.00%	85.00%
23	100.00%	90.48%
24	100.00%	95.24%
25	100.00%	100.00%

Source: LESC

Plan Solvency. RHCA is considering this rule change in the context of the system’s long-term sustainability. Under current funding policies, concerns exist about the solvency of RHCA. Under the authority’s long-term solvency model, RHCA’s actuaries project total expenditures will exceed contributions and premium payments by FY20, meaning RHCA will need to rely on investment income to pay for benefits. By FY25, total expenditures are expected to exceed total revenue and RHCA will be required to sell fund assets to pay for benefits. RHCA projects the fund will become insolvent in FY35.

The Retiree Health Care Act notes the financial viability of the program is a responsibility shared by participating employers, active employees, and retirees. The authority’s strategic plan appears to recognize the need for shared sacrifice by splitting the costs of solvency between participating employers, active employees, pre-Medicare retirees, and Medicare-eligible retirees.

To shore up the authority’s finances and extend the life of the program, RHCA is exploring several proposals to increase revenue or decrease plan expenses. This includes proposed legislation for the 2019 legislative session that would increase employer and active employee contribution rates each year between FY21 and FY24. RHCA is recommending the active employee contribution rate increase from 1 percent of salary currently to 1.5 percent in FY24 and subsequent years and the employer contribution rate from 2 percent of salary currently to 2.5 percent in FY24 and subsequent years. RHCA estimates the additional contributions of 1 percent of payroll will increase FY24 revenue by \$43 million over FY20 levels.

RHCA is also considering asking the Legislature to repeal Laws 2016 (2nd S.S.), Chapter 1 (Senate Bill 7), enacted during the October 2016 special session. The law reduced a transfer from the general fund to the retiree health care fund as part of an effort to balance the state budget. In addition, RHCA is considering decreasing the maximum subsidy for pre-Medicare health plans, from 64 percent for members and 36 percent for spouses currently to 60 percent for members and 30 percent for spouses in FY26, which would increase fund revenue through additional retiree premiums. The amount of the maximum subsidy is left to the discretion of the board and does not require additional legislation.

Although the Retiree Health Care Act anticipates “the expectation of receiving future benefits may be modified from year to year in order to respond to changing financial exigencies,” the law requires that “such modification must be reasonably calculated to result in the least possible detriment.” As such, RHCA may be required to show that the proposed rule change was reasonably calculated.

Public Comment. The proposed rule has generated significant public comment from public employees opposed to the rule change. As of October 16, 2018, RHCA received 120 written comments with concerns regarding the proposed rule.

Many comments addressed the need to retain public employees. Although on its face the proposed rule change could be seen as a way to incentivize more years of service and to discourage members from retiring before they reach the age of 55, many commenters expressed a concern that current employees who are eligible to

retire may actually retire sooner because the propose rule would only affect those who retire after December 31, 2019. Several commenters said the change would reduce the attractiveness of public employment.

Many comments suggested RHCA should not make the change for current employees. Some stated the benefits that were available at the time of hire should remain in effect, although the Retiree Health Care Act anticipates that benefits could be modified or eliminated for current members and retirees. Other comments suggested RHCA consider a grace period so employees who are planning to retire in the near term would not be negatively impacted by the proposed changes.

Technical Issues

Rulemaking Authority. The Retiree Health Care Act provides the board with general authority to adopt rules necessary for the implementation of the Retiree Health Care Act. In addition, Subsection M of Section 10-7C-7 NMSA 1978 grants the RHCA board the specific authority to “adopt rules and regulations governing eligibility, participation, enrollment, length of service, and any other conditions or requirement for providing substantially equal treatment to participating employers.” RHCA cites this rulemaking authority in its notice of proposed rulemaking and in the board resolution initiating rulemaking proceedings. Subsection D of Section 10-7C-13 NMSA 1978 also allows the RHCA board to determine monthly medical premiums based on the retirees’ years of credited service for employees retiring after July 1, 2001, although there is no requirement that this be done by rule.

The Retiree Health Care Act does not specifically authorize RHCA to implement a minimum age for receiving subsidies from the fund and it is unclear that RHCA has the authority to adopt a minimum age in rule. It may be possible for RHCA to argue that the minimum retirement age is necessary to implement with Retiree Health Care Act given the current funding situation or that the rule improves the equal treatment of participating employers. Plan equity may be an important consideration in the rule establishing a minimum age for subsidies. Because pre-Medicare retirees – those younger than 65 – are significantly more expensive than retirees who are eligible for Medicare, members with longer periods of pre-Medicare coverage receive significantly more in subsidies than those who retire after age 65.

Legal Protections. It is unclear if benefits provided under the Retiree Health Care Act are afforded the same legal protections as public pension benefits. When the Retiree Health Care Act was enacted in 1990, the Legislature noted benefits from RHCA were subject to change. Section 10-7C-3 NMSA 1978 states the legislature did not intend to create a trust relationship when enacting the Retiree Health Care Act, nor did the Legislature intend to establish rights between retirees, active members, and the state that could not be modified or extinguished in the future. In 1998, the New Mexico Constitution was amended to add Article 20, Section 22, which protects the assets of “a public employees retirement system or an educational retirement system” from being used for another purpose and grants a vested property right to those meeting the minimum service requirements of “an applicable retirement plan.”

However, it is not clear if health insurance provided through the RHCA is protected by Article 20, Section 22 of the New Mexico Constitution.

In *Bartlett v. Cameron* (2014-NMSC-002, 316 P.3d 889), a New Mexico Supreme Court decision that found annual cost-of-living adjustments were not included in the vested property right protected by the New Mexico Constitution, the court reasoned:

“Unless we are satisfied that the Legislature intends to create a property right, this Court presumes that the Legislature is implementing public policy when it enacts a statute, policy which it is free to change in the future. To presume otherwise would upset the balance of the separation of powers, and affect the Legislature’s ability to respond to changing economic conditions.”

If the benefits provided through RHCA are not property rights, as the Retiree Health Care Act seems to intend, then presumably the Legislature could authorize RHCA to undertake rulemaking to advance the public policy goals of the act. However, even if RHCA benefits were considered a retirement plan pursuant to Article 20, Section 22, that section also provides that:

“Nothing in this section shall be construed to prohibit modifications to retirement plans that enhance or preserve the actuarial soundness of an affected trust fund or individual retirement plan.”

Given the projected insolvency of the retiree health care fund, it may be possible to modify the plan even if RHCA members have acquired a vested property right.

NMRHCA Medical Plan Monthly Premium Contributions for January 1, 2019 – December 31, 2019 (applicable if retirement date is after June 30, 2001)

Years of Service	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
NON-MEDICARE MEDICAL																
Premier PPO (BCBS or Presbyterian)																
Retiree Rate	\$696.36	\$666.38	\$637.41	\$608.44	\$579.46	\$550.49	\$521.52	\$492.55	\$463.57	\$434.60	\$405.63	\$376.65	\$347.68	\$318.71	\$289.73	\$260.76
Spouse Rate	\$755.92	\$738.52	\$721.12	\$703.72	\$686.32	\$668.92	\$651.52	\$634.12	\$616.72	\$599.32	\$581.92	\$564.52	\$547.12	\$529.72	\$512.32	\$494.92
Child Rate	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11	\$253.11
Value HMO (BCBS or Presbyterian)																
Retiree Rate	\$543.18	\$520.55	\$497.91	\$475.28	\$452.65	\$430.02	\$407.38	\$384.75	\$362.12	\$339.49	\$316.85	\$294.22	\$271.59	\$248.96	\$226.32	\$203.69
Spouse Rate	\$590.44	\$576.85	\$563.26	\$549.67	\$536.08	\$522.49	\$508.90	\$495.31	\$481.71	\$468.12	\$454.53	\$440.94	\$427.35	\$413.76	\$400.17	\$386.58
Child Rate	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37	\$197.37
MEDICARE MEDICAL																
BCBS Medicare Supplemental Plan																
Retiree Rate	\$410.67	\$397.43	\$384.18	\$370.93	\$357.68	\$344.44	\$331.19	\$317.94	\$304.69	\$291.45	\$278.20	\$264.95	\$251.70	\$238.46	\$225.21	\$211.96
Spouse Rate	\$417.30	\$410.67	\$404.05	\$397.43	\$390.80	\$384.18	\$377.55	\$370.93	\$364.31	\$357.68	\$351.06	\$344.44	\$337.81	\$331.19	\$324.56	\$317.94
Child Rate	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92	\$423.92
BCBS Medicare Advantage I																
Retiree Rate	\$128.07	\$123.94	\$119.81	\$115.68	\$111.54	\$107.41	\$103.28	\$99.15	\$95.02	\$90.89	\$86.76	\$82.63	\$78.49	\$74.36	\$70.23	\$66.10
Spouse Rate	\$130.13	\$128.07	\$126.00	\$123.94	\$121.87	\$119.81	\$117.74	\$115.68	\$113.61	\$111.54	\$109.48	\$107.41	\$105.35	\$103.28	\$101.22	\$99.15
Child Rate	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20	\$132.20
BCBS Medicare Advantage II																
Retiree Rate	\$42.92	\$41.53	\$40.15	\$38.76	\$37.38	\$35.99	\$34.61	\$33.23	\$31.84	\$30.46	\$29.07	\$27.69	\$26.30	\$24.92	\$23.53	\$22.15
Spouse Rate	\$43.61	\$42.92	\$42.22	\$41.53	\$40.84	\$40.15	\$39.45	\$38.76	\$38.07	\$37.38	\$36.68	\$35.99	\$35.30	\$34.61	\$33.91	\$33.22
Child Rate	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30	\$44.30
Humana Medicare Advantage I																
Retiree Rate	\$129.47	\$125.30	\$121.12	\$116.94	\$112.77	\$108.59	\$104.41	\$100.24	\$96.06	\$91.88	\$87.70	\$83.53	\$79.35	\$75.17	\$71.00	\$66.82
Spouse Rate	\$131.56	\$129.47	\$127.39	\$125.30	\$123.21	\$121.12	\$119.03	\$116.95	\$114.86	\$112.77	\$110.68	\$108.59	\$106.50	\$104.42	\$102.33	\$100.24
Child Rate	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65	\$133.65
Humana Medicare Advantage II																
Retiree Rate	\$66.02	\$63.89	\$61.76	\$59.63	\$57.50	\$55.37	\$53.24	\$51.11	\$48.98	\$46.85	\$44.72	\$42.59	\$40.46	\$38.33	\$36.20	\$34.07
Spouse Rate	\$67.09	\$66.02	\$64.96	\$63.89	\$62.83	\$61.76	\$60.70	\$59.63	\$58.57	\$57.50	\$56.44	\$55.37	\$54.31	\$53.24	\$52.18	\$51.11
Child Rate	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15	\$68.15
Presbyterian Medicare Advantage I																
Retiree Rate	\$183.09	\$177.19	\$171.28	\$165.38	\$159.47	\$153.56	\$147.66	\$141.75	\$135.84	\$129.94	\$124.03	\$118.13	\$112.22	\$106.31	\$100.41	\$94.50
Spouse Rate	\$186.05	\$183.09	\$180.14	\$177.19	\$174.23	\$171.28	\$168.33	\$165.38	\$162.42	\$159.47	\$156.52	\$153.56	\$150.61	\$147.66	\$144.70	\$141.75
Child Rate	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00	\$189.00
Presbyterian Medicare Advantage II																
Retiree Rate	\$137.56	\$133.13	\$128.69	\$124.25	\$119.81	\$115.38	\$110.94	\$106.50	\$102.06	\$97.63	\$93.19	\$88.75	\$84.31	\$79.88	\$75.44	\$71.00
Spouse Rate	\$138.78	\$137.56	\$135.34	\$133.13	\$130.91	\$128.69	\$126.47	\$124.25	\$122.03	\$119.81	\$117.59	\$115.38	\$113.16	\$110.94	\$108.72	\$106.50
Child Rate	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00	\$142.00
United Healthcare Medicare Advantage I																
Retiree Rate	\$183.45	\$177.53	\$171.62	\$165.70	\$159.78	\$153.86	\$147.94	\$142.03	\$136.11	\$130.19	\$124.27	\$118.35	\$112.43	\$106.52	\$100.60	\$94.68
Spouse Rate	\$186.41	\$183.45	\$180.49	\$177.54	\$174.58	\$171.62	\$168.66	\$165.70	\$162.74	\$159.78	\$156.82	\$153.87	\$150.91	\$147.95	\$144.99	\$142.03
Child Rate	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37	\$189.37
United Healthcare Medicare Advantage II																
Retiree Rate	\$96.21	\$93.10	\$90.00	\$86.90	\$83.79	\$80.69	\$77.58	\$74.48	\$71.38	\$68.27	\$65.17	\$62.07	\$58.96	\$55.86	\$52.75	\$49.65
Spouse Rate	\$97.76	\$96.21	\$94.65	\$93.10	\$91.55	\$90.00	\$88.45	\$86.90	\$85.34	\$83.79	\$82.24	\$80.69	\$79.14	\$77.58	\$76.03	\$74.48
Child Rate	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31	\$99.31

Medical Plan Rate Calculation Instructions

1. Select a medical plan for the retiree; enter the rate from the **Retiree Rate** row that corresponds with your years of service. \$ _____ Retiree
2. If you are enrolling your spouse or domestic partner, select a medical plan for him/her; enter the rate from the **Spouse Rate** row that corresponds with your years of service (or, if your spouse/domestic partner is also an NMRHCA-eligible retiree, use the Retiree Rate that corresponds with your spouse's/domestic partner's years of service). + \$ _____ Spouse/ Domestic Partner
3. If you are also enrolling children, enter rate from **Child Rate** row multiplied by number of children. (# of Children: _____ x Child Rate: _____ = Total for Child(ren): _____ + \$ _____ Child(ren)
4. TOTAL #1, #2, and #3. = \$ _____ Total

Voluntary Coverage Premiums

DENTAL PLAN Monthly Premium *: Effective January 1, 2019 to December 31, 2019

	SINGLE	TWO-PARTY	FAMILY
Delta Dental Basic	\$19.23	\$36.07 for both	\$ 60.42 for all
Delta Dental Comprehensive	\$42.93	\$81.58 for both	\$131.69 for all
United Concordia Basic	\$17.78	\$33.78 for both	\$ 50.67 for all
United Concordia Comprehensive	\$36.28	\$68.93 for both	\$103.36 for all
Davis Vision	\$ 4.76	\$ 8.98 for both	\$13.23 for all

VISION PLAN Monthly Premium *: Effective January 1, 2017 to June 30, 2019

The Standard Insurance	\$2,500 - \$3.83 for all	\$5,000 - \$7.15 for all	\$10,000 - \$13.83 for all
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RETIREE/SPOUSE SUPPLEMENTAL LIFE Monthly Premium *: Effective January 1, 2016 to December 31, 2019

	\$2,000	\$4,000	\$6,000	\$8,000	\$10,000	\$15,000**	\$20,000**	\$40,000**	\$60,000**
The Standard	\$ 0.68	\$ 0.86	\$ 1.05	\$ 1.23	\$ 1.41	\$ 1.87	\$ 2.32	\$ 4.14	\$ 5.96
Age 35-39	\$ 0.79	\$ 1.08	\$ 1.38	\$ 1.67	\$ 1.96	\$ 2.69	\$ 3.42	\$ 6.34	\$ 9.26
Age 40-44	\$ 1.03	\$ 1.56	\$ 2.08	\$ 2.61	\$ 3.14	\$ 4.46	\$ 5.78	\$ 11.06	\$ 16.34
Age 45-49	\$ 1.36	\$ 2.22	\$ 3.07	\$ 3.93	\$ 4.79	\$ 6.94	\$ 9.08	\$ 17.66	\$ 26.24
Age 50-54	\$ 1.92	\$ 3.34	\$ 4.77	\$ 6.19	\$ 7.61	\$11.17	\$14.72	\$ 28.94	\$ 43.16
Age 55-59	\$ 2.23	\$ 3.96	\$ 5.70	\$ 7.43	\$ 9.16	\$13.49	\$17.82	\$ 35.14	\$ 52.46
Age 60-64	\$ 4.05	\$ 7.61	\$11.16	\$14.72	\$18.27	\$27.16	\$36.04	\$ 71.58	\$107.12
Age 65-69	\$ 5.95	\$11.40	\$16.85	\$22.30	\$27.75	\$41.38	\$55.00	\$109.50	\$164.00

*This is optional coverage, and the entire cost of coverage is paid by you. Cost of insurance for all coverages paid by you may increase or decrease in the future based upon the claims experience of participants. All provisions that apply to this coverage are governed by the Certificate. The life plan rates include a \$.50 administration fee.

**Evidence of Insurability Statement required to add or increase life insurance. The Change for Additional Life Insurance form can be found at <http://www.nmrhca.org/forms.aspx/>.

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY
STATE OF NEW MEXICO**

RESOLUTION INITIATING RULEMAKING PROCEEDINGS

WHEREAS, NMSA 1978, Section 10-7C-2 (1990) of the Retiree Health Care Act, NMSA 1978, Sections 10-7C-1 to -16 (1990, as amended through 2009) (the “Act”), provides that the purpose of the Act “is to provide comprehensive core group health insurance for persons who have retired from certain public service in New Mexico[,]” and to “provide eligible retirees, their spouses, dependents and surviving spouses and dependents with health insurance consisting of a plan or optional plans of benefits that can be purchased by funds flowing into the retiree health care fund and by co-payments or by out-of-pocket payments by insureds[;]” and

WHEREAS, the Act, at NMSA 1978, Section 10-7C-5 (2002), created the New Mexico Retiree Health Care Authority (the “NMRHCA”) “to provide for comprehensive group health insurance programs” under the Act; and

WHEREAS, the Act, at NMSA 1978, Section 10-7C-6 (2003), created the board of directors of the NMRHCA (the “Board”), which shall be composed of no more than twelve members who represent certain constituencies receiving benefits under the Act or who are otherwise designated or deemed eligible to serve on the Board, to, among other things, implement the Act and determine the duties of its employees; and

WHEREAS, the Act, at NMSA 1978, Section 10-7C-7 (1998), provides that in order to achieve the purposes of the Act, the Board, among other things, “may take all actions reasonably necessary to implement” the Act, including, but not limited to: (i) Employing or contracting for persons to assist it in carrying out the Act; (ii) Promulgating and adopting necessary rules, regulations and procedures for implementation of the Act; and (iii) Promulgating and adopting rules and regulations governing eligibility, participation, enrollment, length of service and any other conditions or requirements for providing substantially equal treatment to participating employers; and

WHEREAS, the Board has previously promulgated its rule establishing subsidy levels on the basis of years of creditable service, codified at 2.81.11 NMAC (4/30/03) (the “Existing Rule”);

WHEREAS, the Board has previously considered a proposal to establish, through the rulemaking process, a minimum age requirement for the receipt of certain subsidies from the NMRHCA for persons who retire after January 1, 2020, under a non-enhanced retirement plan, with certain classes of retirees being grandfathered into the current class of retirees (the “Proposed Rule”); and

WHEREAS, the Executive Director of the NMRHCA (the “Executive Director”) has proposed that the Board consider amending the Existing Rule to modify the subsidy schedule thereunder to require 25 years of creditable service in order for participants to receive the maximum subsidy provided by the NMRHCA for eligible retirees who become eligible for

participation on or after January 1, 2020, and to adopt the Proposed Rule, after conducting public rule hearings concerning the proposal to amend the Existing Rule and the adoption of the Proposed Rule (the process required to effectuate the proposed amendments to the Existing Rule and adoption of the Proposed Rule under the Rules Act (defined below) and the Default Procedural Rule (defined below) is referred to herein as the “Rulemaking Proceedings”), in conformity with the Act and the Rules Act (defined below); and

WHEREAS, in April 2018, the New Mexico Attorney General’s Office promulgated its Default Procedural Rule for Rulemaking, codified at 1.24.25 NMAC (4/10/2018) (the “Default Procedural Rule”), which provides default procedural rules for public rule hearings for use by agencies that have not adopted their own procedural rules consistent with the State Rules Act, NMSA 1978, Sections 14-4-1 to -11 (1967, as amended through 2017) (the “Rules Act”), and to facilitate public engagement with the administrative rulemaking process in a transparent, organized, and fair manner; and

WHEREAS, the Default Procedural Rule provides that: (i) Agencies that have not adopted their own rules consistent with the Rules Act shall apply the Default Procedural Rule until such time as they have adopted their own rules; (ii) Agencies may adopt the Default Procedural Rule, in whole or in part as their own, or continue to use their existing rules, so long as those rules satisfy the requirements of the Rules Act and provide as much opportunity for public participation as provided by the Default Procedural Rule; and (iii) Agencies that adopt their own rules must submit a copy to the Attorney General’s Office within 30 calendar days of adoption, and post a copy of those rules on the agency’s website, if one exists; and

WHEREAS, as of this date, the Board has not adopted procedural rules for public rule hearings consistent with the Rules Act for the NMRHCA, and therefore, the Default Procedural Rule applies with respect to rulemakings by the Board for the NMRHCA, including the Rulemaking Proceedings;

WHEREAS, the Default Procedural Rule provides that: (i) The rulemaking process may be initiated by an agency when a notice for rule hearing is publicly posted pursuant to the Default Procedural Rule; (ii) The agency shall proceed with the rulemaking process by posting public notice, publishing the proposed rule for comment, and setting a public rule hearing in accordance with the Rules Act and any other applicable law; (iii) If the agency is a public body subject to the Open Meetings Act, NMSA 1978, Section 10-15-1 to -4 (1974, as amended through 2013) (the “OMA”), the decision to initiate the rulemaking process must be an action taken by vote of the public body in open session; and (iv) Once the agency initiates the rulemaking process, the agency must maintain a record as prescribed in NMSA 1978, Section 14-4-5.4 (2017); and

WHEREAS, the Board of the NMRHCA is a public body subject to the OMA, and therefore, any decision by the Board to initiate the Rulemaking Proceedings must be an action taken by vote of the Board in open session; and

WHEREAS, the Board, having considered the Executive Director’s proposal to undertake the Rulemaking Proceedings, desires to initiate the Rulemaking Proceedings in full conformity

with the Act, the Rules Act, the Default Procedural Rule, the OMA and any other applicable law in a transparent, organized and fair manner; and

WHEREAS, on this date, the Board convened a regular meeting at which it considered the adoption of this Resolution Initiating Rulemaking Proceedings (the “Resolution”) and voted to adopt said Resolution, all in full conformity with the OMA.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NEW MEXICO RETIREE HEALTH CARE AUTHORITY THAT:

1. The Board’s adoption of this Resolution shall memorialize its decision to initiate the Rulemaking Proceedings.
2. The Executive Director, or his designee, is hereby authorized and directed to initiate the Rulemaking Proceedings by publicly posting a notice for a rule hearing concerning the proposed revisions to the Existing Rule and the adoption of the Proposed Rule pursuant to, and in conformity with, the Act, the Rules Act and the Default Procedural Rule.
3. The Executive Director, or his designee, is hereby authorized and directed to post public notice concerning the Rulemaking Proceedings, publish the proposed revisions to the Existing Rule and the Proposed Rule for public comment, and to set a public rule hearing on the proposed revisions to the Existing Rule and the proposed adoption of the Proposed Rule, in accordance with the Act, the Rules Act, the Default Procedural Rule and any other applicable law.
4. The Executive Director, or his designee, is hereby authorized and directed to act as the Board’s hearing officer and to preside over the Rulemaking Proceedings, including the public hearing contemplated in this Resolution, as required and in accordance with, the Act, the Rules Act, the Default Procedural Rule and any other applicable law.
5. The Executive Director, or his designee, shall maintain a record of the Rulemaking Proceedings contemplated in this Resolution, as prescribed in Section 14-4-5.4 of the Rules Act.
6. The Executive Director, or his designee, is hereby authorized and directed to do all acts and things necessary or desirable to effectuate the provisions of this Resolution and to undertake the Rulemaking Proceedings in full conformity with the Act, the Rules Act, the Default Procedural Rule, the OMA and any other applicable law.
7. This Resolution shall take effect immediately upon its adoption.

[Remainder of page left blank intentionally]

PASSED, ADOPTED AND APPROVED ON MAY 8, 2018.



**Tom Sullivan, President
New Mexico Retiree Health Care Authority
Board of Directors**

ATTEST:



**Doug Crandall, Secretary
New Mexico Retiree Health Care Authority
Board of Directors**

[Signature Page for Resolution Initiating Rulemaking Proceedings]

AMENDED NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Retiree Health Care Authority (NMRHCA) is considering amending the part name of the existing rule 2.81.11 NMAC - ESTABLISHING SUBSIDY LEVELS ON THE BASIS OF YEARS OF CREDITABLE SERVICE, amending sections 6, 7, 8 and 9 and adopting a proposed new section 10 to be included in 2.81.11 NMAC. The purpose of the amendment of existing sections of the rule is to amend the subsidy schedule to increase the years for maximum subsidy for some plans. The purpose of the proposed new section is to establish a minimum age requirement to receive subsidy for coverage. The part name will be changed to “ESTABLISHING SUBSIDY LEVELS ON THE BASIS OF AGE AND YEARS OF CREDITABLE SERVICE” in order to reflect the proposed rule. A summary of the full text of the proposed rule follows:

Section 8 of the existing rule 2.81.11 NMAC provides for the NMRHCA to pay a percentage of the subsidy to monthly premiums of eligible retirees, which percentage is dependent on the years of credited service of the retiree and is 100% at 20 years of credited service. The amendment changes the years at which 100% is paid to 25 and changes the percentages for fewer years of credited service for retirees who are not members of an enhanced retirement plan and become eligible for participation on or after January 1, 2020. Section 7 of the existing rule is amended to include a definition for “members of an enhanced retirement plan.” The new section 10 requires that eligible retirees who are not members of an enhanced retirement plan and become eligible for participation on or after January 1, 2020 be 55 years of age to receive subsidies. Section 9 is amended to clarify that disabled retirees receive a 100% subsidy regardless of years of service or age. Section 6 is amended to clarify that the objective of the part includes that subsidies will have a minimum age requirement for those retiring on or after January 1, 2020.

The NMRHCA is authorized to promulgate rules to implement the Retiree Health Care Act, NMSA 1978, Sections 10-7C-1 to -16 (1990, as amended through 2009) (“Act”) by NMSA 1978, Section 10-7C-7 (1998). By resolution dated May 8, 2018, the NMRHCA resolved to undertake the rulemaking in conformity with the Act, the State Rules Act, NMSA 1978, Sections 14-4-1 to -11 (1967, as amended through 2017), the Default Procedural Rule for Rulemaking, 1.24.25 NMAC (4/10/2018) and the Open Meetings Act, NMSA 1978, Sections 10-15-1 to -4 (1974, as amended through 2013).

The NMRHCA is increasing the minimum years of service requirement to receive the maximum subsidy provided by the program to be consistent with requirements to receive a full pension benefit from both the Public Employee Retirement Association of New Mexico and the New Mexico Educational Retirement Board. In addition, the agency is establishing a minimum age requirement for folks not retiring from an enhanced retirement plan to promote and strengthen the solvency of the program. A study of NMRHCA’s long-term solvency projections, NMRHCA 2017 Long-Term Solvency Model, is available at its website, www.nmrhca.org/financial-documents.aspx.

The full text of the proposed rule may be obtained by contacting Greg Archuleta, Director of Communication and Member Engagement, New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico 87107; telephone 505-222-6403, to request a copy of the rule. The full text and this notice are also available on NMRHCA’s website: <http://www.nmrhca.org/>.

A person may submit, by mail or electronic form, written comments on the proposed rule through the end of the public comment period, which ends Oct. 19, 2018. Written comments should be submitted to Greg Archuleta, Director of Communication and Member Engagement, New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico 87107. Written comments also will be accepted by email: gregoryr.archuleta@state.nm.us or by fax: (505) 884-8611. All written comments received by the agency will be posted on <http://www.nmrhca.org/> no more than 3 business days following receipt to allow for public review. Written comments will also be available for public inspection at New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico 87107.

A public rule hearing on the proposed rule will be held before Greg Archuleta, Director of Communication and

Member Engagement, NMRHCA, on Oct. 19, 2018 from 9:30-11:30 a.m. at the NMRHCA office's Alfredo R. Santistevan Board Room, located at 4308 Carlisle Blvd. NE, Suite 207 in Albuquerque, NM, 87107. Individuals may submit data, views or arguments orally or in writing to the proposed rule at the public rule hearing. Persons offering written comments at the hearing must have 2 copies for the hearing officer.

Any individual with a disability in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Greg Archuleta at 505-222-6403 at least 10 days before the hearing.

This is an amendment to 2.81.11 NMAC, Sections 6 through 9, adding Section 10 and changing part name, effective xx/xx/2018.

TITLE 2 PUBLIC FINANCE
CHAPTER 81 RETIREE HEALTH CARE FUNDS
PART 11 ESTABLISHING SUBSIDY LEVELS ON THE BASIS OF AGE AND YEARS OF CREDITABLE SERVICE

2.81.11.6 OBJECTIVE: The objective of this rule is to establish subsidy levels commensurate with a retiree's years of credited service with a participating employer for employees who become eligible for enrollment into the NMRHCA health care program on or after July 1, 2001, and their dependents, and subject to a minimum retiree age for employees who become eligible for enrollment into the NMRHCA health care program on or after January 1, 2020.

[2.81.11.6 NMAC - N, 2/14/2002; A, xx/xx/2018]

2.81.11.7 DEFINITIONS:

~~A. ["Retiree Health Care Authority" or "Authority" or "NMRHCA" means, the Retiree Health Care Authority established by chapter 6 laws of New Mexico, 1990 [Sections 10-7C-1 et seq. NMSA 1978].~~

~~B. "Board" means, the board of directors of the NMRCHA.~~

~~C. "Subsidy" means a set portion of the cost of an eligible retiree's monthly coverage, a varying percentage of which is borne by the authority as determined by the board.~~

~~D. "Credited service" means the number of full years of employment with a participating employer as verified by the authority.~~

~~E. "Disabled retiree" means an eligible retiree who has been authorized to retire due to disability by the appropriate state retirement agency.~~

~~F. "State retirement agency" means each of the agencies created and authorized by law to administer the educational retirement act, the public employees retirement act, the judicial retirement act, the magistrate retirement act, the public employees retirement reciprocity act, or the retirement program of an independent public employer on or before July 1, 1990.] "Board" means, the board of directors of the NMRCHA.~~

~~B. "Credited service" means the number of full years of employment with a participating employer as verified by the authority.~~

~~C. "Disabled retiree" means an eligible retiree who has been authorized to retire due to disability by the appropriate state retirement agency.~~

~~D. "Member of an enhanced retirement plan" means a member of a retirement plan in which a retiree is eligible to receive a full pension after 20 years of credited service.~~

~~E. "Retiree Health Care Authority" or "Authority" or "NMRHCA" means, the Retiree Health Care Authority established by chapter 6 laws of New Mexico, 1990 (Sections 10-7C-1 et seq. NMSA 1978).~~

~~F. "State retirement agency" means each of the agencies created and authorized by law to administer the educational retirement act, the public employees retirement act, the judicial retirement act, the magistrate retirement act, the public employees retirement reciprocity act, or the retirement program of an independent public employer on or before July 1, 1990~~

~~G. "Subsidy" means a set portion of the cost of an eligible retiree's monthly coverage, a varying percentage of which is borne by the authority as determined by the board.~~

[2.81.11.7 NMAC - N, 2/14/2002; A, 12/30/2002; xx/xx/2018]

2.81.11.8 NMRHCA CONTRIBUTION OF A PERCENTAGE OF A SUBSIDY TO MONTHLY PREMIUMS OF ELIGIBLE RETIREES:

~~A.~~ Except as otherwise provided herein, for eligible retirees who are members of an enhanced retirement plan and become eligible for participation on or after July 1, 2001, or are not members of an enhanced retirement plan and become eligible for participation on or after July 1, 2001 but before January 1, 2020, and the eligible dependents of such retirees, the NMRCHA will contribute the following percentages of the subsidy to the monthly premiums according to the corresponding numbers of years of credited service with an NMRHCA-participating employer:

~~[A.] (1)~~ Example: If the subsidy for a particular plan is one half the premium cost, then for a retiree with 20 years of credited service the NMRHCA would provide ~~[+00]~~ one hundred percent of the subsidy; half the cost.

~~[B-]~~ (2) Example: For the same subsidy of one half the premium cost, the percent of subsidy for a retiree with eight years of credited service would be ~~[25]~~ twenty-five percent of the ~~[50]~~ fifty percent subsidy: ~~[12.5]~~ twelve and one-half percent of the cost.

Years of credited service	Percentage of subsidy
5	6.25
6	12.50
7	18.75
8	25.00
9	31.25
10	37.50
11	43.75
12	50.00
13	56.25
14	62.50
15	68.75
16	75.00
17	81.25
18	87.50
19	93.75
20	100.00

B. Except as otherwise provided herein, for eligible retirees who are not members of an enhanced retirement plan and become eligible for participation on or after January 1, 2020, and the eligible dependents of such retirees, the NMRCHA will contribute the following percentages of the subsidy to the monthly premiums according to the corresponding numbers of years of credited service with an NMRHCA-participating employer:

~~[A-]~~ (1) Example: If the subsidy for a particular plan is one half the premium cost, then for a retiree with 25 years of credited service the NMRHCA would provide one hundred percent of the subsidy; half the cost.

~~[B-]~~ (2) Example: For the same subsidy of one half the premium cost, the percent of subsidy for a retiree with twelve years of credited service would be thirty-eight and one-tenth percent of the fifty percent subsidy: nineteen and five-hundredths percent of the cost.

Years of credited service	Percentage of subsidy
<u>5</u>	<u>4.76</u>
<u>6</u>	<u>9.52</u>
<u>7</u>	<u>14.29</u>
<u>8</u>	<u>19.05</u>
<u>9</u>	<u>23.81</u>
<u>10</u>	<u>28.57</u>
<u>11</u>	<u>33.33</u>
<u>12</u>	<u>38.10</u>
<u>13</u>	<u>42.86</u>
<u>14</u>	<u>47.62</u>
<u>15</u>	<u>52.38</u>
<u>16</u>	<u>57.14</u>
<u>17</u>	<u>61.90</u>
<u>18</u>	<u>66.67</u>
<u>19</u>	<u>71.43</u>
<u>20</u>	<u>76.19</u>
<u>21</u>	<u>80.95</u>
<u>22</u>	<u>85.71</u>
<u>23</u>	<u>90.48</u>

24	95.24
25	100.00

[2.81.11.8 NMAC - N, 2/14/2002; A, 4/30/2003; A, xx/xx/2018]

2.81.11.9 SUBSIDIES FOR DISABLED RETIREES: Notwithstanding any other provision of this rule:

A. The subsidy paid by the NMRHCA for a disabled retiree with a “duty disability,” as described in Subsection B of 2.81.7.10 NMAC [~~subsection B~~], and to the dependents of such a retiree, shall be at the ~~[100]~~ one hundred percent level, corresponding to the applicable maximum ~~[20]~~ year level set forth in ~~[the foregoing]~~ 2.81.11.8 NMAC, regardless of such retiree’s period of credited service and age.

B. The subsidy paid by the NMRHCA for a disabled retiree with a “non-duty disability,” as described in Subsection C of 2.81.7.10 NMAC [~~subsection C~~], and to the dependents of such a retiree, shall be as set forth in ~~[the foregoing subsection]~~ Subsection A of 2.81.11.9 NMAC, *provided*, that, as a condition of eligibility for benefits, such retiree has five or more years of credited service.

[2.81.11.9 NMAC - N, 2/14/2002; A, 12/30/2002; A, 4/30/2003; A, xx/xx/2018]

2.81.11.10 AGE REQUIREMENT FOR SUBSIDIES: Except as otherwise provided herein, for eligible retirees who are not members of an enhanced retirement plan and become eligible for participation on or after January 1, 2020, the minimum retiree age requirement to be eligible for subsidies is 55.

[2.81.11.10 NMAC - N, xx/xx/2018]