

Chapter ETF 10

ADMINISTRATION

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ETF 10.01 Definitions. Words, phrases, and terms used in all ETF chapters which are not defined in this section shall have the meaning set forth in s. 40.02, Stats.:

(1g) "Active military service" and "active service," as that term is used with reference to military service, including in s. 40.02 (15) (a) (intro.) and 1, (c) (intro.), 1 and 4, and (48m) (f), Stats., mean active duty military service in the armed forces of the United States, excluding:

(a) Service reported by the military as active duty for training purposes.

(b) Service as a cadet or student at a U.S. military service academy.

Note: This definition does not apply to the term "active service" used in reference to active performance of the duties of employment with a participating employer, as for example in s. 40.63 (1) (c) and (2), Stats.

Insofar as possible, the department relies on U.S. armed forces documents, such as the DD 214, the AGO53-55 series, NAVPERS 553, and GSA 6851, to identify periods of "active duty" and "active duty for training."

(1m) "Current basic pay rate" means:

(a) Unless otherwise provided by ch. 230, Stats., contractual agreements authorized under subch. V of ch. 111, Stats., or par. (b) or (c), the hourly rate, or its equivalent, excluding any overtime or supplementary compensation, at which the employe is paid at the time of termination of employment or at the time of death. For an active employe or employe on an approved leave of absence the "current basic pay rate" means the hourly rate, or its equivalent, the employe is paid during the pay period or was paid prior to the commencement of the leave of absence. The equivalent of the hourly rate of pay shall be obtained by dividing the employe's total earnings in a typical pay period, excluding any overtime, on-call, extracurricular or supplementary compensation, by the number of hours, excluding hours, such as overtime, on-call and extracurricular hours which are incidental to the primary employment, for which the employe is paid in that pay period. If the employe has received a pay adjustment during the 12 months preceding termination, death or leave of absence, other than a permanent change that is broadly applicable

to the employes of that employer, or unless that change is the result of a significant change in the nature and duties and activities of that employe, then the equivalent of the hourly rate shall be the greater of the previous current basic pay rate prior to the pay adjustment or the final average earnings divided by 174.

(b) For an annuitant who becomes a participating employe subject to s. 40.22, Stats., within 3 years of the original date of termination, the greater of the current basic pay rate as established under par. (a) on the effective date of the original annuity or the current basic pay rate at the time of subsequent termination.

(c) For annuitants who become participating employes subject to s. 40.22, Stats., after more than 3 years from the original date of termination the current basic pay rate determined in accordance with par. (a) at the time of subsequent termination for sick leave accumulated after re-employment only. The conversion of sick leave accumulation in effect prior to reemployment shall be calculated by application of the current basic pay rate in effect prior to reemployment as determined under par. (a).

(2) "Dependent" means:

(a) For life insurance purposes, an employe's spouse and an employe's unmarried child, including natural child, stepchild, adopted child and a child in an adoptive placement under s. 48.837 (1), Stats., who is dependent upon the employe for at least 50% of support and maintenance and who is:

1. More than 14 days of age, but under the age of 19,
2. Age 19 or over but less than age 25 if a full-time student, or
3. Age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

(b) For health insurance purposes, an employe's spouse and an employe's unmarried child who is dependent upon the employe or the employe's former spouse for at least

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50% of support and maintenance. In this paragraph, "child" includes a natural child, stepchild, adopted child, child in an adoptive placement under s. 48.837 (1), Stats., and a legal ward who became a legal ward of the employe or the employe's former spouse prior to age 19, and who is:

1. Under the age of 19,
2. Age 19 or over but less than age 25 if a full-time student, or
3. Age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

(2m) "Earnings" under s. 40.02 (22), Stats., except as otherwise provided by federal regulations for OASDHI purposes, does not include payments made in lieu of welfare, payments made to reimburse welfare costs, or payments made as part of a work relief, general relief or public assistance program under ch. 49, Stats., unless employment is part of a training program to improve skills or increase employability and the employment satisfies the requirements under s. 40.22 (1), Stats.

(3) "Full calendar year" as used in s. 40.08 (8) (d) and (10), Stats., means the time period beginning on a given date and ending on the same date in the next year.

(3d) "Guardian" has the meaning given in s. 880.01 (3), Stats., and includes conservators appointed pursuant to s. 880.31, Stats.

(3h) "Inactive participant" means, for purposes of the teachers retirement board election under s. ETF 10.10, a participant who is neither a participating employe, as defined in s. 40.02 (46), Stats., nor an annuitant as defined in s. 40.02 (4), Stats.

(3m) "Medical record" includes medical evaluation, diagnosis, prognosis, rehabilitation potential, medication, treatment, diet, limitations on activities, symptoms, general physical or mental condition, x-rays, lab tests or results, or any communication or information related to the health, medical, surgical, dental, optometric, chiropractic, podiatric or hospital care or condition of a participant or the spouse or dependent of the participant.

(3p) "Monthly compensation" means, for purposes of s. 40.19 (4) (g), Stats.:

(a) Where the compensation is paid on a weekly basis, the amount computed by multiplying the employe's basic weekly pay rate by 4.3333.

(b) Where the compensation is paid on a biweekly basis, the amount computed by multiplying the employe's basic biweekly pay rate by 2.1666.

(3s) "Public school" means, for purposes of s. 15.165 (3) (a) 1, Stats., a cooperative educational service agency established under ch. 116, Stats., a county handicapped children's education board established under s. 115.86, Stats., and any school supported wholly or in part by public funds which is under the control and management of the state of Wisconsin or any subdivision of the state of Wisconsin and which is empowered by law to employ teachers; but does not mean the university of Wisconsin system, any school in the city of Milwaukee, a state agency or a vocational, technical and adult education district.

(3w) "Salary index" means, for purposes of s. 40.26, Stats., for years prior to 1982, 5%.

(4) "School system" includes, for life insurance purposes, any public entity whose primary purpose is education.

(4m) "School year" means, for purposes of s. 40.02(3), Stats., the period beginning July 1 and ending the following June 30.

(5) "Student" means, for insurance purposes, a person, who is enrolled in an institution which provides a schedule of courses or classes and, whose principal activity is the procurement of an education. Full-time student status shall be defined by the institution in which the student is enrolled and shall include any usual vacation period if the child was a full-time student at the end of the previous term.

(6) "Summer vacation" means the time between the end of the regular school term of the school system in which the employe was last employed and the beginning of the next regular school term of that system.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (intro.), am. (2) (intro.), cr. (3m), Register, June, 1983, No. 330, eff. 7-1-83; cr. (3w), Register, December, 1983, No. 336, eff. 1-1-84; cr. (3h) and (3s), Register, March, 1984, No. 339, eff. 4-1-84; am. (1), Register, April, 1984, No. 340, eff. 5-1-84; emerg. cr. (4m), eff. 1-1-85; cr. (4m), Register, March, 1985, No. 351, eff. 4-1-85; cr. (2m), Register, October, 1985, No. 358, eff. 11-1-85; cr. (1m), Register, May, 1986, No. 365, eff. 6-1-86; am. (1m) (a), Register, August, 1986, No. 368, eff. 9-1-86; r. (1) and (3), Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. (2), Register, January, 1987, No. 373, eff. 2-1-87; cr. (3p), Register, March, 1987, No. 375, eff. 4-1-87; cr. (3), Register, June, 1992, No. 438, eff. 7-1-92; cr. (1g), Register, September, 1992, No. 441, eff. 10-1-92; cr. (3d), Register, October, 1992, No. 442, eff. 11-1-92.

ETF 10.03 Creditable service. (1) For annual earnings periods beginning on or after January 1, 1985, each participating employer shall determine and report service in hours for each participating employe in the manner prescribed in this section. Earnings which are paid to a teacher, as defined in s. 40.02 (55), Stats., who has contracted to receive such payments on either a 9 or 10 month contract basis, and which are paid after the beginning of a school year, as defined in s. ETF 10.01 (4m), for services rendered in the preceding school year, are deemed to be received by the teacher on June 30 of the preceding school year for purposes of reporting service to the department.

(2) The full-time equivalent of one day of service is 8 hours. If an employer has established workdays of other than 8 hours as full-time employment for some or all of its employes, the number of hours to be reported within a reporting period is determined by the participating employer by dividing the number of hours for which earnings are paid to the employe in the reporting period by the number of hours which would have been worked in that reporting period by a regular full-time employe of that employer in the same kind of employment and multiplying the result by 40 times the number of weeks and fractions of a week in the reporting period.

(3) For purposes of s. 40.02 (17), Stats., the full-time equivalent of one year of creditable service for a teacher, as defined in s. 40.02 (55), Stats., who is not an executive participating employe, as defined in s. 40.02 (30), Stats., is 1,320 hours and for all other participating employes the full-time equivalent of one year of creditable service is 1,904 hours.

(2) When a single sum benefit of \$5,000 or less is payable, the secretary may authorize payment, for the benefit of the minor or incompetent, to the person providing for or caring for the minor, or to the spouse, parent or blood relative providing for or caring for the incompetent person.

(3) Notwithstanding sub. (2), if a guardianship is identified prior to payment, payment shall be made to the guardian, for the benefit of the minor or incompetent, upon receipt of a certified copy of the letters of appointment.

(4) If there is a guardian of the estate and another guardian of the person, payment shall be made to the guardian of the estate.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

ETF 10.80 Invalid benefit applications and beneficiary designations. (1) Except as provided in sub. (2), an application for a benefit, a designation of a beneficiary or any other document which is signed by a guardian as provided in s. 40.08 (9m), Stats., but is not accompanied by a certified copy of an order of a circuit court approving the specific terms of the document is invalid and is deemed not to have been filed with the department. The department shall return any such document to the guardian as soon as

administratively feasible, but failure by the department to return such a document shall not be interpreted as approval.

(2) A certified copy of an order of a circuit court approving the specific terms of the document is not required if the document:

(a) Is a benefit application subject to s. 40.08 (9), Stats., and s. ETF 10.78;

(b) Is not required by statute, administrative rule, or contract administered by the department to be signed by the person under guardianship;

(c) Is an insurance application which is required to be filed in order to initiate, increase, continue, or convert insurance coverage or to transfer coverage from one insurance carrier to another; or

(d) Can be revoked or changed in the future without restriction, or is otherwise determined by the department to be without long-term effect on the rights and benefits of the person under guardianship. This paragraph does not apply to designations of beneficiary.

History: Cr. Register, October, 1992, No. 442, eff. 11-1-92.