

## 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 employee is paid at the time of termination of employment or at the time of death. For an active employee or employee on an approved leave of absence the "current basic pay rate" means the hourly rate, or its equivalent, the employee 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 employee'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 employee is paid in that pay period. If the employee 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 employee of that employer, or unless that change is the result of a significant change in the nature and duties and activities of that employee, 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 employee 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 employees 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 reemployment 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 employee's spouse and an employee'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 employee 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 employee's spouse and an employee's unmarried child who is dependent upon the employee or the employee'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.

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(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.

(4) When a participating employe receives earnings from the same participating employer for employment in more than one of the categories under s. 40.23 (2) (b), Stats., then the following tests shall be applied by the participating employer when service and earnings are reported:

(a) If employment in each of the categories meets the requirements of s. 40.22, Stats., by itself then the earnings and service shall be reported separately for each category.

(b) If employment in any one category meets the requirements of s. 40.22, Stats., and all other employment does not, then earnings and service shall be added to and reported under the one category which meets the eligibility requirements of s. 40.22, Stats.

(c) If employment in more than one category meets the qualifying requirements of s. 40.22, Stats., and all other employment does not, then earnings and service for employment in those categories which do not meet the qualifying requirements of s. 40.22, Stats., shall be added to and reported under:

1. That qualifying category in which the greatest number of hours is worked, or

2. The lowest numbered subd. under sub. (5) (b) if the greatest number of hours worked is equal in 2 or more qualifying categories.

(d) If employment in none of the categories meets the requirements of s. 40.22, Stats., separately, but those requirements are met when the employment is added together then earnings and service shall be added to and reported under:

1. That category in which the greatest number of hours is worked, or

2. The lowest numbered subd. under sub. (5) (b) if the greatest number of hours worked is equal in 2 or more categories.

(5) (a) Fractions of an hour shall be rounded to the nearest hour prior to crediting and if the fraction is one-half hour then the hours credited shall be rounded up to the next whole number.

(b) If the total number of hours reported for an employe within an annual earnings period exceeds the applicable number specified in sub. (3) service shall be allocated and credited in the following sequence:

1. Service as a protective occupation participant not subject to Titles II and XVIII of the federal social security act whose formula rate is determined under s. 40.23 (2m) (e) 4, Stats.

2. Service as a protective occupation participant subject to Titles II and XVIII of the federal social security act whose formula rate is determined under s. 40.23 (2m) (e) 3, Stats.

3. Service as an executive participating employe whose formula rate is determined under s. 40.23 (2m) (e) 2, Stats.

4. Service as an elected official whose formula rate is determined under s. 40.23 (2m) (e) 2, Stats.

5. Service as a teacher whose formula rate is determined under s. 40.23 (2m) (e) 1, Stats.

6. Service of a type not covered under subds. 1 to 5.

(c) The earnings shall be reported and credited in full without regard to any allocation of creditable service under par. (b).

(6) (a) For local elected officials who are participating employes, but serving in positions not considered full-time by the local unit of government, the amount of service shall be determined and reported by the employer as follows:

1. For employment which is essentially ministerial in nature, the number of hours reported shall be the actual number of hours for which the employe is paid if a regular work schedule has been established. If there is no regular work schedule, the number of hours reported may not be greater than the quotient derived from dividing the compensation paid during the reporting period by 2 times the minimum hourly wage rate established by the federal fair labor standards act for non-agricultural employment.

2. For members of governing bodies or other policy-making groups, the number of hours reported shall be the number of hours in actual attendance at meetings of the governing body, the policy-making group or any sub-group thereof and a reasonable amount of time spent in preparation for such meetings, but in no event shall the number of hours determined to have been spent in preparation time exceed twice the number of hours actually spent at the meetings.

(b) In applying the standards set forth in par. (a), it is the responsibility of the local unit of government to maintain the necessary documentation to justify the reasonableness of the basis used in reporting service for local elected officials.

(c) The department may consider other factors in granting creditable service to local elected officials where circumstances warrant and when satisfactory supporting information is provided.

(7) (a) If a participating employe receives earnings for on-call, standby, extracurricular or other service which is incidental to the primary employment, earnings shall be reported and contributions paid on those earnings pursuant to s. 40.05, Stats. The number of hours determined by the employer and reported pursuant to this subsection shall be the quotient derived from dividing the compensation paid for such service during the annual earnings period by the participating employe's current basic pay rate.

(b) The employer shall maintain the necessary documentation to justify the basis upon which service is reported in applying the standards set forth in par. (a).

(c) In no event shall the number of hours under par. (a), combined with the hours under the primary employment, exceed creditable service of one year during the entire calendar year.

**Note:** This rule requires a new form which will replace several existing forms. These forms are routinely provided by the department at no charge to reporting officials required to use them.

**History:** Emerg. cr. eff. 1-1-85; cr. Register, March, 1985, No. 351, eff. 4-1-85; cr. (7), Register, August, 1986, No. 368, eff. 9-1-86.

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**ETF 10.05 Creditable service for Milwaukee teachers.** Creditable service for Milwaukee teachers shall be granted for teaching services performed for governmental agencies other than the city of Milwaukee pursuant to ss. 42.70 (2) (s), 42.78 (1) (a), 42.81 and 42.91, 1979 Stats., only if the requirements in subs. (1) to (6) are satisfied:

(1) The teacher was a member, as defined in s. 42.70 (2) (k), 1979 Stats., of the former Milwaukee teachers retirement fund on August 31, 1958, has not received a separation benefit since that date and the teaching service for which creditable service is requested was prior to September 1, 1958.

(2) The participant has 10 or more years of teaching service in the city of Milwaukee and the outside teaching credit granted, when added to the participant's separate, combined and formula teaching service in the city of Milwaukee, does not exceed 35 years for benefit computation purposes. If at the time of a benefit computation the total service exceeds 35 years, any payment made previously for outside teaching service including interest which cannot be used shall be transferred to the additional contributions of that participant.

(3) The participant applies in writing for the outside teaching credit giving pertinent details on when, where and for whom the outside teaching service was performed.

(4) The outside teaching service is verified by the school district, successor school district or public retirement plan.

(5) The applicable public retirement plan certifies to the department that the participant is not entitled to any benefit, absolute, contingent or otherwise, from that retirement plan as a result of the teaching service.

(6) The participant makes the contributions which would have been required if the service to be credited had been subject to s. 42.80, 1979 Stats., at the time the teacher became a member, as defined in s. 42.70 (2) (k), 1979 Stats., of the former Milwaukee teachers retirement fund, or if later, at the time the teacher returned to covered Milwaukee teaching after the period of outside teaching. The amount due shall be increased with interest at the effective rate, as defined in s. 40.02 (23), Stats., as though the contributions were in the fund on September 1, 1959.

*History:* Cr. Register, June, 1983, No. 330, eff. 7-1-83; am. (2), Register, September, 1983, No. 333, eff. 10-1-83; correction in (1) and (6) made under s. 13.93 (2m) (b) 7, Stats., Register, July, 1994, No. 463.

**ETF 10.07 Leave of absence.** (1) A person on a paid leave of absence from a position in which the person was a participating employe shall continue to qualify as a participating employe.

(2) Service shall be determined and reported by the employer in the following manner:

(a) If the compensation paid during the leave of absence is less than the earnings paid during the participant's immediately preceding service with that employer in a time period of the same length as the leave, then the service shall be computed by dividing the compensation paid during the leave by the earnings paid in that preceding period and multiplying the result by the service reported for that preceding period.

*Register, July, 1994, No. 463*

(b) If the compensation paid during the leave of absence is equal to or greater than the earnings paid during the participant's immediately preceding service with that employer in a time period of the same length as the leave, then the service reported shall be the same as in that preceding period.

(3) Compensation paid during a paid leave of absence shall be treated the same as earnings for purposes of ch. 40, Stats.

*Note:* This rule requires a new form which will replace several existing forms. These forms are routinely provided by the department at no charge to reporting officials required to use them.

*History:* Cr. Register, March, 1985, No. 351, eff. 4-1-85.

**ETF 10.10 Employe trust funds board and teachers retirement board elections.** (1) The purpose of this section is to set forth procedures for all elections of participating employes and annuitants to the employe trust funds board or the teachers retirement board, pursuant to ss. 15.16 (1) (d), 15.165 (1) and (3) (a) 1, 2, 6 and 7, and 40.03 (2) (p), Stats. Except where noted otherwise, the procedures established in this section shall apply for elections to either the employe trust funds board or the teachers retirement board.

(1m) In this section:

(a) "Annuitant" has the meaning given in s. 40.02 (4), Stats.

(b) "Election category" means the class of participating employes or annuitants who are eligible under s. 15.16 (1) (d) or 15.165 (3) (a) 1, 2, 6 or 7, Stats., to vote to elect a member to the employe trust funds board or the teachers retirement board.

(c) "Participating employe" has the meaning given in s. 40.02 (46), Stats.

(d) "Teacher" has the meaning given in s. 40.02 (55), Stats.

(2) The secretary shall schedule an election when the term for an elective board position on the employe trust funds board or the teachers retirement board is due to expire or is vacated due to resignation, death or for any other reason. When a term is due to expire, the secretary shall schedule the election to assure that the election is completed and the new board member announced prior to the date the new term commences. If an elective board position is vacant for any reason other than the term expiring, the secretary shall schedule an election at a time determined by the secretary. The annuitant or participating employe elected in an election to fill a position vacated prior to the end of a term shall serve the remainder of the unexpired term.

(3) Annuitants or participating employes shall be eligible to vote if they are an annuitant or participating employe in the election category for which the election is being held and meet the other voting eligibility requirements set forth in this section at the time ballots are printed for distribution to employers or annuitants and the department has record of their eligibility.

(4) For a teacher employed in more than one employment location within an election category specified under s. 15.165 (3) (a) 1 or 2, Stats., the department shall send a

ballot to only one location as determined by the department. For a teacher concurrently employed by both a public school and a vocational, technical and adult education district, the department shall send a ballot to both locations, and the teacher shall be eligible to vote in both categories specified under s. 15.165 (3) (a) 1 and 2, Stats.

(6) Participating employees of the state department of public instruction; state department of health and social services; state board of vocational, technical and adult education; and the state educational communications board, who are classified as teachers under the Wisconsin retirement system, are not employed by a public school or a vocational, technical and adult education district and may not vote in any election to elect a teacher to serve on the teachers retirement board.

(7) Any participating employee or annuitant satisfying the eligibility requirements of s. 15.165 (3) 1, 2, 6 or 7, Stats., on the date he or she files nomination papers with the department and who plans to continue meeting the eligibility requirements when assuming office, if elected, may be nominated for election to the teachers retirement board or any annuitant meeting the eligibility requirements of s. 15.16 (1) (d), Stats., on the date he or she files nomination papers with the department and who plans to continue meeting the eligibility requirements when assuming office, if elected, may be nominated for election to the employe trust funds board by satisfying the requirements of pars. (a) to (c) within the calendar dates established by the department. The department shall publish notice of the election, the nomination timetable and instructions for prospective candidates in the department's newsletter. Prospective candidates may obtain nominating petition forms from the department. A candidate shall do all of the following:

(a) Submit to the department a nominating petition, which shall contain at least 25 but no more than 50 valid signatures of participating employees or annuitants eligible to vote in that election, indicating the name and address of the signer's employer, the signer's social security number and the date signed. For annuitants, the name and address of the signer's employer shall be that of the signer's last participating employer in the Wisconsin retirement system, if the candidate is seeking election to the employe trust funds board, or the signer's last public school or vocational, technical and adult education school employer, if the candidate is seeking election to the teachers retirement board. If more than 50 signatures are submitted, the department shall review for validity only the first 50 signatures based on the earliest date signed and disregard the balance.

(b) Certify that the signers are, to the best of the candidate's knowledge, eligible to vote in the election category for which the candidate is running.

(c) Submit to the department biographical or other information containing no more than 100 words. The department shall print no more than the first 100 words of the candidate's information and send it to eligible voters with the ballots.

(8) The department shall print ballots with the candidates' names in alphabetical order and shall include, when the ballots are distributed, instructions for marking the ballot and the deadline for its return. For elections in

which participating employees may vote, the department shall send each employer one ballot individually labeled with the participating employee's name for each participating employee in the election category for which the election is being held who is employed by the employer and whose position is known to the department. A distribution list, prepared by the department and containing the names of participating employees for whom ballots are included, shall accompany the ballots. The department shall require employers to verify, by signing the distribution list, that the employer distributed the ballots within 30 days of the date they were mailed by the department. The employer shall indicate on the distribution list which ballots could not be distributed and shall return the undistributed ballots. For annuitant elections, the department shall send a ballot directly to each annuitant who is eligible to vote in that election at the last home address the department has on file.

(9) All voters shall certify their eligibility to vote in the appropriate election category by signing the ballot and returning it in an envelope.

(10) The teachers retirement board shall appoint an election committee that shall consist of the secretary of the department or the secretary's designee and 2 teachers retirement board members not running for reelection to determine the election results. The employe trust funds board shall appoint an election committee which shall consist of the secretary of the department or the secretary's designee and two employe trust funds board members who are not running for reelection to determine the election results. A majority of the election committee appointed by the respective boards shall determine the validity of ballots set aside by the department and certify the election results.

(11) The department shall review each ballot by checking the signature against the name on the ballot. The department shall set aside ballots that it believes may be invalid under pars. (a) to (d) for review by the election committee. The election committee shall deem a ballot invalid if any of the following apply:

(a) The signature is not the same as the name on the ballot.

(b) The ballot is not signed.

(c) Too many candidates have been voted for on the ballot.

(d) A ballot is so defective that the committee cannot determine with reasonable certainty for whom the ballot was cast.

(e) The ballot contains the name of a write-in candidate.

(12) If the number of candidates who file nomination papers is equal to or less than the number of positions to be filled within an election category, the department shall not schedule an election and the election committee shall declare all candidates to be elected.

(13) If there is more than one teachers retirement board position to be filled in an election category and an election is held, voters may vote for as many candidates, in the appropriate election category, as there are positions to be filled.

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(15) Candidates receiving the largest number of votes shall be elected. The election committee shall break a tie by the drawing of lots. The counting of ballots shall be conducted under the direction of the secretary or his or her designee.

(16) For elections scheduled because a term is due to expire, the department shall notify all candidates of the results before May 1 following the close of the election. If the department calls an election for any reason other than the expiration of a term, the department shall notify all candidates of the results of the election within 15 days of the close of the election.

(17) The department shall retain nominating petitions and ballots for 45 days from the date the candidates are notified in sub. (16). If a candidate wishes to request a recount, the candidate shall submit the request to the department within 30 days of the date the candidates are notified of the election results. A recount shall be conducted under the direction of the secretary or his or her designee.

*History:* Cr. Register, March, 1984, No. 339, eff. 4-1-84; r. (5) and am. (7) (intro.), Register, January, 1985, No. 349, eff. 2-1-85; am. (10), Register, September, 1992, No. 441, eff. 10-1-92; am. (1) to (7) (a), (7) (c) to (11) (b), (d), (12), (13) and (15) to (17), cr. (1m) and (11) (e), r. (14), Register, April, 1993, No. 448, eff. 5-1-93.

**ETF 10.12 Separate retirement system participation in the retirement trust fund.** The governing body of the separate retirement system may request participation in the retirement trust fund by the adoption of a resolution accepting the provisions of this section in a form approved by the department. A certified copy of the resolution shall be forwarded to the department and participation shall be effective on the first day of the month following board approval of the resolution under s. 40.03 (1) (n), Stats. Funds may be delivered or sent to the department subject to the following:

(1) **DEPOSITS.** (a) Deposits shall be made in accordance with instructions issued by the department.

(b) The separate retirement system may designate any portion of its deposit for investment in the variable retirement investment trust. Deposits shall be invested in the fixed retirement trust unless otherwise designated.

(c) The separate retirement system shall provide the department 30 days advance notice of any deposit in excess of \$10 million. This requirement may be waived by the secretary.

(d) Deposits to the fixed and variable retirement investment trusts shall be accepted on the first working day of the month only. Funds received after the first working day of the month shall be transferred by the department to the local government investment pool as defined in s. 25.50, Stats., until the first working day of the next month.

(2) **VALUATIONS.** A separate retirement system's investments shall be as follows:

(a) A separate retirement system's proportionate ownership share of the fixed or variable retirement investment trust at the time of the system's original deposit shall be calculated as the ratio of that system's deposit to the current market value of the trust fund including that system's deposit.

(b) The current market value of the fixed and variable retirement investment trusts shall be determined as of the last day of each month.

(c) Each separate retirement system's investment shall be adjusted to current market value as of the last day of each month. The current market value of each system's investment shall be calculated as the total value of the trust fund as of the last day of the month times the system's proportionate ownership share in the fund as of the first day of that month.

(d) Each separate retirement system's proportionate ownership share in the fixed or variable investment trusts as of the first day of a month shall be calculated as the ratio of the current market value of that system's investment as of the last day of the previous month, plus any deposits and minus any withdrawals made by that system as of the first day of the new month, to the current market value of the total fund as of the last day of the previous month, plus all deposits and minus all withdrawals made by any system as of the first day of the new month.

(e) Each participating separate retirement system shall be given 6 months advance notice of any changes in the method of valuing investments or calculating proportionate ownership shares, unless an earlier effective date for the changes is mandated by statute. A participating separate retirement system may waive this notice requirement.

(f) The costs of administering and investing the assets shall be charged directly against the investment earnings monthly.

(3) **REPORTS.** The department shall provide, at least quarterly, each separate retirement system a report showing all transactions in its account during the preceding quarter and the current value of the system's investment.

(4) **WITHDRAWALS.** (a) Requests for withdrawal of funds shall be on a form prescribed by and in accordance with instructions issued by the department.

(b) The separate retirement system shall provide the department no less than 60 days advance notice of any withdrawal in excess of \$10 million.

(c) Withdrawals by a separate retirement system shall be limited in any calendar month to the greater of 5% of the system's balance on deposit or \$2 million.

(d) All withdrawals by a separate retirement system shall be deemed to have been made on the first day of the month of withdrawal.

(e) If a separate retirement system's balance on deposit drops below \$2 million, that system's investment shall be refunded and the account closed.

*Note:* Section ETF 10.12 requires a form which is available at no charge by contacting the department of employe trust funds.

*History:* Cr. Register, October, 1985, No. 358, eff. 11-1-85; am. (2) (e) and (f), Register, December, 1990, No. 420, eff. 1-1-91.

**ETF 10.15 Annuity reserves.** The amounts credited to and the liabilities of the reserves for annuities granted shall be determined by the actuary on the basis of separate male-female experience with adjustments as necessary to reflect actual and projected experience of participants under the retirement system and not on the basis of the com-

bined male-female experience used in individual benefit computations.

**History:** Renum. from ETF 7.07 and am. Register, December, 1983, No. 336, eff. 1-1-84.

**ETF 10.20 Approval of group insurance plans for state employees.** (1) In addition to group insurance plans specifically provided in ch. 40, Stats., and pursuant to s. 20.921 (1) (a) 3, Stats., the group insurance board shall approve or disapprove group insurance plans for which payment of premiums is made through payroll deductions.

(a) The group insurance board shall determine, after notice and hearing, whether the group insurance plan fulfills an important coverage need through consideration of, but not limited to, the following factors:

1. Number of employees affected
2. Amount and variation in premiums
3. Adequacy of other approved coverage providing the same or similar protection
4. Duration of contract
5. History, performance and acceptance of the plan by the employees
6. New or additional coverage provided

(b) The group insurance board shall determine whether the plan is adequately supervised through consideration of, but not limited to, the following factors:

1. Continuing representation of employe participants with professional insurance guidance
2. Maintenance of adequate statistical records relating to retentions, experience, premiums, participants and other data necessary for actuarial computations
3. Procedures for negotiating coverage

(2) Notwithstanding approval granted to any plan under sub. (1), the group insurance board may subsequently withdraw its approval, after notice and hearing, upon finding that the plan does not meet the criteria established by sub. (1) (a). Withdrawal of approval shall be effective, at the discretion of the group insurance board, on the first day of the month subsequent to issuance of a finding that the plan does not meet the criteria pursuant to sub. (1) (a) or on the anniversary date of the contract under which the plan is provided.

**History:** Renum. from ch. Grp 26 and am. Register, December, 1983, No. 336, eff. 1-1-84.

**ETF 10.25 Fixed retirement investment trust participation in the variable retirement investment trust.** The fixed retirement investment trust may invest in the variable retirement investment trust subject to the following:

(1) **COMBINED STOCK FUND.** A combined stock fund shall be established and shall operate as a separate account within the variable retirement investment trust as follows:

(a) All investments in common and preferred stock by the fixed retirement investment trust and the variable retirement investment trust shall be made through the combined stock fund account.

(b) The trusts shall transfer funds to be invested in common and preferred stocks to the combined stock fund account. In exchange, the fixed retirement investment trust and variable retirement investment trust shall receive shares in the combined stock fund.

(c) Shares in the combined stock fund may be purchased only as of the first day of each month.

(d) All shares purchased in the combined stock fund shall, at the time of purchase, have a book value of one dollar per share.

(2) **INVESTMENT OF COMBINED STOCKS.** All funds received in the combined stock fund from the fixed retirement investment trust and the variable retirement investment trust shall be used to invest in common or preferred stocks or the state investment fund.

(3) **EARNINGS DISTRIBUTIONS.** Earnings shall be distributed from the combined stock fund to the fixed retirement investment trust and the variable retirement investment trust according to the following:

(a) The book value of all investments in the combined stock fund shall be adjusted to current market value as of the last day of each month. The appraisal gain or loss shall be recognized in the month incurred.

(b) As of the last day of each month the combined stock fund shall distribute to the fixed retirement investment trust and the variable retirement investment trust all income recorded for that month including interest received, dividends received, gain or loss realized on the sale of investments and the unrealized gain or loss recognized on the adjustment of investment book value to market value. Following these distributions the unit value of shares in the combined stock fund shall be one dollar.

(c) For any month, the distribution of income between the fixed retirement investment trust and the variable retirement investment trust shall be based on the ratio of the relative number of combined stock fund shares held by each trust as of the first day of that month to the total number of combined stock fund shares outstanding.

(d) Monthly distributions from the combined stock fund to the fixed retirement investment trust resulting from gains or losses realized on the sale of investments or unrealized appraisal gains or losses shall be transferred to the transaction amortization account. Distributions resulting from all other sources shall be recognized as current income to the fixed retirement investment trust in the month of distribution.

(e) All distribution to the variable retirement investment trust shall be treated as current income in the month of distribution.

(4) **WITHDRAWALS.** The fixed retirement investment trust or the variable retirement investment trust may withdraw funds from the combined stock fund as of the first day of any month. The withdrawal shall be accomplished by selling combined stock fund shares to the combined stock fund. Withdrawals made after the first day of any month shall be deemed to have been made on the first

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day of that month for purposes of distributing income at the end of that month.

**History:** Cr. Register, October, 1985, No. 358, eff. 11-1-85; r. and recr. (1), r. (2) and (4) (a), renum. (3), (4) (intro.), (b) to (f) and (5) to be (2) to (4), Register, December, 1990, No. 420, eff. 1-1-91.

**ETF 10.30 Effect of variable transfer on benefits.** Any gains or losses at the effective date of a transfer pursuant to s. 40.04 (7), Stats., including subsequent interest credits, shall be reflected as an adjustment to the benefit at the time it is payable.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from ETF 8.02 and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.31 Effective date of election to cancel variable participation.** Pursuant to s. 40.04 (7), Stats., an election to cancel variable participation shall be made on a form provided by the department and shall be effective, for future contributions, on the January 1 following receipt of the form by the department. A participant may further elect the transfer of variable annuity contribution accumulations to the fixed division on:

(1) An unconditional basis effective the January 1 following receipt of the election form by the department; or

(2) A conditional basis as follows:

(a) For annuitants, effective the first January 1 after receipt of the form by the department on which the condition under s. 40.04 (7) (a) 1, Stats., is satisfied.

(b) For all other participants, effective the first January 1 after receipt of the form by the department on which the condition under s. 40.04 (7) (a) 2, Stats., is satisfied.

(3) For purposes of this section, whenever the last day of the year falls on a Saturday, Sunday or holiday when state offices are closed, an election to cancel variable participation or to transfer variable annuity contribution accumulations to the fixed division which is received on the next succeeding working day shall be deemed to have been received within the preceding calendar year.

**History:** Cr. Register, December, 1982, No. 324, eff. 1-1-83; cr. (3), Register, October, 1987, No. 382, eff. 11-1-87.

**ETF 10.32 Additional contributions.** When a participant makes an election pursuant to s. 40.04 (7), Stats., and has additional contributions, the election shall be governed by an evaluation of all contributions and shall be effective as prescribed in s. ETF 10.31.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from ETF 8.04 and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.33 Multiple accounts or accumulations.** An election filed pursuant to s. 40.04 (7), Stats., shall be effective for all accounts and accumulations of the participant except that for an annuitant who has variable accumulations from which no annuity is being paid, the effective date of an election shall be separately determined for the current annuity or annuities and for the variable accumulations from which no annuity is being paid.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from ETF 8.05 and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.34 Rights of beneficiaries.** Persons who are receiving or are eligible to receive benefits as beneficiaries of participants under ch. 40, Stats., shall be eligible to file an

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election to cancel variable participation pursuant to s. 40.04 (7), Stats.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from ETF 8.06 and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.35 Withdrawal of election form.** An election to terminate variable participation cannot be canceled or withdrawn after it has been received by the department and is subject to change only as prescribed by s. 40.04 (7) (b), Stats.

**History:** Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from ETF 8.07 and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.50 Sick leave conversion credits.** The amount of accumulated unused sick leave under s. 36.30, Stats., for all faculty and academic staff other than such faculty and staff appointed to work for either 52 or 39 weeks per year in the university of Wisconsin system convertible to credits to pay for health insurance premiums shall equal the number of days resulting from multiplying 0.0040708 times the number of hours per year appointed to work, as reported to the department, rounded off to the nearest tenth of a day. The maximum amount of such unused sick leave shall be limited to 8.5 days per year. The secretary of administration may waive this limitation under s. 40.05 (4) (bp) 2. and 3., Stats.

**History:** Cr. Register, September, 1988, No. 393, eff. 10-1-88.

**ETF 10.60 Reports and payments.** (1) Every employer, which has one or more employees as a participant under ch. 40, Stats., shall:

(a) Prepare and transmit a coverage report or reports to the department for each calendar month. Such reports shall be in the form prescribed by and in accordance with instructions from the department.

(b) Remit to the department, with the respective coverage reports required under par. (a), the employe and employer contributions or deposits, premiums, payments on the accrued liability or other amounts payable to the department for the calendar month covered by the report.

(2) The secretary may, for specified employers or types of coverage, provide for summary reporting on a monthly basis to accompany the monthly remittance required in sub. (1) (b), and detailed reporting on a quarterly, semi-annual, or annual basis.

(3) The department may designate an agent or depository to receive on its behalf, payments or remittances as provided in sub. (1) (b) and any report or remittance will be considered received in the department's offices as of the date it is received by such a designated agent or depository.

**History:** Cr. Register, December, 1976, No. 252, eff. 1-1-77; emerg. am. (1) (a) and (b), eff. 8-1-80; am. (1) (a) and (b), Register, November, 1980, No. 299, eff. 12-1-80; renum. from ETF 4.01 and am. (1) (intro.), Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.61 Transmittal of initial OASDHI wage reports.** Initial monthly and annual wage reports and the required remittance covering the period from the effective date of coverage to the end of the report period in which any employer becomes covered under the agreement between the state and the federal social security administration, as required in the administration of subch. III of ch. 40, Stats., are due 70 calendar days after the approval of the



coverage agreement by the social security administration. Whenever the social security administration extends the time for the filing of initial retroactive wage reports or payment of the required remittance, an extension of the due date shall be granted by the department.

**History:** 1-2-56; r. and recr. Register, December, 1957, No. 24, eff. 1-1-58; am. Register, November, 1969, No. 167, eff. 12-1-69; renum. from SSF 1.05 and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.62 Transmittal of OASDHI adjustment reports. (1)** The original and one copy of any adjustment wage report required in the administration of subch. III of ch. 40, Stats., shall be dated and signed by the authorized agent for any coverage group and transmitted, with any required remittance, within 15 calendar days prior to the due date established under federal regulations as defined in s. 40.02 (32), Stats.

(2) When an adjustment wage report is prepared by the social security administration because of errors in reporting "covered wages" which were ascertained by federal authorities, any contributions required, in the administration of subch. III of ch. 40, Stats., shall be remitted within 15 calendar days prior to the due date established under federal regulations as defined in s. 40.02 (32), Stats. A statement from the employer explaining the adjustment will be required.

**History:** 1-2-56; r. and recr. Register, December, 1957, No. 24, eff. 1-1-58; am. Register, November, 1969, No. 167, eff. 12-1-69; renum. from SSF 1.06 (1) and (3) and am., Register, December, 1982, No. 324, eff. 1-1-83.

**ETF 10.63 Due dates. (1) (e)** Reports and remittances from state departments, excluding university and other state department reports which pertain to teachers only, required in the administration of subch. II of ch. 40, Stats., are due on the 20th day of the calendar month following the reporting period.

(f) Reports and remittances from all reporting officials required in the administration of subch. III of ch. 40, Stats., are due on the 5th day of the calendar month for contributions on wages paid during the 16th through the last day of the previous calendar month and on the 20th day of the calendar month for contributions on wages paid during the first 15 days of that month, except, that the annual report of wage detail is due prior to the March 1 following the end of the reporting period and except as provided by ss. ETF 10.61 and 10.62.

(g) Reports and remittances other than those specified in pars. (a) to (f) are due on the last working day, excluding Saturdays, Sundays, and holidays when the state offices are closed, of the calendar month following the end of the reporting period.

(2) Whenever the 5th or 20th day of the calendar month referred to in sub. (1) falls on a Saturday, Sunday or holiday on which state offices are closed, a report or a remittance received on the next succeeding working day shall be deemed to have been received on a timely basis.

(3) The secretary may waive charges and interest calculated under s. 40.06 (3), Stats., on any employer's reports and remittances, which are received within one day of the due date specified under subs. (1) and (2) if he or she determines that the waiver will not impair the objective of

encouraging timely receipt of contributions and remittances.

**History:** Cr. Register, December, 1976, No. 252, eff. 1-1-77; emerg. cr. (1) (e), eff. 8-1-80; r. and recr. (1), am. (2) and (3), r. (4), renum. (5) and (6) to be (4) and (5) and am. (4), Register, November, 1980, No. 299, eff. 12-1-80; renum. from ETF 4.02, am. (1), renum. (2) to be ETF 10.64, renum. (3) to be (2), r. (4), renum. (6) to be (3) and am., Register, December, 1982, No. 324, eff. 1-1-83; am. (1) (f) and (2), Register, December, 1983, No. 336, eff. 1-1-84; r. and recr. (3), Register, April, 1986, No. 364, eff. 5-1-86; emerg. r. (1) (c), eff. 6-1-86; r. (1) (b) to (d), Register, September, 1986, No. 369, eff. 10-1-86; r. (1) (a), Register, January, 1987, No. 373, eff. 2-1-87.

**ETF 10.635 Late paid earnings.** Except for purposes of s. 40.05 (3), Stats., contributions and premiums due on late-paid earnings, including payments for retroactive changes in earning rates and those considered covered earnings under s. 40.02 (22) (b) 9, Stats., shall be determined at the employe and employer rates which would have been in effect if the subsequent changes and decisions had been known at the time the earnings would normally have been payable and shall be subject to s. 40.06 (5), Stats.

**History:** Cr. Register, July, 1986, No. 367, eff. 8-1-86.

**ETF 10.64 Late reporting charges and interest. (1)** Except as provided in s. ETF 10.63 (2) and (3) and this subsection, any report or remittance not received within the period specified in this chapter, ch. 40, Stats., or an insurance contract between the group insurance board and an insurance carrier shall be subject to the charges and interest calculated in accordance with the provisions of s. 40.06, Stats. Reports and remittances required under ss. ETF 10.61, 10.62 and 10.63 (1) (f) are not subject to the interest charges under s. 40.06 (5), Stats.

(2) The employer shall be responsible for and transmit to the department any assessment made against the state by the federal government for late payment of contributions due on any OASDHI adjustment report.

(3) When interest is due under s. 40.06 (5), Stats., and the effective rate for the current year is unavailable, the effective rate for the previous calendar year shall be used. The due date specified on the billing notice shall be the next regularly scheduled due date for regular payments specified under s. ETF 10.63, ch. 40, Stats., or contracts between the group insurance board and any insurance carrier, but in no case less than 30 days from the date of the billing notice. When interest is due under s. 40.06 (3), Stats., it shall be assessed on a daily basis from the billing notice due date to the date payment is actually received.

**History:** Renum. from ETF 4.02 (2) and am., Register, December, 1982, No. 324, eff. 1-1-83; am. (1) and cr. (2), Register, August, 1984, No. 344, eff. 9-1-84; am. (1) and cr. (3), Register, October, 1986, No. 370, eff. 11-1-86.

**ETF 10.70 Individual personal information. (1)** Individual personal information, within the meaning of s. 40.07, Stats., is all information in any individual record of the department, including but not limited to the date of birth, earnings, contributions, interest credits, beneficiary designations, creditable service, marital status, address, and social security number, but not including information in any statistical report, other report or summary in which individual identification is not possible.

(2) Individual personal information may be disclosed as required for the proper administration of benefit programs under ch. 40, Stats., including discussion of this information in any meeting of any board created under s.

15.16 or 15.165, Stats., or disclosure in any written record of the board proceedings.

(3) (a) Pursuant to s. 40.07 (1) (a), Stats., an individual's personal information may be disclosed, except as otherwise prohibited, upon proper identification, to that individual or the duly authorized personal representative of that individual in person, by telephone, or in writing.

(b) Except as provided in par. (d), an individual's authorization to release information to a personal representative shall be in writing, signed, and dated and shall refer specifically to the records in this department.

(c) A written authorization under par. (b) which does not contain an expiration date shall be deemed to have expired 6 months following the date the authorization was signed.

(d) The secretary of the department, or specific departmental employees designated by the secretary, may authorize disclosure of information without written authorization when urgent circumstances exist which warrant an exception to normal procedures and when the person to whom the information is to be given is otherwise authorized to receive it.

(4) In case of death, disabling injury or disease, disclosure of individual personal information shall be made only to a proper beneficiary or the duly authorized representative of the beneficiary or to the legal representative of the individual or the individual's estate whose record is the subject of inquiry.

(5) Notwithstanding sub. (3), disclosure of an individual's beneficiary designation shall only be made under any of the following circumstances:

(a) While the individual is living, to the individual or to his or her duly authorized representative, upon request in person or in writing.

(b) After the death of the individual:

1. Upon request in person or in writing, to the personal representative of the individual's estate, to a beneficiary of the individual, or to the personal representative's or the beneficiary's duly authorized representative;

2. To an insurance carrier or administrator of benefits under ch. 40, Stats., or predecessor as necessary for proper payment of benefits.

(c) To parties determined by the department to have an interest in the designation, when the information is relevant to a pending court action or to a pending appeal under s. 40.03 (1) (j), (6) (i), (7) (f), (8) (f), or 40.80 (2g), Stats.

*History:* Cr. Register, June, 1983, No. 330, eff. 7-1-83; r. and recr. (5), Register, October, 1992, No. 442, eff. 11-1-92.

**ETF 10.71 Transcript fees.** (1) The department shall provide a party to an appeal under ch. ETF 11, or a party to department proceedings under s. 227.42, Stats., with a copy of the transcript of any proceedings upon request and payment of a fee. The party shall make the request for the transcript in writing and pay a fee as follows:

(a) For an existing written transcript, a \$3.00 flat charge plus 25¢ for each page of the transcript for single copies.

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(b) A 10¢ per page charge for additional copies.

(c) For producing a written transcript from reporter's notes or another medium, the reasonable costs of transcription in addition to the fees provided by pars. (a) and (b).

(d) For an audio tape, \$10 per copy.

(e) For other electronic record, the reasonable cost of the medium and copying.

(2) One free copy of the transcript shall be provided to any party who establishes to the satisfaction of the department, that the payment of a transcript fee would prove to be an unreasonable financial burden due to the party's lack of financial resources.

*History:* Cr. Register, July, 1977, No. 259, eff. 8-1-77; renum. from ETF 3.02 and am. (1) (intro.) and (2), Register, June, 1983, No. 330, eff. 7-1-83; r. and recr. (1) (intro.), am. (1) (a), cr. (1) (c) to (e), Register, June, 1992, No. 438, eff. 7-1-92.

**ETF 10.72 Fee for search of historical records.** Individuals and employers may be charged an administrative fee of \$5.00 for information concerning an account or record which is not readily available and which requires a search of historical records, either within the department or at the state records center. This charge shall not apply for searches required by s. 40.02 (17) (b) or 40.25 (6) (a), Stats.

*History:* Cr. Register, April, 1978, No. 268, eff. 5-1-78; renum. from ETF 3.03 am., Register, June, 1983, No. 330, eff. 7-1-83.

**ETF 10.75 Durable power of attorney.** (1) The department shall accept durable power of attorney, as defined under and containing the language required in s. 243.07, Stats., in lieu of a participant's or guardian's signature in all situations except the filing of a benefit application or beneficiary designation.

(2) The durable power of attorney shall be acceptable if it satisfies the following requirements:

(a) It is in writing.

(b) It is dated.

(c) The expiration date, if specified, has not passed.

(d) It is signed by the participant.

(e) It does not exclude all property nor specifically the benefit program administered by the department.

(3) The attorney-in-fact shall, at the request of the department, submit proof of continuance of durable power of attorney by affidavit as set forth under s. 243.07 (5), Stats.

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

**ETF 10.78 Guardianship requirements.** (1) When the amount of a single sum benefit payment to a minor, as defined under s. 880.01 (7), Stats., or incompetent, as defined under s. 880.01 (4), Stats., exceeds \$5,000, or when an annuity or disability annuity is payable, payment shall be made by the department to the court appointed guardian, for the benefit of the minor or incompetent, upon receipt of a certified copy of the letters of appointment. Letters of appointment shall be certified within the past 6 months. If the minor is married and has not been adjudged to be incompetent, the department shall make the payment to the minor.

(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.