
BOARD FOR VOLUNTEER FIREFIGHTERS AND RESERVE OFFICERS

June 2003

A Word from the Executive Secretary

Brigitte K. Smith

The Board has had a lot of major issues to handle since the last newsletter. We tackled interruptive military service credit, the IRS, and HIPAA. Throughout the newsletter, we'll cover many of the questions that have arisen as a result of these issues.

We've also been to many different places. We have traveled to Enumclaw, Centralia, Conway, Sunnyside, Ephrata, Yakima, Prosser, Hunters, Whidbey Island, Camano Island, Getchell, and West Richland. If you would like us to travel to speak with your volunteers regarding their BVFF & RO benefits, give us a call. We travel at no cost to your department and will visit during your regularly scheduled drill night. We know volunteers give up enough time as it is, so we wouldn't ask volunteers to come in on another night.

Also remember that we are always here to answer your questions. The only dumb question is the one not asked, especially since it usually generates a bunch of extra work and stress for everyone.

Accident Reporting Reminder

Remember, it is state law that all accidents involving covered firefighters or reserve officers be reported to us, in writing, within 90 days of their occurrence. If notification has not been filed with us in the required amount of time, we cannot provide coverage for the claims. This can place a financial hardship on both the department and the volunteer since one or the other will have to pay the bills.

Additionally, we must have paid a claim within one year of the accident date. For example, a volunteer receives a hand injury while in the performance of duty. He submits an accident postcard immediately to notify us of the accident. Then, however, he chooses to not go to the doctor until a year later when his hand continues to get worse. By the time the doctor bills for the service and the bill is processed, a year and three months have gone by. We will be unable to pay for the claim.

Likewise, if the volunteer did see a doctor within one year, but received the bill at home and didn't turn it in until after the one year deadline, we would still be unable to pay for the claim.

Please note that everyone now has the ability to submit accident postcards online. Just go to www.bvff.wa.gov. Click on "Forms and Downloads", and then on "Accident Report Postcard". Your postcard will then be electronically emailed to me via a safe, secured connection. No more postage stamps or lengthy searches through files are required! If you have any problems or questions, call us.

You might be a Police Officer if...

*Your idea of a good time is an armed robbery at
shift change.*

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Interruptive Military Service Credit

With the onset of Operation Enduring Freedom, we have had a lot of questions regarding the impact of military call-ups on a volunteer's retirement. After a lot of research, and consultation with the Attorney General's Office, the staff has developed the following procedure:

All eligible members, as defined in the next paragraph, must complete the Board's Interruptive Military Service Request Form and submit it within five years of said military service. Additionally, fire or law enforcement departments shall notify the Board, in writing, when a member exits service due to a military call up, and when a member returns to employment. This notification shall take place within 30 days of the respective events.

To be eligible, a member must:

1. have service in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or their respective reserve units.
2. apply for reemployment with the fire department or law enforcement agency which employed the member prior to the member's call-up within 90 days, at most, of the member's honorable discharge, unless the time deployed was:
 - a. 30 days or less: the employee must report to the employer not later than the beginning of the first regularly scheduled work day/drill/ meeting (whichever is first) following the completion of military service
 - b. more than 30 days, but less than 181: the employee must submit for reemployment within 14 days, or within a reasonable time if the employee is not at fault
 - c. more than 181 days: the

employee must submit for reemployment within 90 days

- d. If the employee is hospitalized as a result of his/her military service, (s)he has a maximum of two years to recover before submitting for reemployment
3. **have been deployed as part of a Title 10 call-up, as noted on a DD214**, a copy of which must be provided to the BVFF & RO.
4. have the employer (fire or law enforcement department) notify the BVFF & RO, within 30 days, of the member's reemployment.
5. make application to receive the credit, using the appropriate form, and pay the prescribed fees within five years of returning to employment.

The State Board will establish the member's service credit and bill the employer for its contribution required under RCW 41.24 for the period of military service, plus interest, based upon the documentation received with the member's application form. The member must pay his/her portion of the fees, unless the employer has elected to make the member's payments for the other members of the department. Finally, the member may not make payments in excess of a five year cumulative period of service.

Please note, only those members who are part of a Title 10 call-up are eligible to receive credit toward their BVFF & RO retirement. Military service in and of itself does not make them eligible for BVFF & RO service credit.

Interruptive Military Service Credit Forms will be available both through the office and on-line at www.bvff.wa.gov. If you believe that you have a member who is eligible for this credit, please contact us as soon as possible. We are aware that this is a new procedure for all of us, so we will review any requests for credit in cases where written notification was not received from the department within 30 days on a case by case basis for the next 6 months.

HIPAA AND YOUR LOCAL BOARD

IF NOTHING ELSE, HIPAA HAS PROVOKED A WHOLE LOT OF QUESTIONS, AND WE HAVE RECEIVED OUR FAIR SHARE. WE'LL TRY TO ANSWER THE MOST COMMON QUESTIONS, BUT MOST CAN BE ANSWERED JUST BY UNDERSTANDING THAT THE BVFF & RO IS HIPAA EXEMPT.

HIPAA EXEMPTS WORKERS' COMPENSATION FROM ITS AUTHORIZATION REQUIREMENT (24 CFR 164.512(1)). ADDITIONALLY, HIPAA DOES NOT OVERRULE ANY STATE LAW THAT REQUIRES THE DISCLOSURE OF HEALTH INFORMATION (45 CFR 164.512(A)). FINALLY, HIPAA ALLOWS PROVIDERS TO DISCLOSE HEALTH INFORMATION WITHOUT AUTHORIZATION DIRECTLY TO EMPLOYERS REGARDING WORK RELATED ILLNESSES OR INJURIES (45 CFR 164.512 (B)(v)(B)).

THERE IS A TOOL THAT THE FEDERAL GOVERNMENT SUGGESTS USING TO AID SYSTEMS IN DETERMINING WHETHER THEY ARE A COVERED ENTITY. THE TOOL CAN BE FOUND AT: [HTTP://WWW.CMS.HHS.GOV/HIPAA/HIPAA2/SUPPORT/TOOLS/DECISIONSUPPORT/DEFAULT.ASP](http://www.cms.hhs.gov/HIPAA/HIPAA2/SUPPORT/TOOLS/DECISIONSUPPORT/DEFAULT.ASP)

AS YOU GO THROUGH THE TOOL, YOU WILL FIND THE FOLLOWING QUESTIONS:

1. IS THE PROGRAM ONE OF THE LISTED GOVERNMENT HEALTH PLANS? **NO**
2. IS THE PROGRAM AN INDIVIDUAL OR GROUP PLAN THAT PROVIDES, OR PAYS THE COST OF MEDICAL CARE? **YES**
3. IS THE PROGRAM A HIGH RISK POOL? **NO**
4. IS THE PLAN AN HMO? **NO**
5. IS THE PRINCIPAL ACTIVITY PROVIDING HEALTH CARE DIRECTLY? **NO**
6. IS THE PRINCIPAL ACTIVITY MAKING GRANT FUNDS AVAILABLE FOR THE PROVISION OF HEALTH CARE? **NO**
7. IS THE PRINCIPAL PURPOSE OF THE PROGRAM SOMETHING OTHER THAN PROVIDING OR PAYING THE COST OF HEALTH CARE? **NO**
8. DOES THE PROGRAM PROVIDE ONLY ACCEPTED BENEFITS (WORKMAN'S COMP. OR OTHER SIMILAR INSURANCE)? **YES**

**THE DECISION TOOL'S FINAL DETERMINATION IS THAT THE BVFF & RO IS NOT A HEALTH PLAN.

PLEASE BE AWARE, HOWEVER, THAT DEPARTMENTS ARE STILL REQUIRED TO BE HIPAA COMPLIANT BECAUSE OF ISSUES THAT ARISE FROM PATIENT CARE AND TRANSPORT.

FINALLY, LOCAL BOARDS DO STILL NEED TO BE IN COMPLIANCE WITH THE PRIVACY ACT. THE BVFF & RO STAFF SUGGESTS THAT, IF POSSIBLE, YOUR LOCAL BOARD MEET OUTSIDE OF THE PUBLIC COMMISSIONER'S MEETING. IF YOUR DEPARTMENT HAS A FIVE PERSON COMMISSIONER'S BOARD, THIS CAN BE DONE. IF YOUR DEPARTMENT HAS ONLY A THREE PERSON COMMISSIONER BOARD, THIS CAN BE MORE DIFFICULT WITH THE OPEN PUBLIC MEETINGS ACT. WE SUGGEST THAT THE "ONE OTHER COMMISSIONER" APPOINT A DESIGNEE TO FILL HIS SPOT ON THE LOCAL BOARD. SUGGESTED DESIGNEES COULD BE THE ASSISTANT CHIEF, THE SAFETY OFFICER, OR AN ADDITIONAL VOLUNTEER FIREFIGHTER. IF YOUR DEPARTMENT CHOOSES TO DO THIS, WE ASK THAT YOU WRITE US A NOTE REQUESTING A WAIVER (INCLUDE THE NAME AND TITLE OF THE DESIRED DESIGNEE). REMEMBER, ONLY FIRE DEPARTMENTS WITH A 3 PERSON COMMISSIONER BOARD WILL BE ALLOWED TO APPOINT A DESIGNEE, SINCE APPOINTING DESIGNEES IS NOT NORMALLY ALLOWED FOR FIRE DEPARTMENTS UNDER THE LAW (IT IS, HOWEVER, ALLOWED FOR LAW ENFORCEMENT DEPARTMENTS).

The BVFF & RO and the IRS

Over the last several years, many fire departments have requested that the IRS make a determination whether the BVFF & RO Pension is a "Qualified Plan". If ruled a Qualified Plan, departments would not have to pay social security taxes on reimbursement payments made to volunteers.

The IRS recently ruled that the BVFF & RO is not a Qualified Plan and that social security taxes should be paid. Although the IRS initially stated that entities not under a 218 agreement must file amended employment tax returns and pay the past years' FICA taxes, effective the earlier of the date of hire or July 2, 1991, they now state that departments should just begin paying the tax this tax year. If you have questions, you should direct them to Clark Fletcher, IRS Federal, State, & Local Government Specialist at 425-489-4042.

HB 1110 SIGNED INTO LAW



Front: Gov. Gary Locke

Back (left to right): Roger Ferris (WFCA Executive Secretary), Ryan Spiller (WFCA Lobbyist), Ken Boad (BVFF Board Member), Brigette Smith (BVFF Executive Secretary), Richard Kistler (BVFF Board Chair), and Rep. Dan Newhouse

HB 1110 was signed into law on April 18, 2003 and will become effective on July 1, 2003. Thanks to the efforts of State Representatives Newhouse, Clibborn, Lovick, Benson, Cooper, and Haigh, State Senators Doumit, Roach, Haugen, Kohl-Welles, McAuliffe, Rasmussen, T. Sheldon, and Winsley, and the Washington State Fire Commissioners Association, the maximum volunteer firefighter retirement pension will increase from \$280 per month to \$300 per month. Additionally, all retirements that compute to \$50 a month or less (instead of \$25) will be paid in a one time lump sum payment. All current retirees will see the increase in their July check.

Calling all Secretaries and City Clerks...

Have you ever wondered how to read those receipts we keep sending you? Have you ever dreaded a firefighter injury because you knew you'd have to wade through a pile of paperwork that you haven't seen in years and don't want to pretend to understand? Are you on a first name basis with Pam, Julie, and Brigette (not that that's a problem), but you feel that's a bad thing?

Well, here's your chance. For years we have talked about the possibility of putting on training classes geared toward secretaries. We'd teach about the law and how our office runs, how to complete the paperwork, tips and short cuts, and how to leap tall buildings in a single bound (or at least breeze through paperwork).

We plan to travel throughout the state and put on classes at strategically located places. Here's where you come in. We only want to go where we are wanted, so we are asking for your input on class locations, times, and topics. Please log onto www.bvff.wa.gov to complete an on-line survey, or complete and mail the enclosed survey. If you prefer to call us at 877-753-7318 and give us your input, we'd love that too.

Board For Volunteer Firefighters and Reserve Officers
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