January 6, 2010

To: Members of the Retirees Committee

From: Liz Koppenhaver, Chair, Retired Trustee

Subject: Summary of the January 6, 2010 Retirees Committee Meeting

Trustee Liz Koppenhaver called the January 6, 2010 meeting to order at 10:40a.m. Committee members present were George Wood, Dale Amaral, Annette Cain-Darnes, and George Dewey. Other Board members present were Keith Carson, Darryl Walker, Elizabeth Rogers, and Dave Safer. Staff present were Chuck Conrad, Chief Executive Officer; Catherine Walker, Assistant Chief Executive Officer; Kathy Foster, Assistant Chief Executive Officer; Robert Gaumer, Chief Counsel; J.P. Singh, Chief Financial Officer; Rose Kwong, Benefits Manager; and Mike Fara, Communications Manager.

ACTION ITEMS

1. **Motion to Adopt Medicare Part B Reimbursement Amount for 2010**

   Staff presented the Medicare Part B premium amounts for 2010, as published by Medicare. Current Medicare enrollees whose adjusted gross income is less than or equal to $85,000 (or $170,000 or less for joint filers) will continue to be charged a standard premium of $96.40 per month. New enrollees (beginning in 2010) will be charged a premium of $110.50 per month. Enrollees with higher incomes (above $85,000) will also be charged a standard rate of $110.50 plus an income-related charge. An income related premium structure is new since 2007. Prior to 2007, Medicare charged one single premium to all enrollees, regardless of enrollment status or income.

   Based on ACERA-paid income, the majority of ACERA's 3,793 Medicare-eligible (over age 65) retirees have incomes at or below $85,000 and those enrolled in Part B will continue to be charged a monthly premium of $96.40. Approximately 266, or 7%, of over age 65 retirees have incomes above the $85,000 threshold.

   In November of 2009, the Board approved and then rescinded a motion adopting a reimbursement of $96.40 for current Part B enrollees and $110.50 for new enrollees. The motion was rescinded after Staff and the Board were informed that the new standard premium of $110.50 would apply to higher income enrollees (as well as new enrollees).

   On January 6th, Staff recommended continuation of the Medicare Part B Reimbursement Benefit to eligible retirees at the lowest standard monthly premium rate of $96.40 for 2010. The recommendation was moved by Elizabeth Rogers, seconded by Dale Amaral, and passed unanimously.

The Committee asked if Staff foresees any issue if the Board adopts a tiered MBRP reimbursement structure in the future, given that Medicare has already indexed premium rates. Staff noted that the issue of equitable reimbursement would be raised and need to be considered. The Committee noted that historically the Board's intent in distributing Supplemental Benefits has been to preserve the purchasing power of retirees most affected by inflation, and to provide the greatest benefit to the greatest number of retirees while preserving the lifespan of benefit reserves.

2. Adoption of Updates to Appendix A of 401(h) Account Resolutions

ACERA annually updates Appendix A to the 401(h) Resolution 07-29 to reflect changes in subsidy (reimbursements) and premiums associated with retiree health benefits. Resolution 07-29, passed by the Board in February 2007, sets forth and defines eligibility requirements and the actual amounts paid from the SRBR on an annual basis for Supplemental Benefits.

Annual technical updates made to Appendix A reflect changes in premiums for the following plan year and include the Monthly Medical Allowance, Dental and Vision Care premiums, and Medicare Part B Reimbursement.

Staff recommended that Appendix A to Resolution No. 07-29 be revised and updated to reflect changes approved by the Board to the MMA and Retiree Health Benefit (RHB) premiums for plan year 2010. The recommendation was moved by Elizabeth Rogers, seconded by Dale Amaral, and passed unanimously.

INFORMATION ITEMS

1. 2010 Retirees Committee Work Plan

Staff presented the Retirees Committee Work Plan for calendar year 2010 and highlighted items that are new to the Work Plan this year. New items include a monthly Healthcare Reform update by ACERA's Benefits Consultant, and reporting of SRBR Workshops to be scheduled this year. As part of ACERA's due diligence process, Staff will be conducting a Vision Care RFP and a renewal analysis of stand-alone retiree health plans for plan year 2011. Cyclical items of note include ACERA's annual open enrollment process, MBRP reimbursement, and renewal of death benefits for the following year.

2. Report on 1099(R) Processing

ACERA's Benefits, Accounting, and Project/Information Systems Staff have met continuously to verify data in preparation for issuance of 1099R Forms for 2009. Form 1099R is used by ACERA to report pension and annuity income paid to retirees, beneficiaries, and members receiving a refund of contributions or contribution adjustments. No data or reporting issues are expected to occur prior to mailing. Staff anticipates that 1099R Forms will be mailed on January 25th, 2010. The IRS mailing deadline is January 31st, 2010.

3. Healthcare Reform Update

Ken Drummer and Doug Smith of Woodruff Sawyer and Co., ACERA's Benefits Consultants, provided an overview of healthcare reform legislation drafted by Congress. Mr. Drummer highlighted several aspects of the House and Senate bills, which are now headed to the reconciliation process. Key objectives of both bills are to expand coverage for low income individuals, encourage employers to cover more employees, and to reduce the deficit. The cost of the Senate bill is estimated at $870 billion over ten years; the Cost of House bill at $1 trillion. The legislation could be completed by the end of January with some provisions taking effect immediately and others phased in over several years, or triggered in 2014 and beyond. Under the House bill, 31 million people are expected to gain coverage vs. 36 million under the Senate bill.

Mr. Drummer discussed specific provisions of the legislation that may have particular impact to retiree medical plan sponsors and/or participants.

- Early Retiree Reinsurance Program – temporary program would provide 80% reimbursement to employer plan sponsor for claims between $15,000 and $90,000 of retirees age 55-64. Program would begin 90 days after enactment of legislation and end December 31, 2013. Plan sponsor must implement a cost containment management program for chronic and serious conditions. The consultant's opinion is that this program in its current proposed form would be grossly underfunded.
- Elimination of subsidies for Medicare Advantage Plans (Senate bill). Carriers would no longer receive the surplus revenue currently generated from these subsidies, possibly resulting in increased cost for non-Medicare Advantage plans.
- Tax on "Cadillac health plans" ($8,500 per individual, $23,000 per family) and taxes on health care companies (Senate bill). Health plan tax would be indexed, but not geographically.
- Medicare payroll tax increase for "highly compensated" employees from 1.45% to 2.35% on the amount of taxpayer's earned wages in excess of income threshold. Employers would not be subject to the additional 0.9% insurance tax.
- Income-based Part D premiums: higher-income beneficiaries would pay higher premiums beginning in 2011.
- Medicare Savings: Drug manufacturers would be required to provide a 50% discount on brand name drugs to Part D recipients beginning July 2010. For 2010 only, the prescription drug "donut hole" in the standard Part D plan would be reduced by $500. Senate bill would take advantage of voluntary $80 billion cost reduction by PhRMA (Pharmaceutical Research and Manufacturers of America). House bill calls for Medicare to negotiate directly with PhRMA for reductions.
- Legislation would mandate coverage for dependent children to age 26 (Senate bill) and to age 27 (House bill); dependent would not need to be a full-time student.

Other key elements of the legislation were noted as follows:

- New state Health Exchanges (Senate bill) targeting small businesses and individuals. This is the Senate's alternative to the public option included in the House bill.
- Loss ratio limits (Reid amendment): plans in the large group market would have to provide at least 85% of premium dollars for claims (80% for plans in the small group and individual markets). Wellness costs do not count toward the loss ratio. ACERA's largest carrier, Kaiser, generally reports a loss ratio above 90%, and so is not expected to be affected by the imposed limits.
- Companies with 50 or more employees must offer coverage (phased in with a modest penalty for non-compliance).
- Individuals must purchase healthcare coverage (phased in with a modest penalty for non-compliance).
- Employers would no longer be able to deduct Medicare Part D subsidy (affects tax-paying entities that apply for reimbursement of Part D expenses) - would not apply to ACERA or the County.
- Expands Medicaid to cover people at a certain percentage of poverty line (133% Senate bill; 150% House bill).
- New standard plans based on reimbursement value, and a low-cost catastrophic coverage for young, healthy adults.
- Elimination of exclusion based on pre-existing conditions and removal of annual and lifetime limits.
- Abortion language requiring two payments: one for insurance and the other for an abortion rider (Senate bill).
- Senate bill imposes statutory $2,500 annual cap on flexible spending accounts.

Members of the Committee posed questions to Mr. Drummer and Mr. Smith concerning various aspects of the legislation and received the following answers.

- Aside from the abortion issue, what are the most contentious issues of the legislation? Whether or not there is a public option (House bill) vs. insurance exchanges (Senate bill), and possible constitutional questions about mandating purchase of healthcare and inequitable Medicaid cost increases from state to state. Consultants predict that the final bill will more closely resemble the Senate bill due to the 60 vote requirement. In general, the consultants believe that the House and Senate bills do have common ground and that a final bill is likely to be passed.
- Does either bill address expanding the number of doctors and nurses entering the Medical profession? Not aware of any language that addresses this issue. The consultants believe that health plan groups, like Kaiser, may attract more doctors and that Medicare-style reimbursement may result in a reduction in practicing physicians.
- Does either bill address tax shelters for individuals paying their own health plan premiums? The individual income tax deduction will go from 7.5% to 10%.
- What impact do you see, if any, on non-Medicare premiums for the upcoming year? Have not seen any adjustments in anticipation of healthcare reform; premium renewals are primarily claims based.

- Is there any component of either bill that would negatively impact Medicare recipients? Both bills still contain provisions for taking away $5 billion from the Medicare program over several years. This amounts to imposing a limit on the year-over-year increase in medical costs. Whether this will affect Medicare recipients in the long term is unknown.

STAFF INPUT
None.

TRUSTEE/PUBLIC INPUT
A member of REAC asked if ACERA's Benefits Department tracks individual problems retirees have had with the health plan carriers. Staff noted that issues are raised on an ongoing basis with carrier representatives, and will continue to be discussed at the annual meeting with retiree group representatives. The Benefits Department Call Center also tracks issues raised by retirees calling into ACERA.

RECOMMENDATIONS
The Committee recommends, and I move that:

1. The Board of Retirement approve continuation of the Medicare Part B Reimbursement Benefit (MBRP) to eligible retirees at the monthly premium rate of $96.40 during 2010. This is the lowest Medicare Part B premium charged to enrollees for 2010. The MBRP benefit is a non-vested benefit funded by contributions from ACERA Employers to the 401(h) account. After contributions are made, in accordance with the CERL, ACERA treats an equal amount of Supplemental Retiree Benefits Reserve (SRBR) assets as employer contributions for pensions.

2. Appendix A to Resolution No. 07-29 be revised and updated to reflect the changes approved by the Board to the Monthly Medical Allowance (MMA) and Retiree Health Benefit (RHB) premiums for plan year 2010.

FUTURE DISCUSSION ITEMS
As noted on the agenda.

ESTABLISHMENT OF NEXT MEETING DATE
The next meeting is scheduled for February 3, 2010 at 10:30 a.m.

MEETING ADJOURNED
The meeting adjourned at 11:50a.m.

DISCLOSE BUT VOTE

ACERA's Chief Counsel provided the following disclosure statement to the retired Trustees in conjunction with Action Item 1: Motion to Adopt Medicare Part B Reimbursement Amount for 2010.

Action Item 1: Motion to Adopt Medicare Part B Reimbursement for 2010
The following statement was read by Retired Trustees Liz Koppenhaver and David Safer.

I, [Liz Koppenhaver] [David Safer], acknowledge and disclose that as a current ACERA retiree I am eligible to receive retiree health benefits, which include medical, dental and vision benefits. I have determined, in consultation with ACERA's legal counsel and outside legal counsel that I do not have a disqualifying conflict of interest that would prevent me from participating in the Committee discussions related to the adoption of the Medicare Part B Reimbursement for plan year 2010 for the following reasons.

1. The discussions related to the Medicare Part B Reimbursement and the use of SRBR funds are within the scope of the Board's authority under Government Code section 31618;
2. Any potential benefits available to me that may be derived from these discussions are no different than those available to any other similarly situated ACERA retiree.

For each of these reasons, I do not have a disqualifying conflict of interest which prevents me from voting on these resolutions.