Frequently Asked Questions
Domestic Partner Election Health Insurance

1. **When was the issue of domestic partner imputed values known and why hasn't the state resolved the issue sooner?**

   At the end of 2018, the Public Employees Retirement System (PERS) informed Department of Administrative Services (DAS) management team that the state was not reporting these wages consistent with ORS 238A.005(17). Much work has been completed since 2018 to gather information for all affected employees covering the years of 2004-2022.

2. **Why is the state correcting the issue now?**

   DAS requested a Department of Justice (DOJ) opinion on ORS 238A.005(17) and received the opinion in May 2021. After consulting with DOJ, DAS determined that PERS was correct. The current legacy payroll system could not easily handle the change and would rely on monthly manual entry for a subset of employees. The decision was made to implement the change with the new Workday Payroll system with a go-live date of December 1, 2022.

3. **Will this only be forward looking, or will the amounts be corrected for previous years?**

   All employees that have an active OPSRP PERS account will be corrected for all years they had the domestic partner election. The years for corrections will be 2004-2022. A member's OPSRP account is "active" if the member has not withdrawn from OPSRP or retired.

4. **Will this change affect domestic partners who are registered under the Oregon Family Fairness Act?**

   No. An OPSRP member's "salary" is defined by the employee's taxable income under Oregon law. Domestic partners under the Oregon Family Fairness Act (OFFA) are treated as spouses for purposes of Oregon law, including Oregon income tax. Health insurance that an employer provides to an employee's spouse is not included in taxable income. Accordingly, health insurance provided to a domestic partner registered under OFFA is not included in a member's Oregon taxable income and is not included in "salary" under OPSRP.

5. **How will this change affect employees with a current election?**

The imputed wages of the health insurance will be included as PERS subject wages. This will eventually increase the members' retirement benefit. Affected employees will have 6% of the imputed wage withheld from their net pay.

6. Will the affected employees be notified of this change?

Employees with a 2022 election will be notified by email of the change which will include a tool to assist them with calculating the estimated change to their net pay: DPT Change In Net Pay Calculator.

7. Who created this policy and who has the power to modify it?

The Oregon State Legislature wrote ORS 238A.005(17)(a) into law which reads:

> "Salary" means the remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board or other items of value, to the extent the remuneration is includable in the employee's taxable income under Oregon law.

The Legislature is the only branch of government that has the authority to create, modify or repeal statute. They can do so at any time they are in session. The next regular legislative session begins in January 2023.

8. Why is it that only OPSRP PERS members are affected and not Tier One or Two PERS members?

Tier One and Two PERS members are covered by ORS 238.005(26)(c)(I) which reads:

> For purposes of this chapter: (26)(c) "Salary" or "other advantages" does not include: (I) Payments made by an employer for insurance coverage provided to a domestic partner of an employee.

9. How many employees are affected?

There are about 800 employees who have a 2022 election. These employees will be affected for purposes of the net pay difference beginning January 2023. There are thousands of employees with previous year elections, including former employees that will need PERS corrections for the years 2004-2022.

10. Who is paying the cost to correct previous year elections?

Agencies will bear the cost of those corrections within existing agency budgets.

11. What is the total cost to the state to remedy this issue?

The estimated cost to the state to remedy this issue for years 2004-2022 is about $13 million. This is a cost that agencies will bear within existing budgets.

12. How have other PERS-participating employers, such as local government and school districts, handled this situation?

Based on responses from other employers that participate in the Employer Advisory Group with PERS, these other PERS-participating employers report this imputed wage as PERS subject wages and have taken similar corrective action.