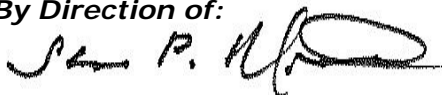


MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania Governor's Office

Subject: Benefits Eligibility of Permanent and Nonpermanent Employees	Number: 530.11 Amended
Date: November 9, 2016	By Direction of:  Sharon P. Minnich, Secretary of Administration
Contact Agency: Office of Administration, Office for Human Resources and Management, Bureau of Employee Benefits and Services, Telephone 717.787.9872	

This directive establishes policy, responsibilities, and procedures for benefits eligibility of permanent and nonpermanent employees. This amendment addresses the federal requirements under the *Affordable Care Act*. Marginal dots are excluded due to major changes.

1. **PURPOSE.** To establish policies, responsibilities, and procedures regarding the definition, designation, and benefits eligibility of permanent and nonpermanent employees.
2. **SCOPE.** This directive applies to all departments, boards, commissions, and councils under the Governor's jurisdiction (hereinafter referred to as "agencies") and, as appropriate, to legislative, judicial, and executive agencies not under the Governor's jurisdiction.
3. **OBJECTIVE.** To ensure the accurate definition and designation of employees as permanent or nonpermanent for benefit purposes and to ensure the proper extension of benefits to them.
4. **DEFINITIONS.** The following definitions pertain only to this directive. For purposes other than this directive, these words and terms may have different meanings.
 - a. **Anniversary Measurement Period.** An 11 month measuring period from the employee's date of hire plus 335 days.
 - b. **Anniversary Stability Period.** The 12 month period in which a *Patient Protection and Affordable Care Act* (PPACA) Full-Time Employee may be eligible for the Bronze Plan provided the employee had an average of 30 hours of service per week during the Anniversary Measurement Period.

- c. **Annual Measurement Period.** A 12 month measuring period from October 3 – October 2.
- d. **Annual Stability Period.** The 12 month period from January 1 – December 31 that immediately follows the Annual Measurement Period.
- e. **Break in Employment.** A voluntary or involuntary interruption in an individual's employment status with the commonwealth. A break in employment may be caused by such events as retirement, resignation, furlough, death, or involuntary separation. The term **does not include** leaves without pay of any kind, legal strike absences, suspensions, or transfers, regardless of their duration.
- f. **Break in Service.** For determining eligibility as a PPACA Full-Time Employee, a voluntary or involuntary interruption in an individual's employment status with the commonwealth of greater than 91 days. A break in service may be caused by such events as retirement, resignation, furlough, death, involuntary separation, suspension, legal strike absence and leave without pay. A leave without pay covered by the *Family Medical Leave Act* (FMLA) and *Uniformed Services Employment and Reemployment Rights Act* (USERRA) is not considered a break in service.
- g. **Bronze Plan.** The health and medical benefit coverage option provided by the Pennsylvania Employees Benefit Trust Fund that is designed and identified to provide a minimum of the lowest level of coverage necessary to meet the PPACA requirements for minimum essential coverage and that has required participant contributions in an amount of no more than the maximum amount that is considered affordable under PPACA.
- h. **Employee Group.** A one-character code in SAP which identifies the expected duration of employment with the commonwealth. The commonwealth uses Employee Groups to define the type of employment: Permanent ('P'), Non-Permanent ('N'), PA Conservation Corp ('C'), PA National Guard ('G'), Health Registrar ('R'), Official Board Member ('E'), Per Unit ('U'), Annuitant ('A'), External Person ('X'). The Employee Group impacts on an employee's benefits eligibility.
- i. **Employee Subgroup.** A two-character code in SAP that is a subdivision of the employee group that allows for further definitions of employment status, and defines the degree of employment for an employee in a given position. Employee Subgroup defines employee work status (Full-Time or Part-Time) and work schedule (75 hour pay scale or 80 hour pay scale).
- j. **Family Medical Leave Act (FMLA).** The *Family Medical Leave Act of 1993 (29 U.S.C. §2601, et seq.)* is the federal law that requires qualifying employers to provide a minimum of 12 weeks of unpaid leave with benefits within a 12 month period to eligible employees due to: a serious health condition of an employee that makes the employee unable to perform the functions of the employee's job; a serious health condition of a family member when the employee is attending to the medical needs of the family member; for the birth of a son or daughter, and to care for the newborn child; for adoption or foster care placement of a child; or because of any qualifying exigency arising out of the fact that the employee's family member is a military member on covered active duty (Military Exigency Absence). The FMLA also requires employers to provide a minimum of 26 weeks of unpaid leave to an employee within a single 12 month period for the serious injury or illness of a covered service member or covered veteran who is an employee's family member when the employee is needed to care for the covered service member or covered veteran (Military Caregiver Absence).

- k. **Furlougee.** An employee who is removed from his or her civil service or union covered position for reasons other than misconduct, work performance or an improper appointment under the *Civil Service Act* and who meets one of the following criteria;
- (1) Is on a furlough recall list as prescribed in the appropriate labor agreement; or
 - (2) Held a civil service covered, non-represented position when furloughed and the individual remains on a mandatory or optional reemployment list.
- l. **Hour of Service.** Each hour for which an employee is paid, or entitled to payment, for the performance of duties; and, each hour for which an employee is paid, or entitled to payment for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (such as disability), jury duty, or leave of absence; but, not including any such hours on an unpaid basis. Unpaid FMLA and USERRA-covered absences will be counted as hours of service.
- m. **Nonpermanent Employee.** An employee who is hired with the expectation of being in an active pay status for less than 12 consecutive months, without the expectation of working on an annually recurring basis, or who is hired with the expectation of being in an active pay status for less than nine consecutive months on an annually recurring basis. The use of this term does not change or alter in any way the at-will employment relationship between the commonwealth and its employees. **NOTE:** This definition should not be confused with civil service temporary appointments. *Section 605, Civil Service Act of August 5, 1941, P.L. 752, as amended*, provides for such appointments for periods of fewer than six months.
- n. **PPACA.** The *Patient Protection and Affordable Care Act* and applicable regulations thereunder.
- o. **PPACA Full-Time Employee.** An employee who: (i) is a nonpermanent employee or a permanent part-time employee; and (ii) during the applicable measurement period has averaged a minimum of 30 hours of service per week.
- p. **Part-Time Employee.** An employee who is expected to be in an active pay status fewer than 75 or 80 hours in a pay period, depending upon the pay scale. The use of this term does not change or alter in any way the at-will employment relationship between the commonwealth and its employees.
- q. **Permanent Employee.** An employee who is hired with the expectation of being in an active pay status for more than 12 consecutive months or who is hired with the expectation of being in an active pay status from 9 to 12 consecutive months inclusive and with the expectation of working on an annually recurring basis. The use of this term does not change or alter in any way the at-will employment relationship between the commonwealth and its employees. **NOTE:** This definition should not be confused with civil service regular status. Civil service regular status is assigned to civil service regular status employees after the successful completion of their civil service probationary period, which can range from 6 to 18 months.
- r. **SAP (Systems, Applications, and Products).** SAP is the abbreviation for a software application package used by the commonwealth which is comprised of a number of fully integrated modules such as HR & Payroll, Finance, and Plant Maintenance.

- s. ***Uniformed Services Employment and Reemployment Rights Act (USERRA).***
The name of the federal law that dictates policies employers must follow when employing uniformed service members and returning them to work after military duty.

5. POLICY.

- a. Benefit eligibility varies for permanent and nonpermanent employees.
 - (1) Permanent employees are eligible for the following benefits, provided other eligibility requirements are met:
 - (a) Health Insurance Benefits
 - (b) Group Life Insurance Program
 - (c) Voluntary Benefits Program
 - (d) Retirement
 - (e) Leave and Holidays (Except where excluded under *Management Directive 530.27, Leave Related Policies for Employees Excluded from Earning Leave and Leave Service Credit.*)
 - (2) Nonpermanent employees are eligible for benefits based on appropriate labor agreement, *Personnel Rules*, administrative manuals and as described below in Section 5.c.
- b. The following provisions shall be used to determine whether an employee shall be designated as permanent or nonpermanent employee for benefit purposes. The designation of permanent or nonpermanent for benefit purposes is separate and distinct from determining whether or not an employee is a PPACA Full-Time Employee.
 - (1) Agencies must use the definitions in Section 4, Definitions, when designating employees as permanent or nonpermanent for the purpose of this directive. The definitions of permanent and nonpermanent employees for benefit purposes are distinct from the definitions of permanent and temporary positions set forth in § 3, *Civil Service Act*.
 - (2) An employee is permanent or nonpermanent in relation to employment with the commonwealth, not with any particular agency. Jobs that must be designated as Nonpermanent are listed at: [Jobs Defined As Nonpermanent](http://www.hrm.oa.pa.gov/Benefits/Documents/530_11-jobs.xlsx) (http://www.hrm.oa.pa.gov/Benefits/Documents/530_11-jobs.xlsx). Time served in such jobs will not count toward the time requirements in Section 4.q. for defining an employee as permanent. Sections 5. b. (3) and 5. b. (4) will not apply to such jobs.
 - (3) Once an employee has been designated as permanent, that status will not be redesignated unless one of the following situations occur:

- (a) An employee returns to service after a break in employment of longer than 14 calendar days. If there is a break in employment of longer than 14 calendar days, an employee's permanent status must be redesignated in accordance with the expectation of the duration of new employment. If a furlougher is rehired after a break in employment of longer than 14 calendar days, his or her employment status is to be designated as permanent (except as provided in Section 5. b. (2)).
 - (b) An employee voluntarily takes a nonpermanent position. If an employee voluntarily takes a nonpermanent position, an employee's permanent status must be redesignated in accordance with the expectation of the duration of nonpermanent employment. However, if an employee takes a nonpermanent position to avoid a furlough, it would not be considered voluntary and the employee will remain designated as permanent.
 - (c) An employee accepts a position in one of the jobs listed in Section 5. b. (4) (whether voluntarily or involuntarily). In any such case, the employee must be redesignated as nonpermanent.
- (4) An employee who works continuously for longer than 12 months shall be designated as permanent (see exceptions listed at: [Jobs Defined As Nonpermanent](http://www.hrm.oa.pa.gov/Benefits/Documents/530_11-jobs.xlsx) (http://www.hrm.oa.pa.gov/Benefits/Documents/530_11-jobs.xlsx). If a nonpermanent employee works longer than originally expected and thereby fulfills the definition of permanent, the Employee Group must be changed effective either: the date it is determined that the employee will be designated as permanent; or the date the employee met the definition of permanent as found in Section 4.q. The employee's eligibility for benefits begins on the date of designation as permanent, provided other eligibility requirements are met. In the case of a civil service employee serving a temporary appointment pursuant to the provisions of § 605, *Civil Service Act*, before changing the Employee Group from nonpermanent to permanent, the employee must be appointed in probationary status from a Full-Time employment eligible list under the provisions of § 601, *Civil Service Act*.
- (5) Work Schedule Changes.
- (a) A permanent Full-Time Employee whose work schedule is changed to that of a permanent Part-Time Employee, and who is expected to remain a Part-Time Employee for fewer than 60 calendar days, will continue to be considered a permanent Full-Time Employee for benefit purposes.
 - (b) A permanent Full-Time Employee whose work schedule is changed to that of a permanent Part-Time Employee, and who is expected to remain a Part-Time Employee for more than 60 calendar days, shall be changed from a permanent Full-time Employee to a permanent Part-Time Employee for benefit purposes. If the agency knows that the work schedule change will exceed 60 calendar days, the employee's status shall be changed to permanent part-time effective the date of the work schedule change. If the agency does not anticipate that the work schedule change will exceed 60 days, the employee's status shall be changed to permanent part-time effective the date the agency knew the work schedule change would exceed 60 days or the 61st day, whichever is earlier. Because the employee qualifies for the Bronze Plan as a PPACA Full-Time Employee, the employee shall be given the option to enroll in the Bronze Plan.

- (c) A permanent Part-Time Employee whose work schedule is changed to less than 18.75 or 20 hours in a pay period (depending upon the pay scale), and who is expected to remain on the new work schedule for fewer than 60 calendar days, will continue to be considered a permanent Part-Time Employee for benefit purposes.
 - (d) A permanent Part-Time Employee whose work schedule is changed to less than 18.75 or 20 hours in a pay period (depending upon the pay scale), and who is expected to remain on the new work schedule for more than 60 calendar days, will have his or her medical and supplemental benefits cancelled. If, at the time of the work schedule change, the agency knows that the work schedule change will exceed 60 calendar days, the employee's benefits shall be cancelled effective the date of the work schedule change. If, at the time of the work schedule change, the agency does not anticipate that the work schedule change will exceed 60 days, the employee's benefits shall be cancelled effective the date the agency knew the work schedule change would exceed 60 days or the 61st day, whichever is earlier. If the employee's benefits are cancelled and the employee qualifies for the Bronze Plan as a PPACA Full-Time Employee, the employee shall be given the option to enroll in the Bronze Plan.
 - (e) A permanent Part-Time Employee whose work schedule is changed to greater than 18.75 or 20 hours in a pay period (depending on the pay scale), and who is expected to remain on the new work schedule for less than 60 calendar days, will continue to be considered a permanent Part-Time Employee for benefit purposes.
 - (f) A permanent Part-Time Employee whose work schedule is changed to 75 or 80 hours in a pay period (depending on the pay scale), and who is expected to remain on the new work schedule for more than 60 calendar days, shall be changed from a permanent Part-Time Employee to a permanent Full-Time Employee for benefit purposes. If, at the time of the work schedule change, the agency knows that the work schedule change will exceed 60 calendar days, the employee's status shall be changed to permanent full-time effective the date of the work schedule change. If, at the time of the work schedule change, the agency does not anticipate that the work schedule change will exceed 60 days, the employee's status shall be changed to permanent full-time effective the date the agency knew the work schedule change would exceed 60 days or the 61st day, whichever is earlier.
- c. The following provisions shall be used to determine whether an employee shall be designated as a PPACA Full-Time Employee for benefit purposes. **NOTE:** The designation of permanent or nonpermanent for benefit purposes is separate and distinct from determining whether an employee is defined as a PPACA Full-Time Employee.
- (1) New Hire, Transfer, Promotion, Demotion or Reassignment.
 - (a) Considerations when filling a vacancy.

- 1** If, based on the facts and circumstances at the time a permanent part-time or nonpermanent position is announced or advertised, the agency determines the selected candidate is not reasonably expected to average a minimum of 30 hours of service per week during the Anniversary Measurement Period, the candidate will not be designated as a PPACA Full-Time Employee effective the date of hire unless:
 - a** The selected candidate is being promoted, demoted, reassigned or transferred from an agency that uses SAP; and
 - b** The selected candidate was a PPACA Full-Time Employee in his/her prior position; and
 - c** The selected candidate did not have a Break in Service.
 - 2** If, based on the facts and circumstances at the time a permanent part-time or nonpermanent position is announced or advertised, the agency determines the selected candidate is reasonably expected to average a minimum of 30 hours of service per week during the Anniversary Measurement Period, the selected candidate will be designated as a PPACA Full-Time Employee for the time period effective the date of hire plus 364 days.
 - 3** The agency will consider the following when determining whether or not a candidate is reasonably expected to average a minimum of 30 hours of service per week during the Anniversary Measurement Period:
 - a** If the position is newly created, the agency will make a reasonable determination based on the operational needs and requirements and anticipated average weekly hours of service.
 - b** If the position is established, the agency will consider the incumbent's average weekly hours of service and any anticipated changes in average weekly hours of service based on operational needs and requirements.
- (b)** Employees designated as PPACA Full-Time Employees during Anniversary Measurement Period.
- 1** Following the conclusion of the Anniversary Measurement Period, if an employee averaged a minimum of 30 hours of service per week during the Anniversary Measurement Period, the employee will continue to be designated a PPACA Full-Time Employee through the end of the Anniversary Stability Period. If the employee also averaged a minimum of 30 hours of service per week during the Annual Measurement period, the employee will continue to be designated a PPACA Full-Time Employee through the end of the next Annual Stability Period.

- 2** Following the conclusion of the Anniversary Measurement Period, if an employee did not average a minimum of 30 hours of service per week during the Anniversary Measurement Period, the employee will not be designated a PPACA Full-Time Employee during the Anniversary Stability Period. Once the employee has been in an active pay status for an entire Annual Measurement Period, the employee's designation as a PPACA Full-Time Employee will be determined as set forth in Section 5. c. (2).
- (c) Employees not designated as PPACA Full-Time Employees during the Anniversary Measurement Period.
- 1** Following the conclusion of the Anniversary Measurement Period, if an employee did not average a minimum of 30 hours of service per week during the Anniversary Measurement Period, the employee will continue to not be designated a PPACA Full-Time Employee through the end of the Anniversary Stability Period.
 - 2** Following the conclusion of the Anniversary Measurement Period, if an employee averaged a minimum of 30 hours of service per week during the Anniversary Measurement Period, the employee will be designated a PPACA Full-Time Employee through the end of the Anniversary Stability Period. Once the employee has been in an active pay status for an entire Annual Measurement Period, the employee's designation as a PPACA Full-Time Employee will be determined as set forth in Section 5. c. (2).
 - 3** If the average weekly hours of service increase during the Anniversary Measurement Period, so that if the employee had begun employment with the increased average weekly hours of service the employee would have reasonably been expected to average a minimum of 30 hours of service per week, the employee will be designated a PPACA Full-Time Employee for the remainder of the Anniversary Measurement Period and for the Anniversary Stability Period.
- (2) Employees who have been in an active employment status for an entire Annual Measurement Period.
- (a) Employees designated as PPACA Full-Time Employees during the Annual Measurement Period.
- 1** Following the conclusion of the Annual Measurement Period, if an employee averaged a minimum of 30 hours of service per week during the Annual Measurement Period, the employee will continue to be designated a PPACA Full-Time Employee through the end of the next Annual Stability Period.
 - 2** Following the conclusion of the Annual Measurement Period, if an employee did not average a minimum of 30 hours of service per week during the Annual Measurement Period, the employee will no longer be a PPACA Full-Time Employee effective the following January 1.

(b) Employees not designated as PPACA Full-Time Employees during the Annual Measurement Period.

1 Following the conclusion of the Annual Measurement Period, if an employee did not average a minimum of 30 hours of service per week during the Annual Measurement Period, the employee will continue to not be designated a PPACA Full-Time Employee through the end of the next Annual Stability Period.

2 Following the conclusion of the Annual Measurement Period, if an employee averaged a minimum of 30 hours of service per week during the Annual Measurement Period, the employee will be designated a PPACA Full-Time Employee through the end of the next Annual Stability Period.

(3) Rehire or Return from Furlough.

(a) If an employee has a Break in Service of 92 days or more, refer to Section 5. c. (1).

(b) If an employee has a Break in Service of 91 days or less, the following rules will apply:

1 If the employee was a PPACA Full-Time Employee at the time of separation, he/she will be designated a PPACA Full-Time Employee effective the date of rehire or return from furlough.

a For determining future eligibility as a PPACA Full-Time Employee, the Anniversary Measurement/Stability Period or Annual Measurement/Stability Period that was applicable at the time of the prior separation will apply.

b The employee will not be credited with any hours of service during the Break in Service.

2 If the employee was not a PPACA Full-Time Employee at the time of separation and the employee is not expected to average a minimum of 30 hours of service per week, the employee will continue to not be designated a PPACA Full-Time Employee.

a For determining future eligibility as a PPACA Full-Time Employee, the Anniversary Measurement/Stability Period or Annual Measurement/Stability Period that was applicable at the time of the prior separation will apply.

b The employee will not be credited with any hours of service during the Break in Service.

3 If the employee was not a PPACA Full-Time Employee at the time of separation and the employee is expected to average a minimum of 30 hours of service per week, the employee will be designated a PPACA Full-Time Employee for the remainder of the Annual/Anniversary Stability Period.

- a** For determining future eligibility as a PPACA Full-Time employee, the Anniversary Measurement/Stability Period or Annual Measurement/Stability Period that was applicable at the time of the prior separation will apply.
 - b** The employee will not be credited with any hours of service during the Break in Service.
- d.** The following provisions shall be used to determine continuation of benefits during a leave of absence:

(1) FMLA Covered Absences.

- (a)** For PPACA purposes, employees who are on FMLA covered absences will continue to be eligible for benefits during their paid and unpaid FMLA absences.
- (b)** Following the expiration of FMLA covered absences, the first 91 calendar days of leave will be with benefits. Unless the employee returns to work, the employee will be placed on leave without pay without benefits effective the 92nd day of absence.

(2) Military Leaves of Absence. The commonwealth provides leave benefits that exceed the requirements of the USERRA. For PPACA purposes, employees who are on military leaves of absence will continue to be eligible for benefits, regardless of whether or not the military leave of absence is covered by USERRA, except for employees who enlist in the regular branches of the U.S. Armed Forces. The employee will be placed on leave without pay without benefits effective the 92nd day of absence. **Reference:** *Management Directive 530.26, Military Leaves of Absence.*

(3) Suspension. For PPACA purposes, employees who are placed on suspension will continue to be eligible for benefits for the first 91 calendar days. The employee will be placed on leave without pay without benefits effective the 92nd day of suspension.

(4) Other Unpaid Leave. For PPACA purposes, employees who are placed on a leave without pay not otherwise designated in Section 5. d. will continue to be eligible for benefits for the first 91 calendar days. Unless the employee returns to work, the employee will be placed on leave without pay without benefits effective the 92nd day of absence.

6. RESPONSIBILITIES.

a. Agency Human Resources Offices shall:

- (1)** Determine if a new hire will be designated a PPACA Full-Time Employee based on the anticipated hours of service.
- (2)** Inform employees at the time of hire of the expected duration of their employment and designation as either permanent or nonpermanent for benefit purposes.

(3) Submit E-PAR to the HR Service Center, correctly inputting employees' Employee Group, Employee Subgroup and Work Schedule in SAP.

(4) Report to the HR Service Center work schedule changes that affect PPACA Full-Time Employee eligibility.

b. Office of Administration, Office for Human Resources and Management, Bureau of Employee Benefits and Services (BEBS) shall provide advice regarding any questions related to benefit rights of permanent and nonpermanent employees and PPACA.

c. Office of Administration, Office for Human Resources and Management, HR Service Center and Agency Human Resources Offices of agencies not serviced by the HR Service Center shall:

(1) Inform employees, via the appointment letter, of the expected duration of their employment and designation as either permanent or nonpermanent for benefit purposes.

(2) Inform employees, via the appointment letter, of their eligibility for benefits.

(3) Correctly extend benefits to employees based on the definitions and other eligibility requirements set forth in this directive.

(4) Determine whether an employee shall be designated as a PPACA Full-Time Employee during the Anniversary/Annual Measurement and Anniversary/Annual Stability periods.

(5) Review benefits provided to employees due to their Employee Group, Employee Subgroup, and other eligibility requirements to ensure appropriate benefits are provided.

(6) Notify employees 30 days prior to termination of PPACA Full-Time benefits during the Anniversary/Annual Measurement periods.

(7) Run reports for Annual Stability and Annual Measurement Periods.

(8) Run reports to audit SAP for PPACA Full-Time benefit eligibility.

(9) Update data for dual hire employees in SAP.

7. PROCEDURES.

a. Agency Human Resources Office.

(1) Submits E-PAR to the HR Service Center correctly identifying employees' Employee Group, Employee Subgroup, Work Schedule, and PPACA Full-Time Employee designation.

(2) For short term absences, processes all paid and unpaid leaves of absence through the SAP Time Infotypes.

(3) For long term absences, processes all long term unpaid absences through the SAP Transactions and Time Infotypes.

- (4) For PPACA Full-Time eligible employees, submits a Help Desk ticket in the benefits category to the HR Service Center when the employee is returning from leave without pay.

b. Agency Human Resources Office or Office of Administration, Office for Human Resources and Management, HR Service Center.

- (1) Receives request to process employee transaction. Reviews information provided to determine required SAP updates.
- (2) Processes position and employee actions, as appropriate.
- (3) Generates correspondence to inform the employee of their benefits eligibility.
- (4) Processes Bronze Plan enrollment for PPACA Full-Time Employees.

This directive replaces, in its entirety, *Management Directive 530.11*, dated July 25, 2006.