



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Rachel Barth, Deputy Director  
RE: S.F. 522 (Frentz); H.F. 637 (Johnson, C.): MSRS-Correctional; Including additional Department of Human Services employment positions in plan coverage.  
DATE: March 6, 2017  
ATTACHMENT: Department of Human Services Recommendation Letter

**Summary of S.F. 522 (Frentz); H.F. 637 (Johnson, C.)**

S.F. 522 (Frentz); H.F. 637 (Johnson, C.) amends Minn. Stat. § 352.91, subd. 3f, by adding the Department of Human Services (“DHS”) “physical therapist” position at the St. Peter Hospital to the statutory list of positions that are eligible for retirement coverage under the Minnesota State Retirement System Correctional plan (“MSRS-Correctional”).

The coverage for “physical therapist” will be prospective only for the one individual currently employed in the position. Neither the member nor the employer are required to pay additional amounts under section 352.955, subd. 3.

**Background Information**

Under section 352.91, subd. 3f, positions within DHS that are eligible for MSRS-Correctional plan coverage must spend at least 75% of working time in direct contact with patients and the commissioner of human services must certify that the position satisfies that contact threshold.

In order for the commissioner of corrections to certify eligibility, DHS must use an established procedure for evaluating whether an employment position satisfies specific requirements under section 352.91, subd. 4a and DHS internal policy. The procedure must provide for an evaluation of the position to determine if:

- (1) at least 75% of employee’s time is in direct contact with inmates or patients; and
- (2) the employee is regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates or patients.

If the employee satisfies the two requirements, the DHS commissioner may recommend the employment position be included in MSRS-Correctional coverage. The commissioner must submit the recommendation, along with supporting documentation, to the legislature by January 15.

Unlike the Department of Corrections, the DHS procedure for reviewing and evaluating an employment position is not codified in statute. The DHS procedure is instead contained in an internal policy document. DHS uses a review committee to evaluate position eligibility and forwards any

recommendation to include or exclude a position from MSRS-Correctional coverage to the commissioner, who then sends the recommendation to the legislature. The DHS review procedure is very similar to the DOC procedure under section 352.91, subd. 4b.

## **Discussion and Analysis**

1. **Cost.** Including additional employees in MSRS-Correctional coverage will result in additional costs to both the employer and employee. DHS employees who work in the state-operated forensic services program or the Minnesota sex offender program are either covered by MSRS-General or MSRS-Correctional. MSRS-General employee and employer contribution rates are currently both set at 5.5% of pay, which are lower than the current MSRS-Correctional employee and employer contribution rates of 9.1% and 12.85% of pay, respectively. The MSRS board recently approved a funding proposal that increases both MSRS-General and MSRS-Correctional employee and employer contribution rates and will maintain the difference in employee and employer rates between the two plans.

MSRS has no objections to including these employees in the MSRS-Correctional plan. The addition of one employee in the MSRS-Correctional plan will not have a significant financial impact on the plan. Adding additional employees to a pension plan can have an impact on both the liabilities and assets. Although more people in a plan results in more benefits being paid out, which adds to the liability, the employee and employer contribution rates are intended to pay for that additional liability, aiming for a cost neutral outcome.

2. **Procedure.** As described above, DHS must implement and follow specific procedures in order to evaluate employment positions and recommend additions to the MSRS-Correctional plan. Based on the information provided by DHS, the review committee conducted a proper evaluation and both the review committee and DHS commissioner approved the addition of “physical therapist”. Further, the appropriate legislative committees were provided notice by the statutory deadline. There is no indication that the position should not be included in the MSRS-Correctional plan and all required procedures appear to have been followed based on the information DHS provided.

Minnesota Department of Human Services

Office of the Commissioner

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January 12, 2017

Representative Tim O'Driscoll

Chair

Legislative Commission on Pensions and Retirement; House Government Operations and Elections  
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Susan Lenczewski

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Saint Paul, Minnesota 55155

Re: Inclusion of Physical Therapist at Saint Peter Hospital to Correctional Employee Retirement Plan (CERP)

Dear Chairs O'Driscoll and Kiffmeyer and Executive Director Lenczewski:

During our labor/ management meeting on Friday, August 5, 2016, the Minnesota Association of Professional Employees (MAPE) requested the Department of Human Services (DHS) to add the Physical Therapist job classification to the CERP statute during the 2017 legislative session. Currently, DHS employs one individual in this classification at the Forensics campus at Saint Peter.

As you are aware, Minn. Stat. §352.91:

- Subd. 4a provides that DHS is to have a procedure for evaluating periodic requests by department employees for qualification for recommendation by the commissioner for inclusion of the

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Inclusion of Physical Therapist at Saint Peter Hospital to Correctional Employee Retirement Plan (CERP)

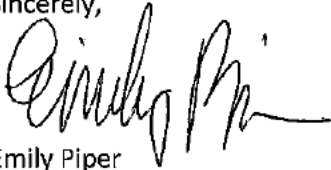
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employment position in CERP. DHS has a joint labor-management committee for this process, which met on Friday, August 5, 2016.

- Subd. 4a(b) provides that the procedure evaluate the extent of the employee's working time spent in direct contact with patients, the extent of physical hazard to which the employee is routinely subjected in the course of employment, and the extent of intervention routinely expected by the employee in the event of facility incident. The percentage of routine direct contact with patients must be at least 75 percent.
- Subd. 4a(c)(1)(2)(d) provides that if the employee routinely spends 75 percent of his or her time in direct contact with patients, and is regularly engaged in the rehabilitation, treatment, custody or supervision of patients, the commissioner may recommend the employment position be included in CERP.

Based upon the information above and following a review of the Physical Therapist position, whose purpose is to provide rehabilitation and treatment to patients, the Department concluded that the Physical Therapist position merits consideration for placement in CERP during the 2017 legislative session.

Sincerely,



Emily Piper  
Commissioner

CC:

Kathy Fodness, MAPE Business Agent

Richard Kolodziejewski, MAPE Public Affairs and Communications Director