



Medicare Access Informational Briefing

LEOFF Plan 2 Retirement Board

December 16, 2009

Overview

- Some LEOFF Plan 2 members are not covered by Medicare and may not be aware of a recent law change which increases accessibility to these Federal Benefits.

Federal Law

- Public Safety Initially excluded from Medicare
- Section 218 Agreements
- Referendum Process/Majority Vote
- Allows for “alternate” procedure

State Law

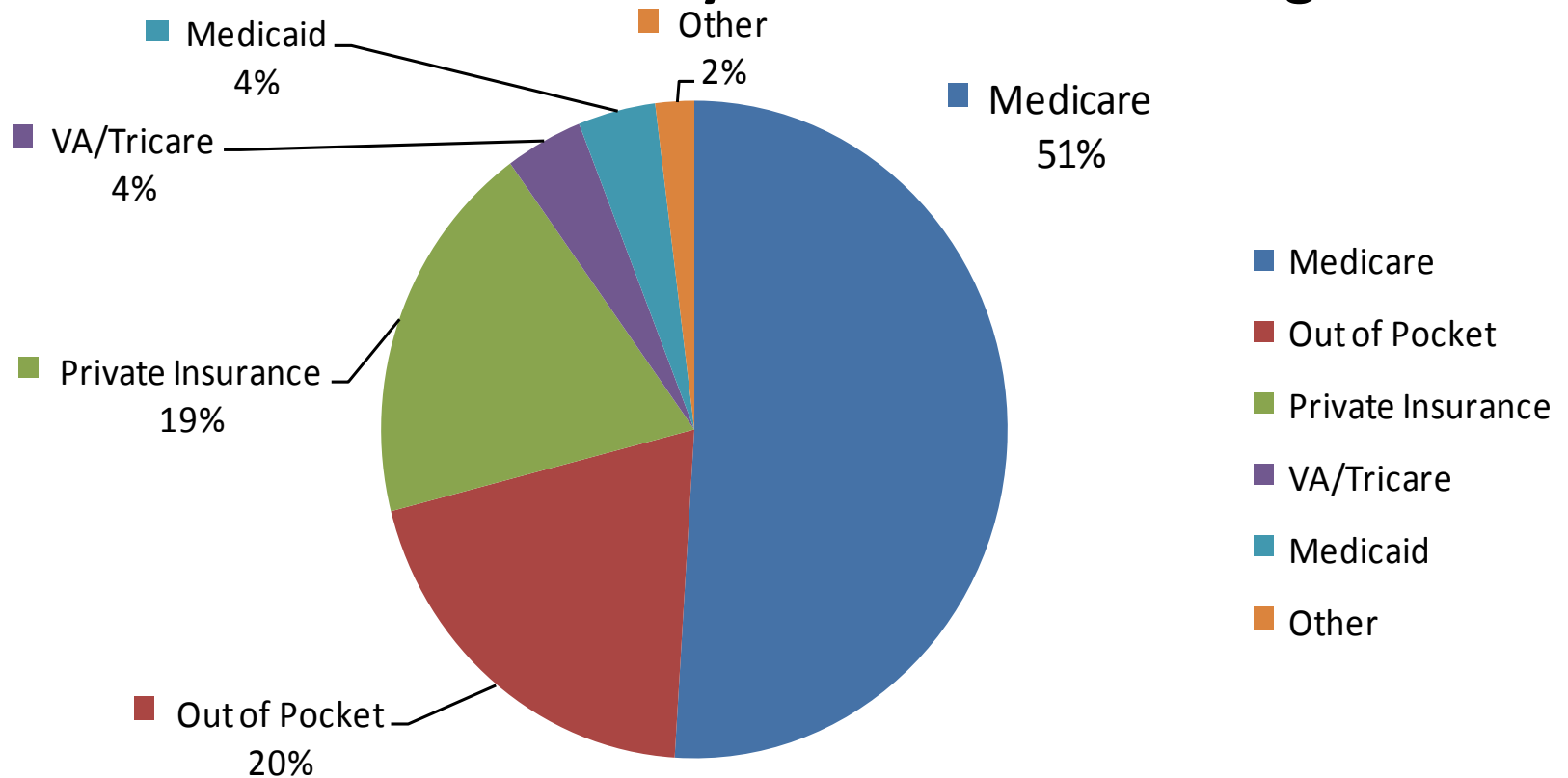
- Divided Referendum (HB 2510 - 2008)
- Affects employees who:
 - Do not currently pay Medicare taxes;
 - Were hired before April 1, 1986; and
 - Have been in continuous employment through the date of the referendum
- Provides access to Medicare Part A

Divided Referendum Process

- DRS is State Social Security Administrator
- Administers Divided Referendums
- Seven employers going through process
 - Four have voted/Three pending
 - Out of 92 eligible members, 19 voted for coverage

Value of Medicare

Sources of Elderly Health Care Coverage



Medicare Access

QUESTIONS?

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' PLAN 2 RETIREMENT BOARD

Medicare Access Informational Briefing

December 16, 2009

1. Issue

Some LEOFF Plan 2 members are not covered by Medicare and may not be aware of a recent law change which increases accessibility to these Federal Benefits.

2. Staff

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3. Members Impacted

There is no data available regarding the number of general government employees not covered by Medicare.

4. Current Situation

Law enforcement officers, firefighters, and other public employees participating in qualified retirement systems may obtain Medicare coverage through the "divided referendum" process. Following the completion of this process, those members voting in favor of Medicare coverage will constitute a coverage group separate from those members voting against the referendum.

5. Background Information and Policy Issues

Federal Law/Social Security Act

The federal Social Security Act (SSA) authorizes the states and the federal government to enter into agreements regarding how federal retirement benefit programs such as Medicare and Social Security will be incorporated into retirement systems implemented by the states for their public employees, both state and local. Pursuant to such agreements, the SSA allows the states considerable flexibility in determining which state / local government retirement systems will participate in the various federal retirement benefit programs. Absent a specific agreement with the federal government, a state or local retirement system will not include federal retirement benefits and the employees without such benefits will not be assessed the pertinent federal payroll taxes.

Section 218 Agreements

When the federal Social Security Act began in 1935, public employees were not eligible for Social Security benefits. This was due to a Constitutional question regarding the federal government's power to tax state and local governments. Consequently, many government employees were without a retirement plan.

In 1951, Section 218 of the Act authorized states to voluntarily elect Social Security coverage for public employees who were not already covered under a retirement plan. These Federal-State Agreements, often referred to as Section 218 Agreements, were entered into with the SSA.

The provisions of the SSA allow a state to implement a referendum process to determine whether or not a state or local retirement benefits coverage group will participate in federal retirement benefits programs. Under this process, eligible employees must participate in such federal programs in accordance with the state / federal agreement provided the following conditions are met:

- eligible employees participate in a referendum by secret written ballot on the question of whether the positions covered by the retirement system should be included or excluded from participation in the federal programs;
- eligible employees were given an opportunity to vote on the referendum;
- not less than 90-days notice of such referendum was given to all eligible employees;
- the referendum is conducted under the supervision of the Governor, an agency or an individual designated by her or him;
- a majority of the eligible employees vote in favor of participating in the federal retirement programs in accordance with the state / federal agreement.

Federal law does allow the state to utilize an alternative referendum process, sometimes referred to as the "divided referendum process" that, once completed, results in the division of the retirement system into two separate divisions or parts: 1) one division that will

participate in the federal retirement programs and is composed of those employees who voted in favor of the referendum; and 2) one division that does not participate in the federal programs and is composed of those employees who voted against the referendum.

Washington State Law

State law pertaining to the regulation of public employee retirement systems codifies and implements most of the basic features of the federal law outlined above. Under state law, and consistent with the SSA, the Governor is authorized to enter into an agreement with the federal government for the purpose of extending the benefits of federal retirement programs to the employees of the state and local governments.

Such an agreement may contain a wide range of provisions relating to coverage, benefits, contributions, effective date, modification, termination of the agreement, and administration. Prior to 2008, the state regulatory scheme included the basic referendum process outlined in the SSA allowing simple majority rule.

Local Governments

There are 139 local governments that have, as allowed by federal law, opted out of coverage by Social Security for all or a portion of their employees over time. Some local governments that opted out of these federal programs make employer contributions equal to or larger than those that would have gone to the federal government on behalf of their employees to alternative retirement programs some of which may include medical benefits.

Prior to April 1986, employers also opted out of Medicare. However, starting on April 1, 1986, all employers were required to participate in Medicare for those employees hired after that date. This meant that employees hired prior to April 1986 who have worked continuously are not covered by Medicare could only qualify for Medicare benefits through working for another employer for 10 years (40 quarters) or if a referendum authorized by their employer approved of coverage. No data is currently available about how many members exist in the 1986 no coverage group.

House Bill 2510, passed during the 2008 Legislative Session allows LEOFF Plan 2 members to obtain Medicare coverage through the "divided referendum" process. Following the completion of this process, those members voting in favor of Medicare coverage constitute a coverage group separate from those members voting against the referendum.

The new process simply provides covered retirees with an additional, voluntary benefits option, i.e., Medicare coverage, which applies only to those who expressly request such coverage. The offering of this option does not directly affect the pension benefits or rights of current or future retirees who have decided against participation in the Medicare program.

Washington State Program Administrator

Since 1951, the Employment Security Department has been responsible for administering the Social Security and Medicare Coverage Program, also known as Old Age Survivor Insurance (OASI) for all state and local (public) governmental employers throughout the State of Washington.

Effective July 1, 2009, the Department of Retirement Systems (DRS) became the Social Security Administrator of the Old- Age and Survivors Insurance (OASI) Program. Responsibilities include administration of the state's Section 218 agreement.

As the new administrator, DRS assists all of Washington's public employers by serving as a facilitator and communication bridge between those employers and the Social Security Administration (SSA) and Internal Revenue Service (IRS). The SSA and IRS are the two principal federal agencies responsible for coverage, benefits and tax withholding associated with Social Security and Medicare.

New Program for Medicare-Only Access

The 2008 Legislature passed HB 2510, which allows local governments to request a divided referendum in which employees can vote to participate in Medicare. DRS will administer the divided referendum process as the Social Security Administrator of the Old- Age and Survivors Insurance (OASI) Program.

The new program only affects employees who:

- Do not currently pay Medicare taxes;
- Were hired before April 1, 1986; and
- Have been in continuous employment through the date of the referendum.

DRS has done some direct communications and outreach regarding the new program. DRS has notified employers through their Employer Newsletter that was sent out in early July 2009, that DRS was now the Washington State Social Security Administrator and responsible for administering the OASI program. DRS representatives also attended the No Secrets Labor Management Symposium on October 27, 2009 in Tacoma. DRS delivered a presentation about HB 2510 and explained the process for holding a divided referendum vote. DRS has also provided training along with a Social Security Representative to each employer holding a referendum. These trainings are for the employees to come and ask questions about their own coverage in order to make an informed decision before casting their vote.

Recent Activity - Divided Referendum

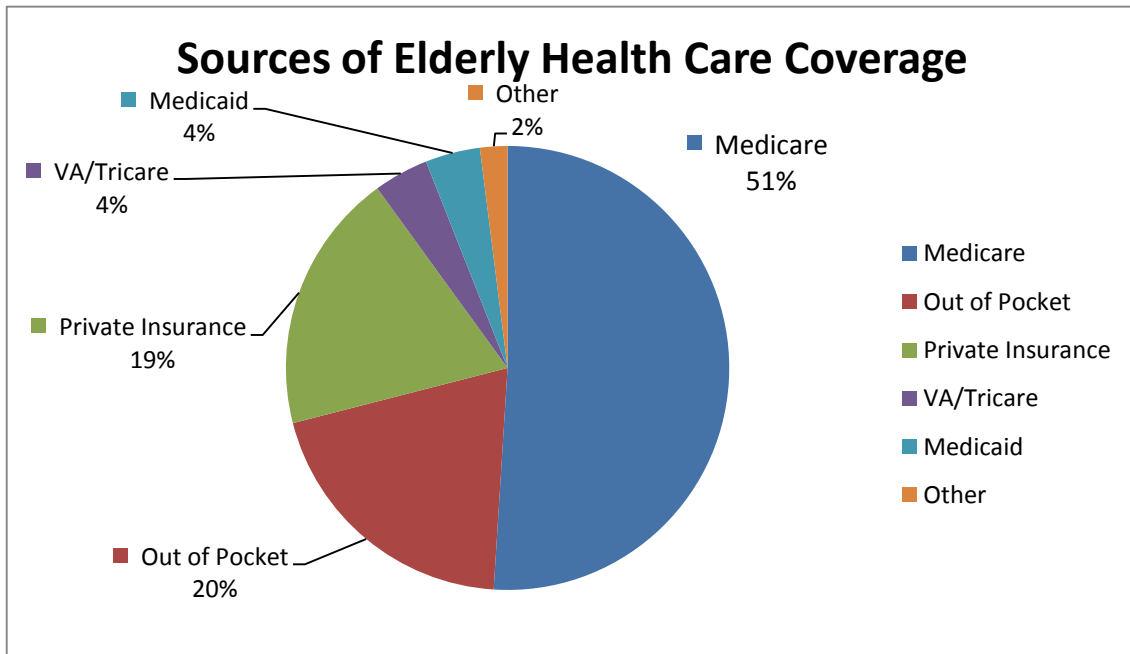
Seven employers are currently going through the Referendum Process. Four have completed their voting and the other three will be voting within the next couple of months. With the first four referendums, there were 92 eligible to vote with a total of 19 members voting yes and electing Medicare coverage.

Health Insurance and Health Care Funding

Maintaining Retirement Security. Because a majority of workers will not be eligible for employment-based retiree health benefits, individuals have primary responsibility for health care expenses in retirement and may experience erosion of their retirement benefits. This effect becomes even greater for those who do not have Medicare coverage. Medicare covers just over one-half of retiree health expenses.

The Increasing Burden. It has also been shown that retirees are going to continue to bear an increasing burden of out-of-pocket costs in the future. For retirees with free Medicare Part A and access to employment-based retiree health benefits, to pay the full cost of premiums and out-of-pocket expenses for the rest of their lives, a *couple* age 65 today will need \$295,000. A couple with drug use significantly above average may need more than \$299,000.

The Value of Medicare Benefits. The Employee Benefits Research Institute (EBRI) estimates that among non-institutionalized beneficiaries, Medicare covers only 51 percent of expenses associated with health care services. The present value of lifetime Medicare benefits for a *couple*, both age 65 and retiring in 2005, was \$328,000. Individuals are in large part responsible for covering the other 49 percent. Thus, if Medicare benefits are not available, a couple age 65 today may need significantly more than \$299,000 for health care expenses in retirement to cover the gap left by no Medicare Part A benefits.



Employment-Based Retiree Health Benefits

Individuals with employment-based retiree health benefits in addition to Medicare coverage typically have a rich benefit package. Most plans have a deductible, after which the plan covers out-of-pocket costs for inpatient and outpatient services with an out-of-pocket

maximum, and nearly all provide prescription drug benefits. One study found the average annual premium of a retiree health plan for retiree-only coverage to be \$4,080 for new Medicare-eligible retirees in 2005, of which retirees pay \$1,536, or 38 percent of the total premium.

However, 19 percent of employers offering benefits to Medicare beneficiaries require them to pay the full cost of the premium. Like Medicare, employment-based retiree health benefit programs typically require cost sharing when retirees receive health care services. Slightly more than 70 percent of employer plans have a deductible, although three-quarters cap out-of-pocket expenses for retirees. In 2005, the most common deductible among plans with a deductible was \$250, while the most common out-of-pocket maximum was \$1,500. Furthermore, it is common for plans to not subject prescription drug coverage to deductibles and out-of-pocket maximums that are separate from other covered services.

As high as they are, these projections are probably underestimating the amount of money needed in retirement for health care expenses. If health care costs increase faster than projected, or if individuals live beyond average life expectancy, retirees will need more money than suggested above.

The estimates of savings needed increase substantially for future retirees to pay for health insurance premiums, Medicare Part B premiums, and out-of-pocket health care costs during retirement for a person with access to employment-based health benefits.

The estimates in the figure below are for an *individual* who is 55 years old today and does not retire until age 65 in 2016. It also assumes the individual will have access to retiree health benefits through a former employer, but the plan is an access-only plan, such that the individual is responsible for paying the entire premium. Finally, it is assumed that the individual has access to Medicare.

Age at Death	Employment Based Retiree Health Premiums and Out-of – Pocket Cost
80	\$219,000
85	307,000
90	409,000
95	524,000
100	656,000
Source: EBRI Issue Brief No. 295 • July 2006 • © 2006 EBRI • www.ebri.org	

A 65-year-old retiring in 2016, who lives to age 80, will need \$219,000 in savings (at age 65) to pay for premiums and to cover out-of-pocket expenses each year. In contrast, an individual who lives to age 90 will need \$409,000 at age 65 in savings to pay for premiums and out-of-pocket expenses. Using a life expectancy of 82 for men and 85 for women, an average couple will need \$560,000 at age 65 for premiums and out-of-pocket expenses.

Of course, couples who live past average life expectancy will need to save more money than in the example, while those who do not reach average life expectancy would need to save less. Likewise, retirees who do not have Medicare benefits will incur higher costs and will need to save more.

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Employers

DRS is now the Old-Age and Survivors Insurance Program Administrator for Washington State

Effective July 1, 2009 the Department of Retirement Systems (DRS) became the Social Security Administrator of the Old-Age and Survivors Insurance (OASI) Program. Responsibilities include administration of the state's Section 218 agreement.

As the new administrator, DRS will assist all of Washington's public employers by serving as a facilitator and communication bridge between those employers and the Social Security Administration (SSA) and Internal Revenue Service (IRS). The SSA and IRS are the two principal federal agencies responsible for coverage, benefits and tax withholding associated with Social Security and Medicare.

Divided Referendum Medicare-Only

The 2008 Legislature passed a law that allows local governments to request a divided referendum in which employees can vote to participate in Medicare. It only affects employees who:

- Do not currently pay Medicare taxes;
- Were hired before April 1, 1986; and
- Have been in continuous employment through the date of the referendum.

For more information about how and when to request a divided referendum, see:

[Procedures](#)

[FAQs](#)

OASI and the Section 218 Agreement History

When the federal Social Security Act began in 1935, public employees were not eligible for Social Security benefits. This was due to a Constitutional question regarding the federal government's power to tax state and local governments. Consequently, many government employees were without a retirement plan.

In 1951, Section 218 of the Act authorized states to voluntarily elect Social Security coverage for public employees who were not already covered under a retirement plan. These Federal-State Agreements, often referred to as Section 218 Agreements, were entered into with the SSA. Since 1951, Employment Security Department has been responsible for administering the Social Security and Medicare coverage program, also known as Old Age Survivor Insurance (OASI) for all state and local (public) governmental employers throughout the State of Washington.

Contact Information

For Section 218 coverage or for Medicare Part A Hospital insurance (Medicare only) coverage (HB 2510 Divided Referendum) information or questions, contact DRS:

OASI@drs.wa.gov

DRS OASI Program line at (360) 664-7316

Additional Resources

[Social Security Administration](#)

[Internal Revenue Services](#)

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April 30, 2009

**Washington State Procedures for
Local Governments to Conduct a Divided Referendum for
Medicare Part A Hospital Insurance (Medicare-only) Coverage**

These procedures for Medicare-only coverage are based on RCW 41.48.030 (as amended by Chapter 142, Laws of 2008 (HB 2510)) and Section 218 of the Social Security Act, as administered by the Employment Security Department (ESD), current Washington State Social Security Administrator. Alternative procedures may be utilized at the discretion of the State Social Security Administrator.

1. **Adopt resolution** - The ***governing body*** of the local government initiates the referendum process by adopting a resolution to:
 - a. Request authorization to divide the local government's retirement system(s) by conducting a divided vote referendum for Medicare-only (for convenience, we use the term "Medicare-only" to refer to coverage of Part A Hospital Insurance) purposes (sample of resolution attached);
 - b. Authorize the appropriate individual to execute an agreement pursuant to the referendum;
 - c. Establish the effective date of Medicare-only coverage within the resolution (see discussion under FAQ #19); and
 - d. Acknowledge the applicable state and federal laws and regulations regarding employee withholdings, employer contributions and record keeping.

2. **The local government submits:**
 - a. The ***original signed and properly certified resolution*** adopted by the governing body of the political subdivision. The person executing the resolution and the agreement with the state must have the authority to do so.
 - b. A completed Section 218 ***coverage questionnaire, including a recommended date or dates for the referendum*** to be held (attached).
 - c. Mail or fax the documents to:

Department of Retirement Systems
State Social Security Administrator
P.O. Box 48380
Olympia, WA 98504-8380
Fax: (360) 753-1090 Attn: Kim Smith

3. Upon receipt of the executed resolution, **the State Social Security Administrator shall establish the date or dates on which the referendum will be conducted**

by mail-in ballots. The referendum must be held no less than **90 days after the date the Notice of Referendum is distributed** to eligible employees.

- a. The State Social Security Administrator shall provide the Notice of Referendum for distribution **by the local government** to all employees who are eligible to vote in the referendum.
 - b. The notice may be given by personal delivery, e-mail or first class mail and must be posted on all appropriate bulletin boards maintained by the local government to give notice to all eligible employees. **Notice must be given to eligible employees on leave of absence.** Contact the State Social Security Administrator about **special provisions that apply to those on active military duty.** If any doubt arises as to an employee's eligibility to participate in the referendum, a notice should be provided, and his or her status can be resolved later. The local government can require employees to initial a list indicating that they received the Notice of Referendum at least 90 days prior to the referendum date.
4. **Create list of employees** - The local government shall prepare a listing in electronic format with the names and identification numbers (Social Security number or employee ID number) of the eligible employees who were hired prior to April 1, 1986, are members of the retirement system(s) on the date of the referendum, **and** were employed on the date the Notice of Referendum was posted. This list must be separated by retirement system and should be modified as necessary during the period between the Notice of Referendum and the referendum date for retirements and other separations from service. The local government shall use the list to distribute ballots to eligible employees and shall furnish the list for the State Social Security Administrator to use to monitor ballots cast.
5. **Conduct Workshops** - The local government in conjunction with the Social Security Administration and the State Social Security Administrator will organize and conduct workshops for the eligible employees during the 90-day notice period.
- a. The educational workshops will be offered to each eligible employee to inform them of the benefits that may accrue to them and their spouses if their services are covered under Medicare.
 - b. Additionally, the educational workshops shall include an explanation of the tax liabilities to which they will be subject if coverage is chosen in the referendum process.
6. **Mail-in Ballots and Conduct of the Referendum**
- a. All elections will be held using mail-in procedures with secret written ballots provided by the State Social Security Administrator. Ballots shall identify the voter on an outside envelope for the State Social Security Administrator to verify that the voter was eligible to cast a ballot.
 - b. Local governments shall distribute ballots to those on the list of eligible employees, but no earlier than 90 days after the Notice of Referendum has been distributed.
 - c. In order to be counted, ballots shall identify the voter's name on an outside

envelope, must have proper postage, and must be postmarked no later than the closing date of the referendum, which shall be ten calendar days after the ballots were first distributed unless otherwise determined by the State Social Security Administrator.

- d. Failure to properly execute and return a ballot shall be deemed an election by the member to be included in the part or division of the retirement system that does not desire Medicare-only coverage.
- e. In a divided referendum for Medicare-only coverage, the ballot shall provide that a **“Yes” vote shall only be effective if the voter also identifies himself or herself** in order for the employer to be able to deduct payroll taxes. The identity of voters who vote “No” or whose ballots are not received shall not be disclosed to the employer.
- f. The ballot will contain provisions for the election by the member whether he or she desires to be included in the part of the system to be covered for Medicare-only, including paying Medicare taxes, or whether he or she desires to be included in the part of the system not covered for Medicare-only and not paying Medicare taxes. The text of the ballot shall include language as follows:
__ Yes. I elect to be covered for Medicare-only and to have my employer deduct my share of Medicare taxes from my pay and pay the employer’s share. I also agree that my “Yes” vote is only effective if I provide my name and Social Security number or other employee identification number below and I consent that these will be provided to my employer to implement my election of Medicare-only coverage.
Name: _____
Social Security Number or other Employee ID number: _____
- __ No. I do not elect to be covered for Medicare-only and do not agree to have my employer deduct my share of Medicare taxes from my pay.**
- g. Alternative procedures may be utilized at the discretion of the State Social Security Administrator.

- 7. The **State Social Security Administrator** designated by the Governor will **certify** that:
 - a. The referendum was held by written ballot on the question of whether members of a retirement system wish coverage under the state Section 218 Agreement;
 - b. All eligible members of the retirement system hired prior to April 1, 1986, had the opportunity to vote;
 - c. All members of the system on the date the Notice of the Referendum was issued were given at least 90 days' notice;
 - d. The referendum was conducted under the supervision of the duly designated agency; and
 - e. The retirement system, for Medicare-only coverage purposes, will be divided into two parts, one composed of positions of members of the system who voted for coverage and the other composed of positions of members of the system who did not vote for coverage.

8. At the close of the referendum process the **State Social Security Administrator** will:
 - a. Summarize the choice of each eligible member, in a paper or electronic format designated by the State Social Security Administrator. The summary will consist of the eligible member names, identification numbers, and their election as to Medicare-only coverage if they voted “Yes” and identified themselves for their employer.
 - b. The election made by each eligible member will be indicated as follows:
 1. **YES** - member **desires to be covered** under Medicare-only and consents to identify himself or herself to the employer.
 2. **NO** - member **desires not to be covered** under Medicare-only OR member did **not execute and return** the referendum ballot OR member fails to consent to identify himself or herself to the employer (member will **not** be covered for Medicare-only).
 - c. The State Social Security Administrator shall retain copies of all referendum ballots and a certified copy of the summarization of eligible members indicating the choice of each member who voted “Yes” and consented to identify himself or herself to the employer. The State Social Security Administrator shall provide a list to the employer of those eligible voters who voted “Yes” and consented to identify themselves to the employer, but shall not provide a list of those who voted “No” or failed to vote.
 - d. **To avoid misunderstandings, the local government/employer should notify each member on the list whether or not he or she is covered under Medicare-only.**

9. **Agreement/Plan**

- a. After the referendum is conducted, the State Social Security Administrator will e-mail the Agreement/Plan to the local government for completion. The governing body shall officially complete and sign the agreement/plan with the State.
- b. Execution of Modification - Upon receipt of the executed agreement from the local government, the State Social Security Administrator shall execute a modification to the Master Social Security Agreement between the State of Washington and the Social Security Administration (SSA). Accompanying the state’s request will be certification to the federal government of the proper conduct of the referendum.

10. **Execution of Modification by SSA**

- a. Upon receipt of a fully executed modification from SSA, the State Social Security Administrator shall notify the local government of the date that coverage has been accepted by SSA. A fully executed copy of the agreement/plan and modification will be returned to the local government.
- b. The agreement/plan and modification to extend the Medicare-only coverage must be fully executed within two years.

11. **Payment of applicable taxes**

The local government will initiate payment of the applicable taxes, if such payment

has not been made, to the IRS based on the appropriate IRS instructions. Generally, a lump sum payment of the Medicare-only taxes is due one month after the end of the calendar quarter in which the State Social Security Administrator is notified in writing by SSA that the modification for retroactive coverage has been approved.

WHAT IS MEDICARE?

Medicare is a national health insurance program for people age 65 or older, certain younger disabled people, and people with permanent kidney failure. Generally, you are eligible for Medicare if you or your spouse worked at least 10 years in Medicare-covered employment (and paid the Medicare tax), and you are 65 years old. Different eligibility standards may apply if you are eligible for Medicare based on a Social Security disability or permanent kidney failure.

Part A - Hospital Insurance helps pay for in-patient care in a hospital and/or skilled nursing facility (following a hospital stay), and for home health and hospice care. **It is financed by a portion of the payroll (FICA) tax paid by some workers and their employers.**

Part B - Medical Insurance helps pay for physician services, and many other medical services and supplies that are not covered by hospital insurance. **It is financed by a monthly premium paid by people who choose to enroll.**

Part C – Medicare Advantage plans use provider organizations; Part C is not relevant here.

Part D – Prescription Drug Coverage is also financed by a monthly premium paid by people who choose to enroll.

WHO IS ELIGIBLE FOR MEDICARE?

Generally, you are eligible for **free** Part A of Medicare if you or your spouse qualify for Social Security benefits or have worked for **at least 10 years (40 or more credits)** in Medicare-covered employment and you are 65 years old. However, there may be some exceptions to the rule.

Contact the Social Security Administration for specific information on Medicare enrollment at 1-800-772-1213 or <http://www.socialsecurity.gov/pubs/10043.html> or <http://www.socialsecurity.gov/>.

HOSPITAL INSURANCE “PART A”

The vast majority (99 percent) of individuals do not pay a premium for Part A coverage. However, some (1 percent) individuals 65 or older do not meet the requirements for premium-free hospital insurance. If you are in this category, you can get hospital insurance **by paying a monthly premium. If you pay for Part A coverage you must also pay the premium for Part B coverage.**

The following **example** reflects the current monthly premiums a typical eligible individual pays:

2009 MONTHLY PREMIUMS (These figures apply to "timely" enrollments.)

	Individual has at least <u>40 credits</u>	Individual has <u>30-39 credits</u>	Individual has less than <u>30 credits</u>
Part A	\$ -0-	\$ 244.00	\$ 443.00
Part B*	<u>96.40</u>	<u>96.40</u>	<u>96.40</u>
TOTALS	\$ 96.40	\$ 340.40	\$ 539.40

* May vary depending on total income

2009 - SOCIAL SECURITY WORK CREDITS

To qualify for benefits, you earn "credits" through your work – up to four each year. For 2009, for example, you earn one credit for each \$1,090 of wages or self-employment income. When you have earned \$4,360, you earned your four credits for the year. In 2008, one credit represented \$1,050 and you earned the maximum four credits for \$4,200.

RESOLUTION

WHEREAS, Chapter 142, Washington Laws of 2008 (RCW 41.48.030) established procedures in which members of retirement system(s) in political subdivisions of the State of Washington may obtain Hospital Insurance–Medicare-only coverage (“Medicare”), and

WHEREAS, *[Entity Name]* desires to offer Medicare coverage to its eligible employees,

NOW THEREFORE, be it resolved that the *[Governing Body]* does hereby adopt the following resolution:

SECTION 1. It is hereby declared to be the policy and purpose of the *[Governing Body]* to extend the provisions of RCW 41.48.030, providing Medicare coverage to eligible employees of the *[Entity Name]*.

SECTION 2. In pursuance of this policy, *[Governing Body]* requests the State Social Security Administrator, Employment Security Department/Department of Retirement Systems, to conduct a divided vote referendum, under Section 218(d)(6) of the Social Security Act, for employees hired before April 1, 1986, who are members of the *[List retirement system(s)]*. The divided vote referendum will be conducted pursuant to applicable State and Federal laws and regulations for the purpose of allowing eligible employees the option of paying the Medicare-only tax.

SECTION 3. The *[Head of Governing Body]* is authorized and directed to execute an agreement with the State of Washington to secure Medicare coverage of eligible employees as provided in Section 1.

SECTION 4. The coverage of eligible employees shall be effective as of *[Effective date of coverage]* for the employees who voted “Yes” in the divided vote Medicare referendum. *[See discussion under FAQ #19 about limitations on any proposed retroactive date.]*

SECTION 5. Withholdings from salaries or wages of employees for the purposes provided in Section 1 of this Resolution are hereby authorized to be made in the amounts and at such times as may be required by applicable State and Federal laws and regulations, and shall be paid to the Internal Revenue Service, in such amounts and at such times as are designated in IRS Code 3121(b)(7)(E) and 3126.

SECTION 6. Employer contributions shall be paid from amounts appropriated for such purposes to the Internal Revenue Service in accordance with applicable Federal laws.

SECTION 7. The *[Entity Name]* shall maintain such records and submit such reports as may be required by applicable State and Federal laws or regulations.

SECTION 8. This resolution shall take effect and be in full force from and after its passage.

_____, Washington, this ___ day of _____, 20___.

[Entity Name] (Political Subdivision)

By: _____
[Head of Governing Body, Title-Entity Name]

CERTIFICATION:

I, *[Head of Governing Body]*, do hereby certify that the foregoing is a true and correct copy of Resolution passed by the *[Governing Body]* on the _____ day of _____, 20___.

**Section 218 Coverage Questionnaire
Hospital Insurance – Medicare-Only Coverage**

1. Official Local Government Name: _____

2. Street Address: _____

3. Mailing Address: _____

4. Contact Name: _____ E-Mail Address: _____

Telephone Number: _____ Fax Number: _____

5. Approximate number of employees (include members of governing body): _____

6. Number of employees who will be eligible to vote in the Divided Vote Medicare Referendum:

<u>No. of Employees</u>	<u>Name of Retirement System(s)</u>	<u>Effective date</u>
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7. What date(s) do you recommend to distribute written ballots to eligible voters (must be at least 90 days after receiving the Notice of Referendum from State Social Security Administrator (consult State Social Security Administrator if any eligible voters are on military leave); closing date for completed ballots to be mailed to State Social Security Administrator is ten calendar days after ballots are first distributed)?

8. Identify any optional exclusions (e.g., elective positions, part-time positions; see Glossary) from coverage that you desire:

9. Name and title of person who will be authorized to sign the Resolution and the Agreement: _____

10. IRS Employer Identification Number: _____

11. Fax the completed Questionnaire and Resolution to Kim Smith, DRS, at 360-753-1090. Mail the original signed Questionnaire and Resolution to: DRS, State Social Security Administrator, P.O. Box 48380, Olympia, WA 98504-8380

Signature: _____

Title: _____

Date: _____

GLOSSARY OF SECTION 218 TERMS

Absolute Coverage Group/Non Retirement System Coverage Group - A permanent grouping of employees, e.g. all the employees of a city or town. It is a coverage group for coverage purposes; the term also refers to groups of employees whose positions are not under a retirement system. Such groups are also referred to as Section 218(b)(5) coverage groups.

Agreement/Plan -The contract between the State of Washington and the political subdivision to provide Social Security and/or health insurance coverage for state and local government employees under Section 218 of the Social Security Act.

Coverage Groups - Groupings by which employees must be covered under an agreement (absolute coverage group or retirement system coverage group).

Employee - The term "employee" for purposes of a federal-state agreement means an employee as defined in Sections 210(j) and 218(b)(3) of the Social Security Act. It includes an officer of a state or political subdivision. In most instances the common-law control test is applied in determining whether an employer-employee relationship exists.

Governing Body - The resolution must be adopted by the governing body of the political subdivision.

Hospital Insurance Coverage/Medicare-only/HI-Only – The health insurance program under the Social Security Act, also referred to as "Medicare." State and local employees who are not covered for full Social Security can be covered for HI-Only. HI-Only coverage can be obtained under a Section 218 agreement, or it can be mandatorily imposed.

Master Social Security Agreement/Section 218 Agreement - The written agreement between the state and the Social Security Administration to provide Social Security and/or Medicare only (health insurance) coverage for state and local government employees under Section 218 of the Social Security Act.

Modification - An amendment to the written agreement between the state and the Social Security Administration to make the original agreement applicable to the services of employees not previously covered for Social Security or Medicare-only, or to modify the original agreement in some other respect.

Optional Exclusion - Those services which the federal law gives the state the option to include or exclude from coverage under the agreement. The local government may request exclusion of the following services:

- a. All classes of elective positions
- b. All classes of part-time positions
- c. All classes the compensation for which is on a fee basis
- d. Agricultural labor, to the extent permitted by federal law
- e. By a student as permitted by federal law.

Referendum:

Majority-rule - All states are authorized under Section 218(d)(3) of the Act to conduct majority-vote referenda for coverage. If a majority of the eligible members of the retirement system (not a majority of those voting, unless all those voting are actually all of the eligible members of the retirement system) vote in favor of coverage, the state may then submit a modification to its agreement under Section 218 to extend coverage to that group. **When coverage is for Social Security and not Medicare-only, all employees whose positions are brought under the retirement system after the agreement was made applicable to that system are covered for Social Security. This does not apply to Medicare-only coverage since all new hires are mandatorily covered by Medicare.**

Divided-vote – The Act authorized certain states (including Washington) to become "named states" (Sections 218(d)(6) and 218(d)(7)) with the option of dividing a retirement system. The states have the following choices as to what may constitute a retirement system for referendum purposes:

- (a) The positions of all members of the system who elect coverage (**and all new members of the system**); and
- (b) The positions of all other employees under the system who elect **not** to be covered.

Retirement System Coverage Group – A grouping of employees in positions under a retirement system for Section 218 coverage purposes. The grouping may also be referred to as either a Section 218(d)(4) coverage group or **Section 218(d)(6)** coverage group depending upon the manner in which Social Security or **Medicare-only coverage** is extended to the grouping.

Retirement System - A pension annuity, retirement or similar fund or system established by a state or political subdivision.



FREQUENTLY ASKED QUESTIONS ON MEDICARE-ONLY DIVIDED REFERENDUM

April 30, 2009

NEW LAW ALLOWS EMPLOYEE REFERENDUM TO PARTICIPATE IN MEDICARE

Who is affected? Am I already covered?

- Q1. Am I affected by the new state law allowing a divided referendum for Medicare-only (RCW 41.48.030, passed as HB 2510 in 2008)?
- A1. You may be affected if you are **not** already covered by or paying for Medicare and **all** of the following conditions are true:
- You were hired before April 1, 1986 and have been continuously performing substantial services for a local government employer, and;
 - Your employer has authorized a referendum through Washington State's Social Security Administrator (SSSA), and;
 - You are employed by the local government on the date of the referendum.
- Q2. How can I tell if I am already paying for Medicare?
- A2. Check your pay stub for a deduction from your wages for Medicare.
- Q3. If I currently pay Social Security, am I affected?
- A3. No. You should already be considered a participant and should already be paying for Medicare.
- Q4. If I started work for my current employer after March 31, 1986, does this affect me?
- A4. No. Your Medicare coverage is already mandated.
- Q5. If I am a state employee, does this affect me?
- A5. No. Your Medicare coverage is already mandated.
- Q6. I think I qualify based on the conditions listed above, but am not sure. Who should I contact to find out for sure?
- A6. Contact your employer.
- Q7. If I belong to LEOFF Plan 1, does this law affect me?
- A7. Yes; if you meet the requirements explained in Q1 above.
- NOTE:** Most local governments with LEOFF Plan 1 employees already provide for medical coverage for LEOFF 1 retirees. It may not be beneficial to you to

also pay for Medicare, depending on your specific circumstances. For more information about your specific situation, contact your employer.

Q8. If I belong to LEOFF Plan 2, does this law affect me?

A8. Yes, if you meet the requirements explained in Q1 above.

NOTE: You are a member of LEOFF Plan 2 if you were hired on or after October 1, 1977 and are a full-time, fully compensated law enforcement officer or firefighter.

Q9. If my spouse is employed and is contributing to Medicare, am I already covered?

A9. Possibly. Ask your spouse to check his or her latest Social Security statement to see if he or she has enough credit for a Social Security or Medicare benefit. If your spouse is eligible for Social Security or Medicare, you can generally get Medicare Part A based on your spouse's work, even if you have not been paying for Medicare. For more details, including application to former spouses, see the Medicare websites at <http://www.medicare.gov/> or http://www.ssa.gov/pgm/links_medicare.htm.

What is the new law?

Q10. What's different about the new law?

A10. Before the new law, referendums were an "all or none" vote. If the majority of eligible employees voted "yes" for the coverage, then all eligible employees were required to participate. If the majority voted "no," then no eligible employees could participate. HB 2510 allows a divided referendum for Medicare-only coverage to be conducted where employees are separated into two coverage groups; those who vote yes and participate and those who vote no and do not. Subsequent new employees are treated as "yes" votes and must participate in Medicare.

Q11. Where do I find more information about the new law?

A11. The new state law is RCW 41.48.030. See <http://apps.leg.wa.gov/RCW/default.aspx?cite=41.48.030>. The federal law is Section 218 of the Social Security Act (42 USC 418).

What benefits would I get under "Medicare-only"?

Q12. What benefits does "Medicare-only" coverage provide?

A12. For the purpose of this FAQ sheet, Medicare-only coverage pertains to premium-free Part A Hospital Insurance. It helps pay for in-patient care in a hospital or skilled nursing facility (following a hospital stay), and for home health hospice care. It is financed by a portion of the payroll (FICA) tax paid by some workers and their employers. To learn more go to <http://www.medicare.gov/> or http://www.ssa.gov/pgm/links_medicare.htm.

Those ineligible for premium-free Part A can purchase this coverage. The 2009 premium is currently \$423.00 per month.

NOTE: This does **not** include coverage for office visits to health care providers under Medicare Part B nor prescription drug coverage under Medicare Part D.

- Q13. If I vote “yes” and identify myself on my ballot, am I automatically eligible to receive benefits from Medicare-only?
- A13. No. You only become a participant. You and your employer will have to pay Medicare taxes. To be eligible to receive full benefits you must first meet the following minimum eligibility requirements:
- You have accrued 40 credits (generally 10 years) of Medicare-covered employment, and;
 - Attain age 65.
 - There are other limited circumstances in which Medicare entitlement may be obtained. For details, see <http://www.medicare.gov> or http://www.ssa.gov/pgm/links_medicare.htm.
 - You may also qualify through your spouse (or even your former spouse)(see Q9).

What would I pay to participate in Medicare-only coverage?

- Q14. How much does it cost for Medicare-only coverage?
- A14. As of 2009, the Medicare tax is 1.45 percent of your gross wages, matched by an additional 1.45 percent paid by your employer.
- Q15. If I vote “no” will I have to pay Medicare taxes?
- A15. No.
- Q16. What if I choose to become a Medicare participant and later lose my covered employment before I meet the 40 credits of paid participation requirement? Can I get my money back?
- A16. No. However, other Medicare-covered employment elsewhere would be added to total employment to determine if you had sufficient Medicare work credit.

What is the procedure for a divided referendum for Medicare-only coverage?

- Q17. What should I do if I want to participate in Medicare-only coverage?
- A17. Ask your employer to request a divided referendum. Only your employer, which will have to pay half the Medicare taxes, can ask the State Social Security Administrator to hold a divided referendum on whether or not to participate in Medicare-only. To do so, the governing body for your employer must adopt a resolution requesting a divided referendum. There must be a separate referendum for each separate pension system.
- Q18. How does the referendum process work?
- A18. After adopting a resolution requesting a divided referendum, the employer develops a list of eligible employees and must provide at least 90 days notice of the referendum. (Consult the State Social Security Administrator if any eligible

employees are on military leave.) The State Social Security Administrator will provide ballots for the employer to distribute to eligible employees. The ballot provides that those who vote “yes” and voluntarily identify themselves become participants in Medicare-only.

Q19. If I vote “yes” can I pay my coverage retroactively to increase my number of credits of paid participation?

A19. Generally no, because you and your employer have to pay payroll taxes on your coverage and your employer may choose to make coverage prospective (for the future) rather than retroactive. However, your employer may agree to set the effective date of the Medicare coverage retroactively (within limits) if it chooses. If you vote to join Medicare coverage, your participation would be effective retroactive to this date.

RCW 41.48.030(c) states that the effective date can be no earlier than January 1 of the year before the federal Social Security Administration accepts the modification to the state agreement. For most elections in 2009, this would be January 1, 2008. However, the federal Social Security Administration has advised that coverage cannot be retroactive before June 12, 2008, the effective date of this new law.

As a practical matter, except in highly unusual personal circumstances, there is no advantage to setting an early date in 2008 for retroactivity. Since 1978, credits have been based on wages rather than on quarters on the job. For 2008, credits were based on earnings of \$1,050 per credit. Thus, for example, if you earned more than \$4,200 (four credits) in the last two months of 2008, you would already receive the maximum credits even if retroactive only to November 1, 2008. Since Medicare taxes would have to be paid on retroactive coverage, neither employers nor employees may find it desirable to extend retroactivity unnecessarily. If all affected employees earned at least \$4,200 between November 1, 2008, and December 31, 2008, there may be no reason to set a retroactive date earlier than November 1, 2008.

Q20. Is retroactivity an individual choice?

A20. No. The effective date, prospective or retroactive, is set by the employer and must be determined prior to voting.

Q21. If I elect to participate in Medicare-only coverage, can I later change my mind and opt out?

A21. No.

Q22. If I elect **not** to get Medicare-only coverage, can I later change my mind and opt in?

A22. Yes, under limited circumstances.

Q23. Who is the State Social Security Administrator (SSSA)?

A23. The Employment Security Department (ESD) has administered this program for the state since 1951. The Governor has reassigned this authority to the Department of Retirement Systems (DRS), effective July 1, 2009. Until then, ESD is the SSSA.