

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8466. Distribution Election at Termination.

(a) A member who has been contributing into the plan for at least two years is eligible to elect distribution of the member's account in accordance with this section 60 days after termination of employment or giving notice of election to receive distribution of the member's account.

(b) Notwithstanding (a) of this section, distribution of all or a portion of the individual account of a member may take place before the 60th day after the termination of employment or giving notice of election to receive distribution of the member's account with the approval of the Administrator if the member makes a written request on a form prescribed by the administrator for a distribution under this subsection.

(c) The member's spouse must consent to the request for distribution in writing if the member is married on a form prescribed by the administrator.

(d) Distribution of an individual account may be made on account of an immediate and heavy financial need of the member for the following reasons and in the amount the need is demonstrated for:

(1) Medical care described in section 26 U.S.C. 213(d) incurred by the member, the member's spouse, or the member's dependent, or necessary to obtain that medical care;

(2) The purchase of a principal residence for the member;

(3) Postsecondary education tuition and related educational fees for the next 12-month period for the member, the member's spouse, or a dependent of the member; in this paragraph, dependent has the meaning given in section 26 U.S.C. 152;

(4) Prevention of the eviction of the member from the member's principal residence or foreclosure on the mortgage of the member's principal residence;
or

(5) Any need prescribed by the United States Department of the Treasury, Internal Revenue Service, in a revenue ruling, notice, or other document of general applicability that satisfies the safe harbor definition of hardship under regulations adopted under section 26 U.S.C. 401(k).

(e) If a member dies before benefits commence, the member's beneficiary is immediately eligible to elect distribution of the member's share of the member's individual account.

(f) Distributions are payable to an alternative payee in accordance with the terms and conditions of a qualified domestic relations order that is received and approved by the administrator as specified in section 8471.

(g) Distributions that are being paid to a member may not be affected by the member's subsequent reemployment with the employer. Upon reemployment at the election of the member, a new individual account shall be established for the member to which any future contributions shall be allocated. Upon subsequent termination of employment, or election to receive distribution of the member's

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account. The member's new individual account shall be distributed in accordance with this section.

Source: PL 15-13, § 3 (8466); amended by PL 18-21 § 2 (Oct. 7, 2013).

Commission Comment: PL 18-21 (Oct. 7, 2013), contained, in addition to savings and severability clauses, the following:

Section 1. Findings. Public Law No. 17-82 made membership in the Defined Contribution Plan voluntary. However, no provision was made for withdrawal of the member's account prior to termination of employment.

The law establishing the Defined Contribution Plan allows for withdrawal of the member's account upon termination of for certain hardship situations. Under this bill, the members can withdraw their accounts upon request, without being required to terminate employment. The amount eligible for withdrawal includes the member's contribution, vested portion of the government contribution and account earnings. If the amounts withdrawn by the member are not rolled over in to a 401k or other approved retirement account, the member will be required to pay Ch. 7 income tax, Ch. 2 earnings tax and may be subject to a 10% penalty. Amounts withdrawn for the hardship reasons listed in 1 CMC § 8466 are not subject to a penalty. The penalty imposed for early withdrawal is established by the Internal Revenue Code incorporated by 4 CMC Chapter 7.