

**ATTESTATION REPORT
OF THE
NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS**

JULY 1, 2009 THROUGH JUNE 30, 2010

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Issued on March 8, 2012

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NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

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NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

BACKGROUND

Plan History

Nebraska’s state colleges began in 1867. In that year, not only did Nebraska achieve statehood, but also Peru State College became the State’s first public postsecondary institution. The State colleges currently include Chadron State College, Wayne State College, and Peru State College. The Nebraska State College System (NSCS) operates under the jurisdiction of the Board of Trustees (Board). The Board also had its beginnings in 1867 law and is responsible for policy oversight of the NSCS. According to the Nebraska Blue Book, the mission of the NSCS is “to serve our students, communities and state by providing high quality, accessible educational opportunities.” The Board has seven members, six of whom are appointed by the Governor to six-year terms with legislative approval. The Commissioner of Education is the seventh member and serves in an ex officio capacity. The current members of the Board, as of January 23, 2012, are as follows:

Name	Office
Carter “Cap” Peterson	Chair
Michelle Suarez	Vice Chair
Larry Teahon	Trustee
Bob Engles	Trustee
William Roskens	Trustee
Gary Bieganski	Trustee
Roger Breed	Ex Officio member Commissioner of Education

Three bargaining units represent employees of the NSCS, as follows:

State College Education Association (SCEA) – includes all ranked faculty employees on specific term appointments employed full-time by the Board, who perform teaching duties at the three State colleges, including department chairs. Deans, employees on special appointments, and all other professional and support staff employees are not included in the bargaining unit.

Nebraska State College System Professional Association (NSCPA) – includes all full-time (at least 0.75 FY FTE) librarians and non-supervisory, professional staff employees employed on a nine to twelve month basis by the Board. This does not include supervisors, part-time, interim or temporary employees, employees specifically listed in the labor contract, and any other employees in a support or faculty position.

Nebraska Association of Public Employees, Local #61, American Federation of State, County, and Municipal Employees (NAPE/AFSCME) – includes all regular full-time (0.75 FTE and above), nonsupervisory support staff employees. This does not include employees who are excluded from the bargaining unit, such as supervisors, part-time, interim or temporary employees, and other employees not categorized as support staff. Certain other employees are also specifically excluded.

All other employees of the NSCS follow policies and procedures set by the Board.

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Neb. Rev. Stat. § 84-1601(1) (Reissue 2008) excludes state college employees from participation in the Nebraska State Insurance Program, which was established to replace any current program of insurance in any agency and funded in whole or in part by state contributions. Specifically, this statute provides:

“There is hereby established a program of group life and health insurance for all permanent employees of this state who work one-half or more of the regularly scheduled hours during each pay period, excluding employees of the University of Nebraska, the state colleges, and the community colleges.”

The NSCS Board is granted authority to provide health insurance for its employees under Neb. Rev. Stat. § 85-304 (Reissue 2008), which states, “The board shall have the power . . . (7) To provide benefits for all present and future employees, including group life insurance, group hospital-medical insurance, and group long-term disability income insurance . . .” NSCS Board Policy 2000 (March 31, 2006) also confers upon the Board the power to make insurance benefits available for all present and future employees.

The NSCS offers a fully insured healthcare plan – meaning that, the employer contracts with an insurance company, which assumes the financial responsibility for the participants’ medical claims and administrative costs. The plan options offered by the insurance company are usually standardized; therefore, it is difficult for the employer to customize the benefits offered. The employer pays a fixed premium to the insurance carrier. However, the NSCS’s plan also includes a Rate Stabilization Reserve, which can be used to offset future premium increases, etc. In this regard, the NSCS’s fully insured plan differs significantly from the self-insured plan implemented by the State of Nebraska, in which the State assumes the financial responsibility of paying its own medical claims.

The State of Nebraska, as the employer, withholds the employee share of the health insurance premiums from paychecks for active members. The State also contributes its share of health insurance premiums for active and retired employees (see retiree information below). The following table represents the amounts withheld from employee paychecks, as well as the employer premiums paid for fiscal years 2006 through 2010:

State Colleges	Fiscal Year 2006 (unaudited)	Fiscal Year 2007 (unaudited)	Fiscal Year 2008 (unaudited)	Fiscal Year 2009 (unaudited)	Fiscal Year 2010
Employee Premiums	\$ 1,447,404	\$ 1,589,470	\$ 1,682,998	\$ 1,667,770	\$1,605,023
Employer Premiums for Active Employees	\$ 5,003,131	\$ 5,509,748	\$ 5,867,914	\$ 5,910,834	\$5,709,431
Employer Premiums for Retired Employees (1)	\$ 60,417	\$ 101,915	\$ 91,503	\$ 168,371	\$ 202,311
Grand Total	\$ 6,510,952	\$ 7,201,133	\$ 7,642,415	\$ 7,746,975	\$7,516,765

Note (1): Premiums Paid for retired employees include payments for early or voluntary retiree health insurance, payments for retirees in the Supplemental Medicare program, COBRA premiums paid to the COBRA administrator, Payflex, and other minor miscellaneous payments.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

BACKGROUND

(Continued)

Educators Health Alliance

The NSCS uses the Educators Health Alliance, Inc. (EHA) to negotiate its health insurance plans. In October 2000, the EHA was established as a nonprofit corporation under the Nebraska Nonprofit Corporation Act and also maintains Internal Revenue Code Section 501(c)(6) tax-exempt status. The EHA has the following purposes, as established in Article VII of its Articles of Incorporation:

“(a) to negotiate and obtain high quality health insurance coverage at reasonable prices for employees of Nebraska’s public school districts and other educational entities.

“(b) to obtain a master negotiated agreement providing high quality health insurance coverage at the most reasonable rate possible for the benefit of employees of Nebraska’s school districts and other educational entities.

“(c) to do all other acts that are necessary and proper for the foregoing goals.”

The EHA is managed by a board comprised of members selected by the Nebraska State Education Association (NSEA), the Nebraska Association of School Boards (NASB), and the Nebraska Council of School Administrators (NCSA). All public school districts in Nebraska, other subgroups with members of the NSEA, NCSA, or NASB, and any other groups related to Nebraska public education, from pre-school to post-secondary education (such as the Nebraska State College System), are eligible for health insurance coverage under the EHA. Only the school districts of Millard, Wayne, and York are not covered through the EHA.

The fully insured group health plan offered by the EHA is through Blue Cross Blue Shield of Nebraska (BCBSNE) and includes the BCBSNE BluePreferred (PPO) contracts. EHA and BCBSNE have negotiated a Membership and Underwriting Guidelines Agreement dated May 19, 2009. Section (I)(A)(1) of this agreement defines basic eligibility requirements, as follows:

“All public school districts and other subgroups with members of the Nebraska State Education Association (NSEA), Nebraska Council of School Administrators (NCSA) or Nebraska Association of School Boards (NASB) and other groups related to Nebraska public education (from preschool to post-secondary education) shall be eligible to apply for the BCBSNE group health plan.”

Section (I)(A)(3) of the agreement requires each subgroup to sign annually a School Group Application furnished by the group health plan. EHA offers several different plan designs to its member subgroups, including Blue Preferred PPO plan options, as well as High Deductible Health Plans. EHA also insures retirees of the subgroups who meet certain requirements.

As of December 2009, EHA covered over 35,000 subscribers and over 72,000 members.

NEBRASKA STATE COLLEGE SYSTEM
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(Continued)

NSCS Plan Design

This fully insured plan has a plan year from September 1st through August 31st. The NSCS has elected to offer a \$350 deductible for active employees and a \$600 deductible for retirees. The following table represents the number of employees or retirees under one of the plan's early retirement options, as of June 30, 2010:

Type of Coverage	NSCS System Office	Chadron State College	Peru State College	Wayne State College	Total
Employee	1	118	54	126	299
Employee & Spouse	4	51	36	64	155
Employee & Children	1	12	3	16	32
Employee & Family	3	50	36	97	186
Married Employees splitting Family Health Insurance	0	16	10	20	46
Subtotal	9	247	139	323	718
Early or Voluntary Retirees	0	7	2	10	19
Total	9	254	141	333	737

Note: The total number of employees includes 12 ancillary members who are not employees of the NSCS, but are employed by each college's foundations. See Comment Number 1 for more information on these employees.

The 2009-2011 labor agreements between the NSCS and the SCEA and NAPE/AFSCME labor unions reflect a \$300 health insurance deductible plan. The NSCPA agreement states that a deductible medical plan will be offered, which requires the union member to satisfy the lowest calendar year deductible amount offered by the insurer, but no less than \$300. Due to the difference in the deductible amounts between the SCEA and NAPE/AFSCME labor agreements and the plan offered by EHA (\$350 deductible), the NSCS has offered its faculty and professional staff a base salary adjustment of \$50 and has offered its support staff a one-time salary adjustment of \$50.

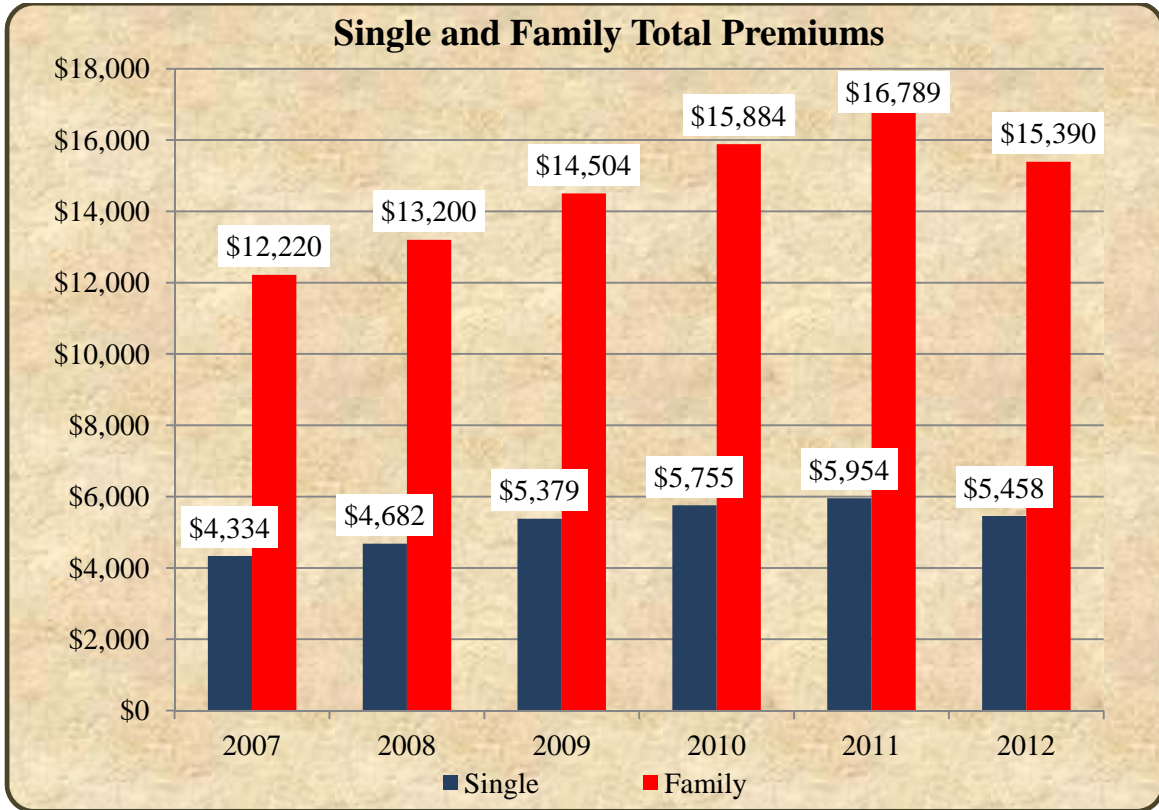
The monthly premium rates are listed below for the September 1, 2009, through August 31, 2010, plan year:

Type of Coverage	\$350 Deductible for Active Employees			\$600 Deductible Retirees under the Early or Voluntary Retirement Programs		\$600 Deductible All Other Retirees	
	Total Premium	State Share	Employee Share	Total Premium	State Share (100%)	Total Premium	Retiree Share (100%)
Employee Only	\$ 479.57	\$ 407.64	\$ 71.93	\$ 500.20	\$ 500.20	\$ 500.20	\$ 500.20
Employee and Child(ren)	\$ 887.22	\$ 665.42	\$ 221.80	\$ 886.71	\$ 886.71	\$ 886.71	\$ 886.71
Employee and Spouse	\$1,007.11	\$ 755.34	\$ 251.77	\$ 1,050.41	\$ 1,050.41	\$1,050.41	\$1,050.41
Family	\$1,323.63	\$ 992.73	\$ 330.90	\$ 1,227.75	\$ 1,227.75	\$1,227.75	\$1,227.75

NEBRASKA STATE COLLEGE SYSTEM
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A six-year summary of the total single and family coverage premiums offered by EHA for NSCS employees is as follows:



*Note: These years represent the periods between September 1 and August 31 each year, as that is the plan year and when the premiums change. EHA initially announced there would be no premium increases for the 2011-2012 plan year. However, in May 2011, the EHA Board announced a premium holiday for the month of December 2011, which further reduced the amount of health insurance contributions for the plan year. The amounts shown for 2012, above, include the one month premium holiday and cover 11 months of health insurance premiums. See **Attachment 2**.*

Because the plan is fully funded, the premium is established by BCBSNE for the plan selected. For employees under the current labor contracts, the Board will contribute 85% of the costs of the single medical plan and 75% of the costs for coverage under the employee/spouse, employee/children, or family medical plans. The employee is responsible for the remaining cost of coverage. When both members of a married couple are employed and request family coverage, each member is required to contribute an amount equal to the contribution the member makes toward single coverage. To our knowledge, the Board has not officially approved the premium splits for non-union employees. (See Comment Number 2.)

Employees who opt out of the insurance plan, due to medical coverage provided by a spouse, receive a monthly credit of \$110, in the form of additional salary or as a cash payment that can be applied to other available benefits.

NEBRASKA STATE COLLEGE SYSTEM
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The services covered under the health and prescription provisions of the plan are explained in the following table:

Fully-Insured BCBSNE Health Plan		\$350 deductible		\$600 deductible	
		In-Network	Out-of-Network	In-Network	Out-of-Network
Plan/Lifetime Maximum	Individual	\$5 million		\$5 million	
Annual Deductible	Individual	\$350	\$700	\$600	\$1,200
	Family	\$700	\$1,400	\$1,200	\$2,400
Coinsurance Maximum	Individual	\$2,000	\$4,000	\$2,000	\$4,000
	Family	\$4,000	\$8,000	\$4,000	\$8,000
Plan Benefits		\$350 and \$600 Deductible In-Network Services		\$350 and \$600 Deductible Out-of-Network Services	
Office visit	Copay/ Coinsurance	\$35		60%, after deductible	
Annual exam	Copay/ Coinsurance	80%, after deductible. Routine mammography, pap smear, PSA and immunizations are paid at 100%, deductible and coinsurance are waived		60%, after deductible	
Well baby exam	Copay/ Coinsurance	80%, deductible waived		60%, deductible waived	
Hospital ER	Copay/ Coinsurance	80% after deductible		60%, after deductible	
Inpatient hospital	Copay/ Coinsurance	80% after deductible		60%, after deductible	
Outpatient surgical center	Copay/ Coinsurance	80% after deductible		60%, after deductible	
Inpatient mental health	Copay/ Coinsurance	80% after deductible; 30 day maximum per calendar year		50% after deductible; 30 day maximum per calendar year	
Outpatient mental health	Copay/ Coinsurance	\$30 for therapy, 60 visit maximum per calendar year; 75% after deductible for misc. charges (lab)		\$50 for therapy, 60 visit maximum per calendar year; 50% after deductible for misc. charges (lab)	
Prescription coverage	Drug Classification	Retail In-Network (30-day supply)		Mail Order (180-day supply)	
Prescription Drug Note 3	Generic	Plan pays 75% (Member pays \$5 minimum and \$25 maximum)		Member pays no more than 5 times the maximum for a 30-day supply, subject to the coinsurance maximum	
	Preferred (Formulary)	Plan pays 75% (Member pays \$30 minimum and \$60 maximum)			
	Non-Preferred (Non-Formulary)	Plan pays 50% (Member pays \$60 minimum and \$90 maximum)			
	Specialty	Plan pays 75% (Member pays \$50 minimum and \$100 maximum)			
Calendar Year Out-of-Pocket Maximum: \$2,500 per individual and \$5,000 per family.					

Note 1: Chart includes the members' copayment and the Plan's share of coinsurance.

Note 2: The benefits noted in this chart are based on a benefit year from January 1 to December 31. The deductible is per benefit year. The premiums are per fiscal year.

Note 3: BCBSNE provided the prescription drug benefits through Rx Nebraska and mail order benefits through PrimeMail. Coinsurance amounts noted in the chart are for in-network pharmacies.

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Retiree Health Insurance

Once a retiree's active eligibility ends, the retiree and his or her spouse may be eligible to continue coverage under EHA's Direct Bill Plan. A retiree must be between the ages of 50 and 64 at the end of the active eligibility period (or is receiving benefits under a collective bargaining agreement providing an early retirement program) to be eligible for coverage. The Direct Bill Plan is a special service of the NSEA, NCSA, and the NASB, and is only available to members of these associations. The Direct Bill Plan allows the retirees to choose the \$600 deductible BluePreferred PPO plan. The following are the eligibility requirements of EHA's Direct Bill Plan:

- The participant must become a Special Services Member of NSEA, NCSA, or NASB and pay annual dues.
- The school district from which the participant retired must be participating in the EHA plan.
- The participant must be at least 50 years old, or disabled, or the surviving spouse and/or dependent of a deceased school retiree.
- At the time of retirement, the participant must have been covered by the EHA plan for at least the previous five years.
- The participant is eligible only until age 65, unless his or her dependents need family coverage.

Under the Direct Bill Plan, the employee will pay his or her own premium.

Early Retiree Insurance

NSCS employees are eligible for retiree health insurance, which is fully paid by the NSCS under the voluntary retirement settlement program and the early retirement incentive program. These programs were available to all NSCS employees; however, effective June 30, 2009, the NSCS deleted the following Board policies: 5401, Early Retirement Incentive Program; and 5406, Voluntary Retirement Settlement Program. Health insurance payments are still being made by the NSCS on these participants' behalf. Effective, July 1, 2009, these retirement programs were only offered to support staff, as defined by the Board, and those employees covered under the NAPE/AFSCME Labor Contract.

Section 17.10(a) of the 2009-2011 NAPE/AFSCME Labor Contract states, in part:

“Voluntary Retirement Settlement Program. Eligible employees who elect to surrender their right to continued employment and retire on either July 1, 2009, or June 30, 2010, shall in exchange for the surrender of such right, receive a financial settlement incentive of twenty-five percent (25%) of their final year base salary with payment to be made in twelve (12) equal monthly installments following termination of employment. An eligible employee must be fifty-five (55) years of age with ten (10) or more years of consecutive service within the State College System and must provide six (6) months of advance written notice.

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In addition, the employee will be permitted to remain in the group medical and dental insurance plan offered retirees by Blue Cross/Blue Shield at the time of the employee's retirement. The Employer will pay the full cost of such coverage, which includes both the cost the employee would pay if still employed and the cost that the Employer pays for such coverage as the employer. Coverage payments will continue for a period of twelve (12) months following retirement . . .

If the retired employee reaches the age of sixty-five years (65) at any time during the twelve (12) month period of payout, at which time eligibility to participate in the BC/BS retiree plan ceases, the Employer will pay an amount equivalent to the full-cost of the 65 Gold Plus Medicare Supplemental Plan offered by the NSEA for the payout period remaining.”

Section 17.10(b) of the 2009-2010 NAPE/AFSCME Labor Contract states, in part:

“Early Retirement Incentive Program. The Program is designed to encourage the early retirement of eligible employees by offering an incentive to retire in the form of paid premiums in the group medical and dental health insurance program offered retirees by Blue Cross Blue Shield at the time of the eligible employee's retirement. The payment of premium will continue until the retired employee becomes eligible for coverage under the federal Medicare program, at which time the paid premiums shall cease. Full-time employees who have completed at least ten (10) years of continuous service within the State College System, and who are sixty (60) years of age or older are eligible to participate in this program upon providing six (6) months of advanced written notice . . .”

Support staff employees excluded from the NAPE/AFSCME Bargaining Unit are afforded equivalent plans under NSCS Board Policy 5104 (July 1, 2009), except that the Board policy specifically excludes part-time employees from these programs.

Employees who retire under one of these two early retirement programs will also be offered the \$600 deductible PPO Plan.

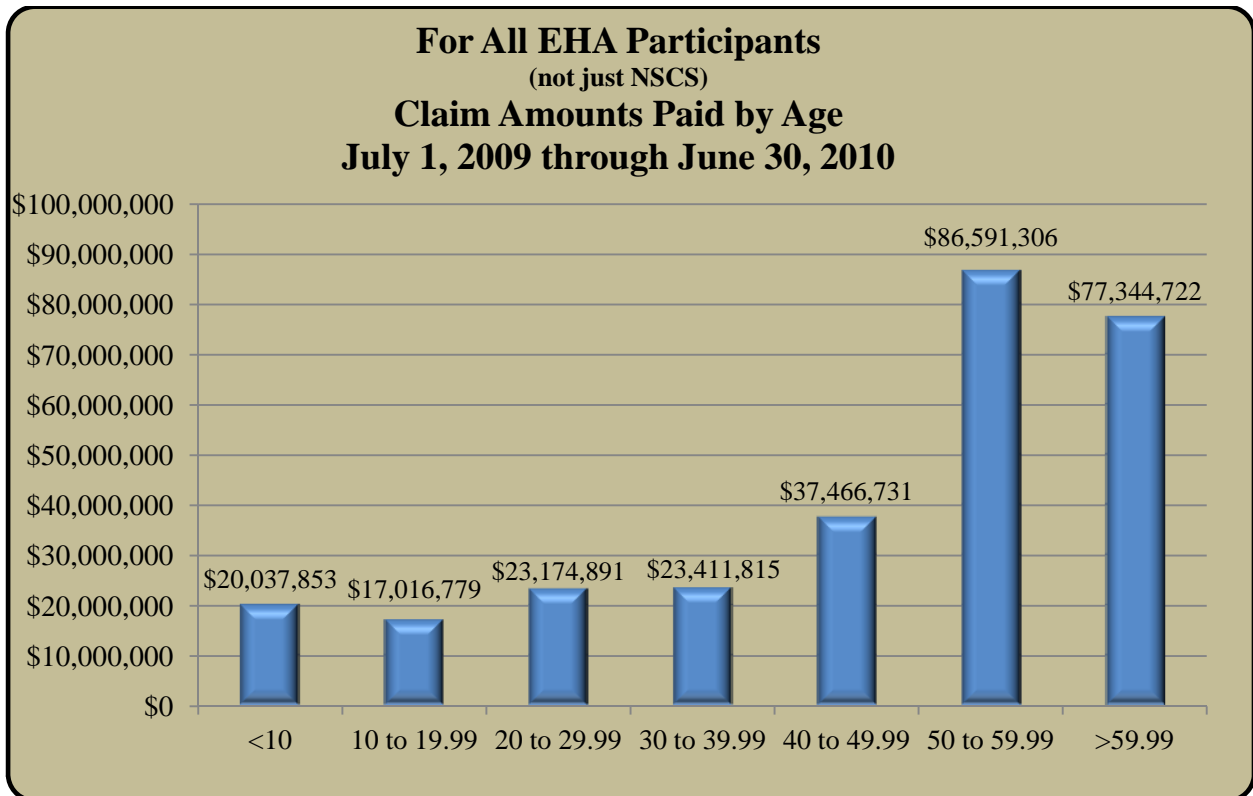
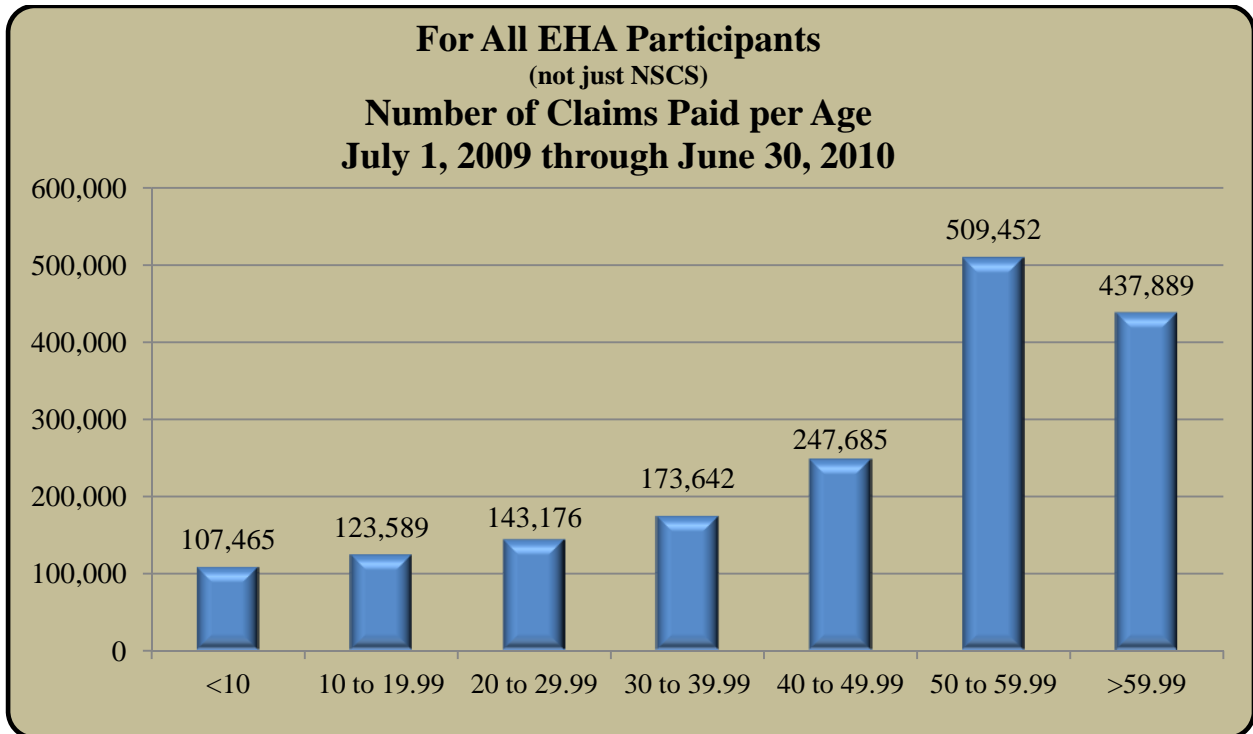
Claims Information

The plan covers eligible employees, spouses, and dependent children. The Auditor of Public Accounts (APA) obtained *summary level* information from EHA for the information listed below. This information was not audited. At June 30, 2010, the total number of participants, including active or retired employees, COBRA participants, spouses, and dependents was 73,295.

The charts below represent the number and dollar amounts of all claims paid during the fiscal year ended June 30, 2010, for all EHA participants, not just the State College participants:

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BACKGROUND
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Below is a summary of claims paid per patient for all EHA participants (not just NSCS) in excess of \$500,000 between July 1, 2009, and June 30, 2010:

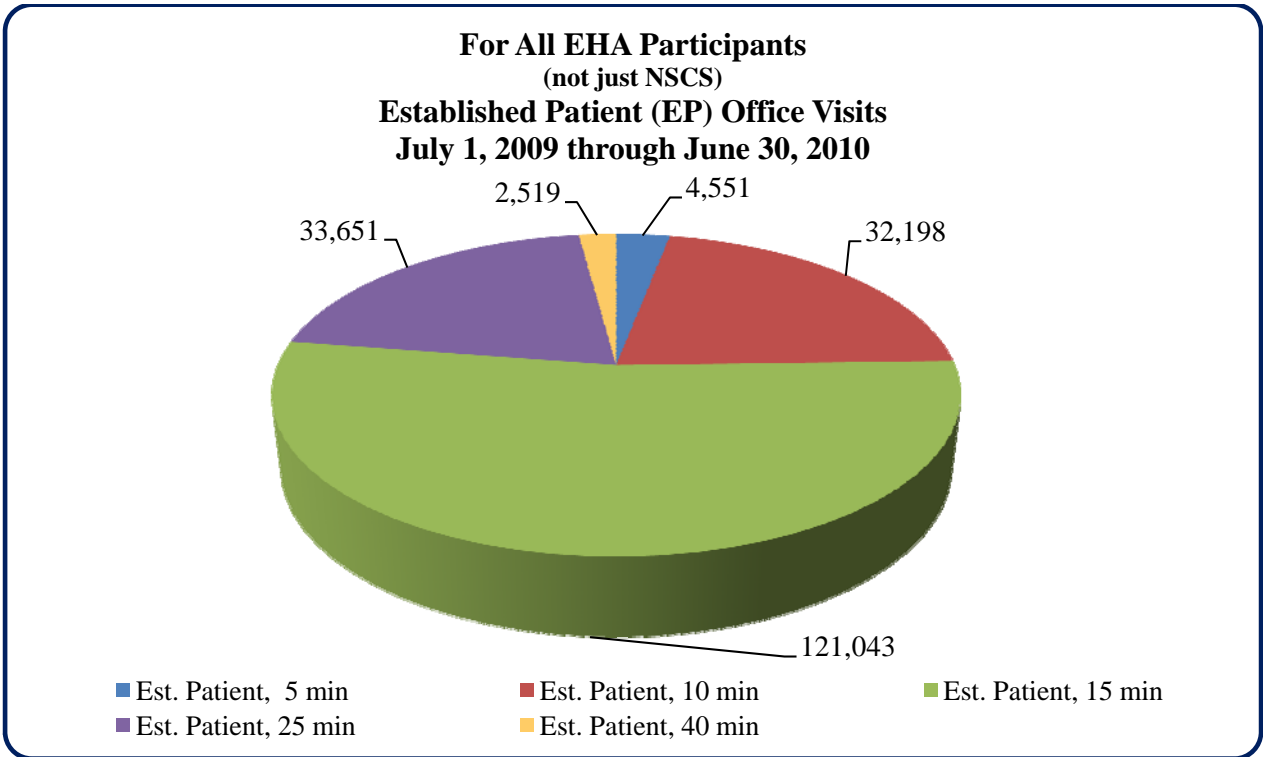
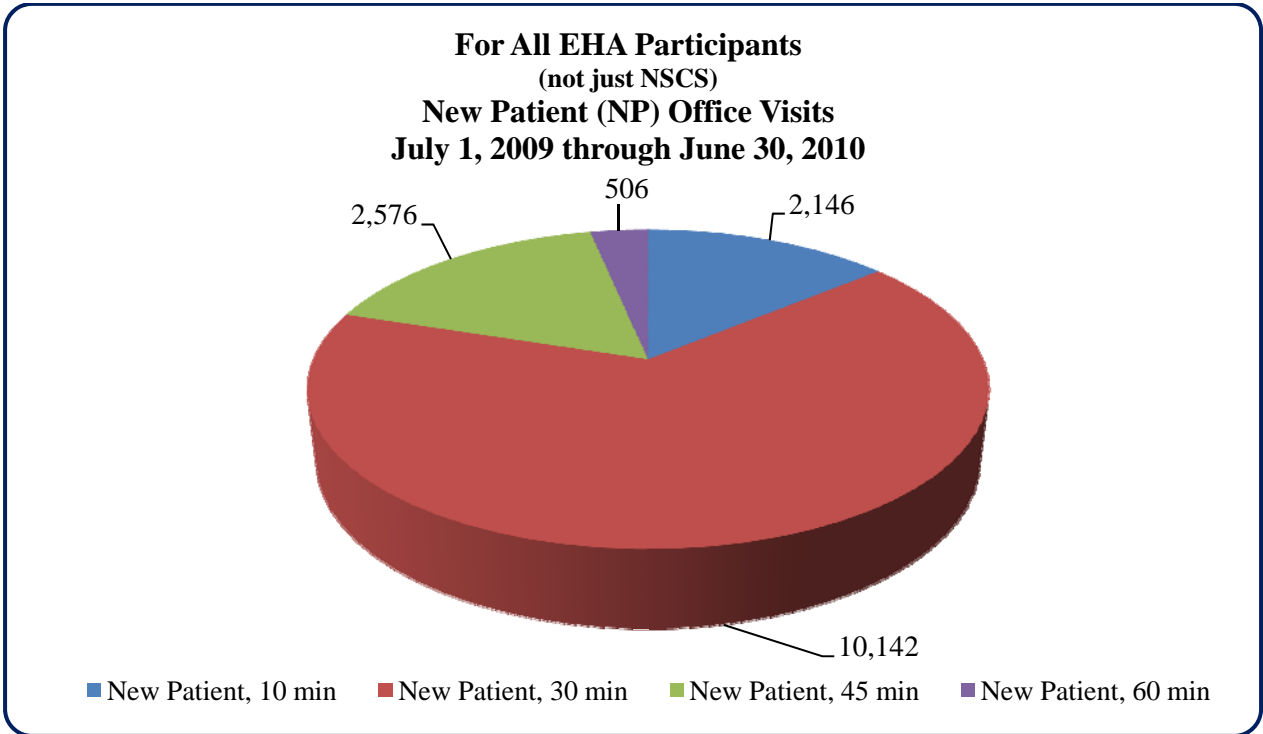
Patient ID	Relationship	Age	Claim Count	Paid
1	SUBSCRIBER	60	279	\$ 1,090,581.35
2	CHILD	7	376	\$ 1,089,531.74
3	SPOUSE	62	506	\$ 1,016,541.42
4	SPOUSE	62	421	\$ 926,992.66
5	SUBSCRIBER	57	457	\$ 868,528.27
6	SUBSCRIBER	26	34	\$ 859,023.66
7	CHILD	1	247	\$ 844,432.97
8	CHILD	1	319	\$ 745,408.20
9	SPOUSE	59	414	\$ 711,317.75
10	SUBSCRIBER	55	198	\$ 633,492.28
11	SUBSCRIBER	57	398	\$ 603,207.44
12	CHILD	24	331	\$ 537,005.82

EHA had 37,267 households (or contracts) with claims paid between July 1, 2009, and June 30, 2010. The total claims paid by EHA during this same time period were \$285,044,097, for a claim per household of \$7,649. The tables below are details of the doctor office visits by CPT code classifications for July 1, 2009, through June 30, 2010, for all EHA participants, not just the NSCS. The minutes refer to the amount of face-to-face time the physician spent with the patient and/or family. Included are the number of patients (patient count), number of claims (claim count) and amount paid.

Visit Type	Patient Count	Claim Count	Paid
New Patient, 10 min	2,021	2,146	\$ 32,597.60
New Patient, 30 min	8,889	10,142	\$ 916,387.05
New Patient, 45 min	2,391	2,576	\$ 406,553.01
New Patient, 60 min	467	506	\$ 103,452.33
Est. Patient, 5 min	2,645	4,551	\$ 9,673.69
Est. Patient, 10 min	19,021	32,198	\$ 668,810.05
Est. Patient, 15 min	46,602	121,043	\$ 6,548,835.19
Est. Patient, 25 min	18,017	33,651	\$ 3,290,808.73
Est. Patient, 40 min	1,853	2,519	\$ 354,414.58
Total July 2009 to June 2010	101,906	209,332	\$ 12,331,532.23

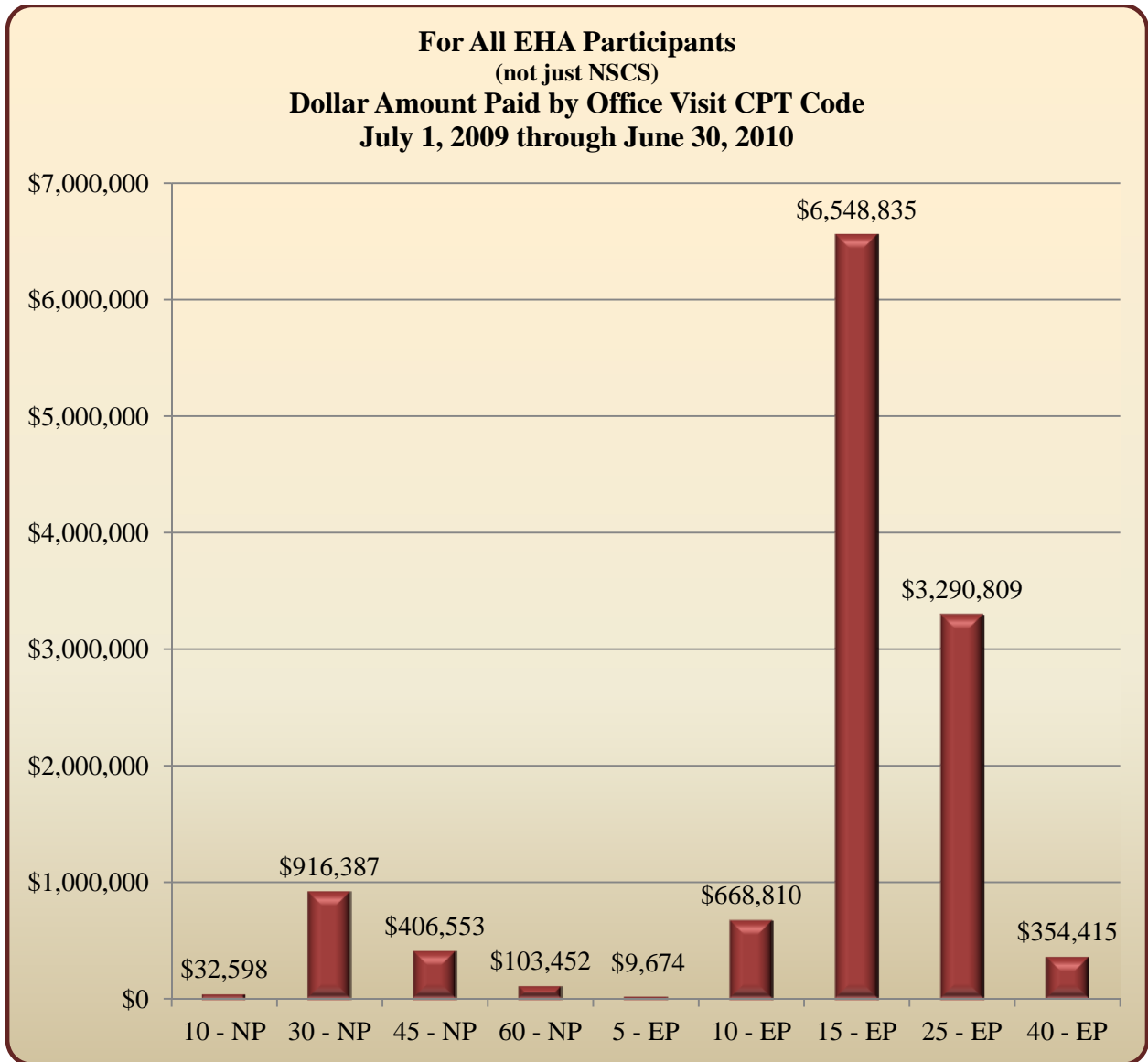
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NEBRASKA STATE COLLEGE SYSTEM
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EXIT CONFERENCE

An exit conference was held February 27, 2012, with the Nebraska State College System to discuss the results of our examination. Those in attendance for the Nebraska State College System were:

NAME	TITLE
Carolyn Murphy	Vice Chancellor for Finance and Administration
Becky Kohrs	Accountant

NEBRASKA STATE COLLEGE SYSTEM
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SUMMARY OF COMMENTS

During our examination of the Nebraska State College System – Health Insurance Premiums, we noted certain deficiencies in internal control and other operational matters that are presented here.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the areas as follows:

1. *Lack of Authority for Non-Employee Participation in Plan*
2. *Lack of Board Approval for Non-Union Premiums*
3. *Inaccurate Retiree Information*
4. *Payroll Vendor Payments*
5. *Claims Detail Not Provided*

More detailed information on the above items is provided hereafter. It should be noted that this report is critical in nature, as it contains only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Nebraska State College System – Health Insurance Premiums.

Draft copies of this report were furnished to the Nebraska State College System to provide them an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next examination.

NEBRASKA STATE COLLEGE SYSTEM
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COMMENTS AND RECOMMENDATIONS

1. Lack of Authority for Non-Employee Participation in Plan

NSCS Board Policy 5501 allows full-time employees of organizations ancillary to the NSCS to participate in the NSCS health insurance plan. The ancillary organizations include the Chadron State Foundation, Peru State College Foundation, and Wayne State Foundation. During the period July 1, 2009, through June 30, 2010, there were 10 ancillary employees enrolled in the NSCS health insurance plan, as follows:

Organization	Number of Non-Employees Enrolled in NSCS health insurance plan
Chadron State Foundation	2
Peru State College Foundation	3
Wayne State Foundation	5
Totals	10

The APA questions whether the Board has the authority to allow non-employees to participate in its employee health insurance program.

Neb. Rev. Stat. § 85-301 (Reissue 2008) establishes the Board of Trustees of the Nebraska State Colleges and states, in part, “The duties and powers of the board shall be prescribed by law . . .” Neb. Rev. Stat. § 85-304 (7) (Reissue 2008) grants the Board the power to “provide benefits for all present and future employees, including group life insurance, group hospital-medical insurance, and group long-term disability income insurance . . .” Nowhere in statute is the Board expressly authorized to provide benefits to non-employees.

On November 27, 2001, the Nebraska Attorney General responded to an inquiry from then Director of the Department of Administrative Services (DAS), Lori McClurg, regarding whether she should allow non-state employees to participate in the Nebraska State Insurance Program, which is governed under Neb. Rev. Stat. §§ 84-1601 to 84-1617 (Reissue 2008). The Attorney General pointed out that administrative agencies have only the power specifically granted to them by the Legislature. Because both § 84-1601 and § 84-1604 clearly restrict participation in the Nebraska State Insurance Program to state employees, and the Director of DAS has no statutory authority to override those provisions of law, the Attorney General concluded that non-state employees should not be permitted to participate in the Nebraska State Insurance Program. However, while no new non-employees should be allowed to receive coverage, the Attorney General warned that it might be impermissible to remove those non-state employees already participating in the program. See **Attachment 1**.

NEBRASKA STATE COLLEGE SYSTEM
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COMMENTS AND RECOMMENDATIONS

(Continued)

1. **Lack of Authority for Non-Employee Participation in Plan** (Continued)

Similarly, § 85-304(7) limits the Board to providing benefits to “all present and future employees” of the NSCS, and no statutory authority exists for extending those benefits to non-employees. However, there is an important distinction that limits the applicability of the above-referenced Attorney General’s opinion with regard to the Board’s current practice of offering health insurance coverage to non-employees. Unlike DAS, which is solely a creature of statute, the Board draws its underlying authority from the Nebraska State Constitution. Article VII, Section 13, of that document provides, in relevant part:

“The general government of the state colleges as now existing, and such other state colleges as may be established by law, shall be vested, under the direction of the Legislature, in a board of seven members to be styled as designated by the Legislature . . . The duties and powers of the board shall be prescribed by law . . .”

This constitutional language is important because it necessarily brings into play the Nebraska Supreme Court’s decision in *Regents of University of Nebraska v. Exon*, 199 Neb. 146, 256 N.W.2d 330 (1977). Although addressing the Board of Regents of the University of Nebraska, the holding in that case is equally applicable, according to both the Attorney General and the Nebraska Supreme Court, to the Board of Trustees of the NSCS.

The *Regents v. Exon* case recognizes the constitutional authority of the Board of Regents to direct University operations largely free from political influence and control. While charged under the Constitution with enacting laws that vest the general governance of the University in the Board of Regents, the Legislature may not do so in a manner that intrudes unduly upon that general governance of that educational institution. Thus, no laws prescribing the powers and duties of the Board of Regents may operate to deprive that body of its constitutional prerogative to guide essential University affairs. The Board of Regents must retain its independence to exercise general control over the University, and legislation may not be implemented to usurp that autonomy.

Exactly where lie the boundaries of the Board’s authority to exercise autonomous control over the NSCS is unclear. It is doubtful, however, that limiting the Board, under § 85-304(7), to providing health insurance coverage for employees alone constitutes an intrusion upon the governance of the NSCS. Likewise, extending health insurance benefits to nonemployees, in direct contravention of § 85-304(7), is unlikely an intrinsic function of the NSCS that must be left to the sole discretion of the Board.

It should be noted also that, although the cost of the premium is paid entirely by the non-employee, allowing non-employees to participate in the NSCS health insurance plan increases the risk that those non-employees or their dependents may have high insurance claims; this could require an increase in premiums or changes in the benefit plan designs to recover the cost of the high claims. Because detailed claims data was not provided, the APA cannot determine the magnitude of the claims paid for these ineligible participants.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

COMMENTS AND RECOMMENDATIONS

(Continued)

1. Lack of Authority for Non-Employee Participation in Plan (Concluded)

We recommend the Board seek a legal opinion from the Attorney General regarding the legality of allowing non-employees to participate in the NSCS health insurance plans. We recommend also that the Board seek a determination regarding whether non-employees and their dependents currently enrolled in the plan have a right to continue participation in the plan.

NSCS's Response: The respective foundations pay the cost of employee participation in the plan. As recommended, the NSCS will review the continuation of these individuals in the plan.

2. Lack of Board Approval for Non-Union Premiums

Approximately 125 of 718 active employees are non-union employees, who follow policies and procedures set by the Board. The NSCS staff could not provide documentation from the Board to support its approval of the employee and Board share of the premiums for non-union employees. In an email to the APA, NSCS staff indicated, "The splits for non-union employees have always been the same as the negotiated union agreements which the Board approved."

As noted in the Background Section of the report, three bargaining units (SCEA, NSCPA, and NAPE/AFSCME) represent employees of the NSCS. All three of the labor contracts negotiated by these bargaining units contain similar language identifying the amount of the premium paid by the Board and the amount of the premium paid by the employee. Representative of such contractual language is that found in Section 11.2 of the labor agreement between the Board of Trustees and the SCEA, which states:

"The Board will contribute a fixed dollar amount equivalent to eighty-five percent (85%) of the aggregate costs of the single medical plan for the term of this Agreement, with the faculty member responsible for the remaining amount of the cost of coverage. For those who opt for coverage under a family medical plan, the Board will contribute toward the family, employee/children or employee/spouse plan a fixed dollar amount equivalent to seventy-five percent (75%) of the aggregate costs of the family medical plan for the term of this Agreement, with the faculty member responsible for the remaining amount of the cost of coverage."

Good internal control requires Board approval for policies governing non-union employees. Without clear Board approval of the employee and Board share of premiums, there is a risk the Board's intention to have the non-union employees pay an amount consistent with the labor agreements could be jeopardized.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Lack of Board Approval for Non-Union Premiums (Concluded)

We recommend the Board approve the employee and the Board share of the premiums for non-union employees each time new labor agreements are negotiated.

NSCS's Response: The NSCS will take this recommendation under advisement.

3. Inaccurate Retiree Information

Financial information provided to the APA for retiree premiums paid by the NSCS was inaccurate.

As noted in the Background Section of this report, the NSCS offered its employees two early retirement programs, the Voluntary Retirement Settlement Program and the Early Retirement Incentive Program. The NSCS paid the full health insurance premiums for members who retired under these programs. Each college provided information to the APA regarding the retirees covered under these programs. The information provided by Wayne State College as of June 30, 2010, was inaccurate, as it did not include four individuals whom the APA determined to be covered under one of the plans. The NSCS office later confirmed the accuracy of the individuals identified by the APA. From July 1, 2009, through June 30, 2010, the NSCS made the following premium payments to BCBSNE on behalf of these four individuals:

WSC Retiree	Insurance Premium Paid by College
Individual 1	\$ 6,502.22
Individual 2	\$ 6,224.25
Individual 3	\$ 6,224.25
Individual 4	\$ 15,259.98
Total	\$ 34,210.70

The APA determined also that campuses were inconsistent in coding early retiree health insurance expenses, which made it difficult for both the APA and the NSCS staff to identify all health insurance payments from the three colleges for the early retiree program. No single account number (cost element) was established to record these health insurance premiums by the colleges.

Using the NSCS accounting system, the APA initially identified payments made to BCBSNE for the early retirement program between July 1, 2005, and June 30, 2010. The APA requested confirmation of these figures from the NSCS, which then revealed several additional payments for the early retirement program. The NSCS first provided an additional \$33,535.16 in payments made on behalf of retirees; however, when the APA requested the detail of this amount, the total changed to \$33,616.24.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

COMMENTS AND RECOMMENDATIONS
(Continued)

3. Inaccurate Retiree Information (Concluded)

The APA verified the amounts to the accounting system and noted several discrepancies in the figures provided by Wayne State College – the total variance was \$6,798.72. In addition to other smaller discrepancies, the college included an individual who was already included in the original amount identified by the APA. A summary of the discrepancies is as follows:

Original Amount Identified by APA	Additional Amount Provided by NSCS	Revised Amount from NSCS after Support Obtained	Revision by APA after Reviewing Detail	Total Payments by NSCS for Retiree Health Insurance
\$ 175,493.93	\$ 33,535.16	\$ 33,616.24	\$ 26,817.52	\$ 202,311.45

Good internal controls require adequate procedures to permit the consistent recording of financial information and maintenance of accounting records. Without such procedures, there is an increased risk for inaccurate financial reporting by the colleges.

We recommend the NSCS ensure all colleges are recording transactions consistently and accurately in the accounting system.

NSCS's Response: The NSCS will review the coding of the retiree health insurance in the accounting system.

4. Payroll Vendor Payments

Since 2003, the State of Nebraska (State) has utilized EnterpriseOne accounting software to record all of its official financial records in one centralized system. However, for more than a decade, the University of Nebraska (University) has relied upon its own separate software, Systems Applications and Products (SAP), for accounting purposes. As both “a cost-savings and efficiency directive” from Governor Dave Heineman, the NSCS moved its existing business systems from EnterpriseOne to the University’s SAP system in mid-2009.

Payroll vendor payments are set up differently in the SAP system implemented by both the University and the NSCS than in EnterpriseOne. Payments made to vendors through the State’s payroll process are recorded as vendor payments in EnterpriseOne. However, instead of generating vendor payments through SAP or EnterpriseOne during the payroll process, the University, on behalf of the NSCS, sends payroll payment instructions directly to the State’s bank, authorizing the automatic deposit of payments to the vendors’ banks. As a result, a vendor payment entry is not created in either accounting system; rather, a mere journal entry is made to record such payments. Because neither accounting system records vendor payments by the NSCS to health insurance vendors, such as BCBSNE, the total amounts paid to these vendors cannot be determined or identified by general users of the two systems.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

COMMENTS AND RECOMMENDATIONS
(Continued)

4. Payroll Vendor Payments (Continued)

The following amounts were paid through the payroll process by the NSCS for fiscal years 2010 and 2011:

Vendor	2010	2011
Payment for Health and Dental Insurance*	\$ 7,995,927	\$ 8,273,665
TIAA/CREF (retirement)	\$ 6,120,153	\$ 6,505,189
All other Payments	\$ 1,049,503	\$ 1,028,367
Total	\$ 15,165,583	\$ 15,807,221

**Payments made on behalf of NSCS' fully-insured employee health insurance plan go directly to its health insurance carrier, BCBSNE. Other vendors paid through this method included college/University foundations, the United Way, vision and life insurance vendors, union payments, etc.*

After discussions with NSCS representatives, the APA obtained this payroll process information from the University, which provides the NSCS payroll feeds from SAP to EnterpriseOne.

Sound accounting procedures include complete and accurate reporting of all payments to vendors to allow users of the State's accounting system to review and report on all vendor payments. According to Neb. Rev. Stat. § 81-1110.01 (Reissue 2008), the purpose of the accounting division of DAS is:

"[T]o prescribe, coordinate, and administer a centralized, uniform state accounting and payroll system and personnel information system, to establish and enforce accounting policies and procedures for all state agencies, boards, and commissions, to monitor and enforce state expenditure limitations established by approved state appropriations and budget allotments, and to administer the federal Social Security Act for the state and the state's political subdivisions."

When vendor payments do not originate from the State's accounting system, it is difficult for users of the two systems to ascertain the total amounts paid to all vendors. This was noted as a prior year finding.

We recommend the NSCS work with the Department of Administrative Services and/or the University to develop a process that allows vendor payments to be recorded in the State's accounting system.

NSCS's Response: The NSCS understands that the vendor payments made as part of payroll are processed differently than accounts payable, as part of the payroll clearing process. While the information is not available within the vendor file, it is available in SAP as part of the journal entry that makes the clearing entries. The amounts provided in the journal entry are reconciled

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

COMMENTS AND RECOMMENDATIONS

(Continued)

4. Payroll Vendor Payments (Concluded)

by the NSCS each month to assure that the correct transfers were made. The NSCS will continue to consult with the University, as recommended. Under the current process, the NSCS completes and documents the reconciliation each month to assure the payroll journal entries are accurate.

5. Claims Detail Not Provided

The NSCS did not provide the APA with detailed health insurance claims data from its insurer. These data files were needed to determine whether claims have been paid for ineligible participants; they were also to be used for the APA's performance audit in comparison with the three other plans offered to State employees.

As explained already, the NSCS offers a fully insured insurance program. The employees and employer make premium payments directly to the insurer, BCBSNE, which bears the financial risk associated with the plan. The NSCS employees paid \$1,605,023 in health insurance premiums, while the NSCS paid \$5,709,431.

In April 2010, the APA obtained permission from the Legislative Performance Audit Committee to conduct a performance audit relating to the cost of health insurance for State employees. Audit fieldwork began shortly thereafter. As part of our testing, on June 2, 2010, the APA requested the State's medical claims detail from BCBSNE. On July 7, 2010, BCBSNE notified the APA that this information was ready for delivery. Over a year after the APA first notified BCBSNE and the NSCS of its intent to obtain the data, summary level data was provided to the APA on June 28, 2011.

Neb. Rev. Stat. § 84-305 (Reissue 2008) states:

"The Auditor of Public Accounts shall have access to all records of any public entity, in whatever form or mode the records may be, unless the auditor's access to the records is specifically prohibited or limited by federal or state law. No provisions of state law shall be construed to change the nonpublic nature of the data obtained as a result of the access. When an audit or investigative finding emanates from nonpublic data which is nonpublic pursuant to federal or state law, all the nonpublic information shall not be made public."

One of the reasons provided for the delay in complying with the APA's request for claims data is that the Health Insurance Portability and Accountability Acts of 1996 (HIPAA) prohibits the release of such information.

HIPAA is codified at 42 USC § 1320d et seq. The HIPAA Administrative Simplification Regulations are found at 45 CFR §§ 160, 162, and 164. These include the Privacy Rule, which is located at 45 CFR Part 160 and Subparts A and E of Part 164. Though designed to protect the

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

COMMENTS AND RECOMMENDATIONS

(Continued)

5. Claims Detail Not Provided (Concluded)

privacy of individually identifiable health information held by either a covered entity or a business associate thereof, HIPAA provides a number of important exceptions to that general rule.

According to 45 CFR § 160.203, “A standard, requirement or implementation specification adopted under . . . [HIPAA] that is contrary to a provision of State law preempts the provision of State law.” However, that regulation sets out specific exceptions under which a covered entity is not required to comply with a contrary provision of HIPAA. Among those is one found at 45 CFR § 160.203(d), which says: “The provision of State law requires a health plan to report, or to provide access to, information for the purpose of management audits, financial audits, program monitoring and evaluation, or the licensure or certification of facilities or individuals.” As explained at 42 USC § 1320d-7(c), “Nothing in this part shall limit the ability of a State to require a health plan to report, or to provide access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification.”

Under 45 CFR § 164.512(d)(1), “A covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits...” 45 CFR § 164.501 defines a “health oversight agency” as:

“An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.”

To summarize, in conjunction with the authority granted under Neb. Rev. Stat. § 84-305, HIPAA provides specific exceptions – such as those referencing conflicting State law and pertaining to health oversight agencies – under which the APA may access protected health information. Without the detailed claims data requested well over a year ago, the APA cannot determine the amount or magnitude of claims paid for ineligible members and what effect those ineligible members may have on the premiums offered by BCBSNE.

We recommend the NSCS work with EHA in order to be able to provide the requested health insurance claims data to the APA.

NSCS’s Response: The NSCS does not have access to health insurance claims data. The NSCS’s health insurance coverage is fully insured. Premiums are paid to EHA for the coverage provided.



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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State Auditor

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NEBRASKA STATE COLLEGE SYSTEM HEALTH INSURANCE PREMIUMS

INDEPENDENT ACCOUNTANT'S REPORT

We have examined the accompanying Schedule of Health Insurance Premiums Contributed and Paid by the Nebraska State College System as of and for July 1, 2009, through June 30, 2010. The Nebraska State College System's management is responsible for the Schedule. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the amounts and disclosures in the Schedule and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the Schedule referred to above presents, in all material respects, the Health Insurance Premiums Contributed and Paid by the Nebraska State College System for July 1, 2009, through June 30, 2010, based on the accounting system and procedures prescribed by the Nebraska State College System as described in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Schedule and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Schedule is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule or on compliance and other matters; accordingly we express no such opinions. Our examination disclosed no findings that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management, the Nebraska State College System, others within the Nebraska State College System, and the appropriate Federal and regulatory agencies. However, this report is a matter of public record and its distribution is not limited.

Signed Original on File

March 5, 2012

Mike Foley
Nebraska Auditor of Public Accounts

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

SCHEDULE OF HEALTH INSURANCE PREMIUMS CONTRIBUTED AND PAID
For the period July 1, 2009 through June 30, 2010

Schedule of Health Insurance Premiums Contributed and Paid For the period July 1, 2009, through June 30, 2010	
Premiums Contributed	
Employee Contributions	\$ 1,605,023
Employer Contributions for Active Employees	5,709,431
Employer Contributions for Retirees	202,311
Total Premiums Contributed	\$7,516,765
Premiums Paid	
BCBSNE	\$7,489,948
Individuals under Supplemental Medicare Program	18,784
Payflex for COBRA Coverage	3,669
Miscellaneous	4,364
Total Premiums Paid	\$7,516,765

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

NOTES TO FINANCIAL SCHEDULE
For the Period July 1, 2009 through June 30, 2010

1. Criteria

A. Reporting Entity

The Nebraska State College System (NSCS) is a governmental institution established under and governed by the laws of the State of Nebraska. The NSCS operates under the jurisdiction of the Board of Trustees of the Nebraska State Colleges. The NSCS includes Chadron State College (CSC), Peru State College (PSC), Wayne State College (WSC), and the NSCS Office.

B. Basis of Accounting

The accounting records are maintained, and the Schedule of Health Insurance Premiums Contributed and Paid has been prepared on the basis of accounting prescribe by the NSCS. The NSCS uses Systems Applications and Products in Data Processing (SAP) to record its financial transactions.

2. Subsequent Event

Subsequent to the fiscal year under audit, EHA announced its premium rates for both fiscal year 2011 and fiscal year 2012, which can be seen below, along with the fiscal year 2010 rates:

Type of Coverage	\$350 Deductible for Active Employees			
	FY 2010 Total Annual Premium	FY 2011 Total Annual Premium	FY 2012 Total Annual Premium (Original)	FY 2012 Total Annual Premium (with Holiday)
Employee Only	\$ 5,754.84	\$ 5,953.92	\$ 5,953.92	\$ 5,457.76
Employee and Child(ren)	\$ 10,646.64	\$ 11,015.04	\$ 11,015.04	\$ 10,097.12
Employee and Spouse	\$ 12,085.32	\$ 12,503.52	\$ 12,503.52	\$ 11,461.56
Family	\$ 15,883.56	\$ 16,788.96	\$ 16,788.96	\$ 15,389.88

As noted previously in the report, in June 2011 EHA announced a premium “holiday” for December 2011. In essence, due to amounts that have accumulated in EHA’s Rate Stabilization Reserve, entities participating in EHA’s health insurance plan did not have to pay the premium for the month of December 2011. The revised premium amounts for fiscal year 2012, including the premium “holiday” are shown above.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS

SUPPLEMENTARY INFORMATION

Our examination was conducted for the purpose of forming an opinion on the Schedule of Health Insurance Premiums Contributed and Paid. Supplementary Information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the schedule and, accordingly, we express no opinion on it.

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS
LETTERS REGARDING NON-EMPLOYEE PARTICIPATION

ATTACHMENT 1

STATE OF NEBRASKA



Mike Johanns
Governor

DEPARTMENT OF ADMINISTRATIVE SERVICES
Lori McClurg
Director
Suite 1316, State Capitol
Lincoln, Nebraska 68509-4664
Phone (402) 471-2331

January 31, 2002

Chris Nielsen, President
Nebraska State Employees Credit Union
330 South 16th Street
Lincoln, NE 68509-5084

Dear Chris:

In order to answer a question from the Nebraska Association of Public Employees regarding switching their health insurance coverage, I recently requested an opinion from the Attorney General. I am attaching a copy of the Attorney General's opinion. As you will see, the opinion indicates that I do not have the authority to allow non-state employees to participate in the State's insurance programs.

Historically, employees of the Nebraska State Employees Credit Union have been allowed to participate in the State's health insurance plan. In accordance with the attached Attorney General's opinion, Credit Union employees will not be allowed to change their coverage to any other State health insurance plan. That is, if they currently participate in the HMO, they will have to remain on the HMO. If they currently participate in the PPO, they will have to remain on the PPO. Also, it was recently pointed out to me that the opinion states that no additional Credit Union employees (for example, new hires or current employees who are not participating in the plan) should be allowed to join the State's health insurance plan. To comply with the opinion, starting March 1 we will not be able to add Credit Union employees to the plan. Employees of the Credit Union who currently participate in the State's health insurance program will be allowed to remain on this plan.

For your information, the legislature is currently considering a bill (LB 826) on General File which would allow the Regional Library Systems to participate in the State's health insurance plan.

Sincerely,

Handwritten signature of Lori McClurg in cursive script.
Lori McClurg, Director
Department of Administrative Services

LMcC:sm

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NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS
LETTERS REGARDING NON-EMPLOYEE PARTICIPATION

ATTACHMENT 1



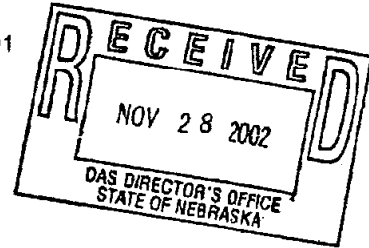
STATE OF NEBRASKA
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DON STENBERG
ATTORNEY GENERAL

STEVE GRASZ
LAURIE SMITH CAMP
DEPUTY ATTORNEYS GENERAL

November 27, 2001



Lori McClurg, Director
Nebraska Department of Administrative Services
Suite 1315, State Capitol
Lincoln, NE 68509-4664

Dear Ms. McClurg:

From your opinion request letter, we understand that you have received correspondence from the union which represents certain state employees inquiring as to whether staff members with that union may participate in all the various health insurance options offered by the State of Nebraska to its employees. Apparently, those union staff members currently are offered participation in the State's HMO health insurance program, solely at their expense, as are other non-state employees with the State Fair Board and the State Employees' Credit Union. In light of that situation, you have asked us "whether the Director of Administrative Services has the authority under Neb. Rev. Stat. 84-1601 through 84-1617 to approve the participation of non-state employees under the State's health insurance plan [?]" For the reasons discussed below, we believe the answer to your question is "No."

The Nebraska State Insurance Program is set out at Neb. Rev. Stat. §§ 84-1601 through 84-1617 (1999, Cum. Supp. 2000). There is nothing in those statutes which specifically authorizes the Director of the Department of Administrative Services ("DAS") to approve the participation of non-state employees in the State's health insurance program. To the contrary, all references in those statutes to participants in the State Insurance Program are references to state employees. For example, § 84-1601 provides, as is pertinent:

(1) there is hereby established a program of group life and health insurance **for all permanent employees of this state** who work one-half or more of the regularly scheduled hours during each pay period, excluding employees of the University of Nebraska, the state colleges, and the community

Jennifer M. Amen
David K. Auerburn
William R. Baiger
L. Jay Bantel
Francis M. Betsch
Vicki L. Boone-Lawson
J. Kirk Brown
Alma C. Clarke

Oscaras N. Coa-Barbee
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NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS
LETTERS REGARDING NON-EMPLOYEE PARTICIPATION

ATTACHMENT 1

Lori McClurg
November 27, 2001
Page 2

colleges. Such program shall be known as the Nebraska State Insurance Program and shall replace any current program of such insurance in effect in any agency and funded in whole or in part by state contributions.

(2) **Temporary employees of the state** who have a work assignment of at least six months' duration and who work at least twenty hours per week may purchase health insurance through the Nebraska State Insurance Program.

(Emphasis added.) In addition, § 84-1604 provides, as is relevant:

The coverages provided for by sections 84-1601 to 84-1615 shall be afforded to **each permanent state employee** who works one-half or more of the regularly scheduled hours during each pay period, commencing after thirty days of such employment, and to **each temporary employee** only as described in subsection (2) of section 84-1601, commencing after thirty days of such employment.

(Emphasis added.)

In Nebraska, in the absence of anything indicating to the contrary, statutory language should be given its plain and ordinary meaning. *Nickel v. Saline County School Dist. No. 163*, 251 Neb. 762, 559 N.W.2d 480 (1997). Moreover, administrative officers and agencies have only that power which is granted by the legislature; thus, their powers are limited to those delineated by statute. *Stoneman v. United Nebraska Bank*, 254 Neb. 477, 577 N.W.2d 271 (1998); *Jolly v. State*, 252 Neb. 289, 562 N.W.2d 61 (1997). With those rules in mind, it appears to us that the import of the statutes creating the Nebraska State Insurance Program is clear. Those statutes create an insurance program for state employees. We see no authorization for the Director of DAS to allow non-state employees to participate in the system.

While we do not believe that the Director of DAS is authorized to permit non-state employees to participate in the Nebraska State Insurance Program and that, on that basis, you do not have authority to allow non-state employees to expand their coverages and participate in all the insurance options offered to state employees, we caution that it may not be proper to exclude non-state employees from any insurance coverage options they are presently receiving on the basis of *State ex rel. Stenberg v. Moore*, 253 Neb. 535, 571 N.W.2d 317 (1997). In that case, the Nebraska Supreme Court concluded, based upon the doctrine of equitable estoppel, that certain participants in retirement programs under the Nebraska School Employees' Retirement Act who had been allowed to participate in those retirement programs could not be removed from the programs even though their participation was contrary to the controlling statutory provisions. In that

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS
LETTERS REGARDING NON-EMPLOYEE PARTICIPATION

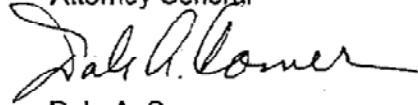
ATTACHMENT 1

Lori McClurg
November 27, 2001
Page 3

regard, to the extent that non-state employees are allowed to continue to participate in the State Insurance Program HMO option, it should also continue to be solely at their expense.

Sincerely yours,

DON STENBERG
Attorney General



Dale A. Comer
Assistant Attorney General

05-02-21

NEBRASKA STATE COLLEGE SYSTEM
HEALTH INSURANCE PREMIUMS
MEMO ON EHA PREMIUM HOLIDAY

ATTACHMENT 2



Educators Health Alliance Announces Premium ‘Holiday’

The Educators Health Alliance (EHA) Board is pleased to announce that in its May 26, 2011 meeting the Board approved a premium ‘holiday’ for the month of December 2011 by passing the following resolution:

“There shall be a premium holiday in December, 2011. In subgroups where a recognized or certified bargaining agent exists, both the employer and bargaining agent shall sign a form provided by EHA in order to receive the holiday. If a bargaining agent does not exist the employer shall sign the form. Direct bill subscribers, including early retirees, and COBRA subscribers, shall receive the holiday if they are enrolled in the month of December.”

The EHA has been able to keep recent rate increases to a reasonable amount despite the ongoing pressures of medical inflation.

We believe proper management of the EHA plan along with the prudent use of medical services by plan participants has contributed to low premium increases and recent favorable claims costs in the plan.

In February, the EHA Board announced there will be no rate increase for the plan year beginning September 1, 2011 and furthermore the increase for the 2012-13 plan year will be limited to 4% or less.

The favorable claims experience of the 2009-10 year has continued into the 2010-11 year. The EHA has a contractual agreement with its insurer, Blue Cross Blue Shield of Nebraska (BCBSNE), whereby favorable experience is accrued to a rate stabilization reserve (RSR) which will be utilized to offset future unfavorable experience or provide future premium rate relief for plan participants.

The action of the EHA Board, in agreement with BCBSNE, is to provide this future rate relief through the waiving of one month’s premium payments. In order to receive the premium holiday a form will need to be signed and provided to BCBSNE by November 1, 2011. Additional administrative requirements, if any, in implementing the premium holiday will be provided at a later date.

Please contact Kent Trelford-Thompson at 402-458-4810, email Kent.trelford-thompson@bcbsne.com or Kurt Genrich at 402-217-2042, email Kurt@ehaplan.org with any questions regarding this announcement.

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