

PART III. BUREAU OF SOCIAL SECURITY FOR PUBLIC EMPLOYEES

Chap.	Sec.
71.	PLAN FOR SOCIAL SECURITY BENEFITS 71.1.

CHAPTER 71. PLAN FOR SOCIAL SECURITY BENEFITS

Sec.	
71.1.	Definitions.
71.2.	Submission of plan.
71.3.	Supporting documents required.
71.4.	Filing of plan.
71.5.	Effective date of plan.
71.6.	Reports.
71.7.	Payment of contributions.
71.8.	Interest on and payment of overdue contributions.
71.9.	Maintenance and inspection of records.
71.21.	Applicability of general rules.
71.22.	Assessment process.
71.23.	Procedures for collection—general.
71.24.	Procedures for collection—review.
71.25.	Hearing procedures.

Authority

The provisions of this Chapter 71 issued under section 6(a), (c)(1) and (d)(8) of the act of January 5, 1952 (P. L. 1833, No. 491) (65 P. S. § 206(a), (c)(1) and (d)(8)), unless otherwise noted.

§ 71.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Bureau—The Bureau of Social Security for Public Employes of the Department of Labor and Industry.

Date of issue—The date upon which any action is taken as specifically indicated on the document evidencing such action.

Department—The Department of Labor and Industry of the Commonwealth.

Mathematical error—A mistake in computation of an amount or amount due made by way of improper addition, subtraction, multiplication, or division on any report required by the Bureau where no dispute as to coverage, liability, inclusion or exclusion, or other substantive dispute exists.

Overdue amounts—Contributions not paid by a political subdivision or instrumentality when due as prescribed in the act or this chapter, or both, plus

interest as added by the act or this chapter, or both, including references such as amounts which are overdue.

Authority

The provisions of this § 71.1 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.1 amended June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330. Immediately preceding text appears at serial page (9341).

§ 71.2. Submission of plan.

Each political subdivision or instrumentality thereof that desires to be covered under the act shall submit in duplicate its plan for benefits under Title II of the Social Security Act (42 U.S.C.A. § 418) and agreement to the Department of Labor and Industry, to the attention of the Bureau of Social Security for Public Employes, Room 1447, Labor and Industry Building, Harrisburg, Pennsylvania 17120, for its approval together with one authenticated copy of the ordinance or resolution passed by the governing body setting forth the authority of the political subdivision or instrumentality thereof for its submission of the plan and agreement.

Cross References

This section cited in 34 Pa. Code § 71.24 (relating to procedures for collection—review).

§ 71.3. Supporting documents required.

(a) Each plan submitted shall be accompanied by all of the following:

- (1) A statement indicating the name and title of the official responsible for filing with the Department the reports for such political subdivision or instrumentality thereof and the business address of such official.
- (2) A list of the positions for which social security coverage is desired.
- (3) A statement as to the approximate annual covered payroll which will be reported for contribution purposes.
- (4) A statement as to whether there is an existing retirement system established by the political subdivision or its instrumentality and, if so, an explanation of its coverage.

(b) If any political subdivision or instrumentality thereof maintains more than one payroll record unit, the statement required by subsection (a)(3) shall also indicate the agencies, departments, or other branches in which such records are maintained, the titles of the officials in charge of such payroll units, and the business addresses of such officials.

§ 71.4. Filing of plan.

One copy of the plan and agreement shall be kept in the files of the Department and the other copy shall be returned to the political subdivision or its instrumentality for its files.

§ 71.5. Effective date of plan.

No plan shall be effective until it is approved by the Department and the political subdivision is included in the Federal-Commonwealth Agreement.

§ 71.6. Reports.

(a) Each political subdivision or instrumentality thereof shall make reports to the Department on forms prescribed and issued by the Department. Instructions printed on any such forms, and all other instructions issued by the Department in connection with the act, shall have the same force and effect as the provisions of this chapter.

(b) Wage reports and contributions shall become due and shall be received, filed, and paid on or before the dates designated by the Bureau in advance in the Quarterly Instructional Bulletins or informational bulletins, or both, issued by the Bureau, except that if the plan and agreement provides for the coverage of employes performing services at the time the agreement is executed for calendar quarters during which such employes were in the employ of the political subdivision or instrumentality thereof prior to date of execution of the plan and agreement, any wage reports and contributions for such prior calendar quarters shall be filed and paid no later than 60 days after the political subdivision is included in the Federal-Commonwealth Agreement.

Authority

The provisions of this § 71.6 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.6 amended June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330. Immediately preceding text appears at serial page (9343).

§ 71.7. Payment of contributions.

(a) Contributions shall be paid to the Department by check or money order payable to: Commonwealth of Pennsylvania Social Security Contribution Fund.

(b) The Federal employer identification number assigned to the political subdivision or instrumentality shall be inserted on the face of the check or money order.

§ 71.8. Interest on and payment of overdue contributions.

(a) Interest prescribed by law on overdue contribution payments shall be computed from the day following the due date thereof. Interest shall be computed at the rate of 0.5% per month for each month or fraction thereof.

(b) In accordance with this chapter and without prejudice to other available methods of collection, any overdue amounts may be deducted from any moneys payable to the political subdivision or instrumentality by any department or agency of the Commonwealth—including but not limited to funds in possession of the county treasurer, allocated to the political subdivision or instrumentality, and derived from general taxation or otherwise—upon certification by the Bureau that such amounts are overdue.

Authority

The provisions of this § 71.8 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.8 amended June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330. Immediately preceding text appears at serial page (9343).

Cross References

This section cited in 34 Pa. Code § 71.23 (relating to procedures for collection—general).

§ 71.9. Maintenance and inspection of records.

(a) Each political subdivision or instrumentality thereof shall maintain such records as are necessary to comply with the regulations of the Federal Social Security Administration, Department of Health and Human Services, and such amendments and supplements thereto, as may from time to time be promulgated.

(b) Such records shall be made available for inspection and examination to any duly authorized representative of the Department or of the Federal Department of Health and Human Services, as the Department may from time to time require, to assure the correctness and completeness of the reports of the political subdivision.

Cross References

This section cited in 34 Pa. Code § 71.22 (relating to assessment process).

**PROCEDURES FOR ASSESSMENT AND COLLECTION OF AMOUNT
DUE OR OVERDUE BY POLITICAL SUBDIVISION OR
INSTRUMENTALITY****§ 71.21. Applicability of general rules.**

All decisions of the Bureau and Department will be consistent with applicable provisions of 42 U.S.C.A. §§ 401—431 and the regulations thereunder, and all

proceedings except as otherwise provided in these §§ 71.22—71.25 will be governed by 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

Authority

The provisions of this § 71.21 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.21 adopted June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330.

§ 71.22. Assessment process.

(a) The Bureau will review all reports required under the act or this chapter when received and, if the Bureau finds that a mathematical error exists, the Bureau will immediately correct the error and notify the political subdivision or instrumentality of the correction and any additional amounts due or credit resulting from same. Any additional amounts due shall be paid within 30 days of date of issue of such notice.

(b) Where a political subdivision or instrumentality fails to file a report as required by the act or this chapter, the Bureau will immediately notify the political subdivision or instrumentality of this failure and demand such report be filed within ten days of the notification by the Bureau of such failure.

(c) If the political subdivision or instrumentality does not file the required report within this ten-day period, the Bureau will proceed to audit the records of the political subdivision or instrumentality to determine the amounts due or overdue.

(d) After such audit the Bureau will notify the political subdivision or instrumentality of the amounts due or overdue, and the political subdivision or instrumentality shall pay such amounts to the Bureau within 30 days of the date of issue of such notice.

(e) If the Bureau is unable to audit the records as set forth in subsection (c) of this section and § 71.9(b) (relating to maintenance and inspection of records), the Bureau may, in the alternative, estimate the amounts due or overdue based on the amount reported, audited, paid, and due or overdue for the similar period of the preceding calendar year or quarter for the political subdivision or instrumentality in question. The Bureau will notify the political subdivision or instrumentality of the amounts due or overdue, and the political subdivision or instrumentality shall pay such amounts to the Bureau within 30 days of this assessment notice.

(f) If payment is not made of the amount assessed under subsections (a)—(e), the Bureau will proceed to collect such amounts due or overdue in accordance with this chapter.

Authority

The provisions of this § 71.22 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.22 adopted June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330.

§ 71.23. Procedures for collection—general.

(a) Nothing in this chapter shall be construed to preclude the Bureau from proceeding in addition or in the alternative to the procedures provided in this chapter to collect the amounts determined to be due or overdue in any other manner authorized by law.

(b) If there are overdue amounts as the result of a mathematical error, the Bureau will:

(1) Immediately certify the amounts overdue to the appropriate agency, department, or official in accordance with § 71.8(b) (relating to interest on and payment of overdue contributions).

(2) Notify the political subdivision or instrumentality of the certification and amounts to be deducted.

(c) The overdue amounts shall be immediately deducted by the agency, department, or official and forwarded to the Bureau.

(d) If there are overdue amounts which are not the result of a mathematical error, the procedures set forth in §§ 71.24 and 71.25 (relating to procedures for collection—review and hearing procedures) shall be followed if such amounts are collected under this chapter.

Authority

The provisions of this § 71.23 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.23 adopted June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330.

§ 71.24. Procedures for collection—review.

(a) If—upon receipt of an assessment before or after audit, a reassessment, a notice of amounts due or overdue, or other statement of adjustment—a political subdivision or instrumentality disputes the amount so assessed, reassessed, or found due or overdue for any reason other than a mathematical error, the political subdivision or instrumentality may request that the Bureau review the assessment, reassessment, notice, or adjustment made.

(b) The political subdivision or instrumentality must request review within 30 days of the date the Bureau issues the assessment, reassessment, notice, or adjustment.

(c) The request for review shall be filed with the same office designated under § 71.2 (relating to submission of plan).

(d) A request for review shall be filed in duplicate and shall include all of the following:

(1) Reference to the specific assessment, reassessment, notice or adjustment disputed.

(2) Statements of the reasons other than mathematical errors why the political subdivision or instrumentality believes the assessment, reassessment, notice, or adjustment is in error.

(3) Copies of the records relevant to support the reasons set forth in paragraph (2).

(4) Other written submissions, briefs, memoranda, and the like to support the statement of error referred to in paragraph (2).

(5) A request for a hearing, if desired, to present testimony or evidence or both to support the statement of error referred to in paragraph (2).

(e) If a request for a hearing is made as set forth in subsection (d)(5), the Bureau will proceed as set forth in § 71.25 (relating to hearing procedures).

(f) If a hearing is not requested, the Bureau will review the items presented in accordance with subsection (d) and rule upon the issues raised by the request for review.

(g) The Bureau will notify the political subdivision or instrumentality of its ruling as set forth in subsection (f). The notice shall affirm, revise, or otherwise rule upon the matters presented for review and will include a determination as to the amounts due or overdue.

(h) Amounts determined due or overdue pursuant to subsection (g) shall be paid immediately by the political subdivision or instrumentality unless an appeal is taken; provided, however, that such appeal shall not operate as a supersedeas unless specifically so ordered by the Bureau or court.

Authority

The provisions of this § 71.24 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491), as amended (65 P. S. §§ 201—209).

Source

The provisions of this § 71.24 adopted June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330.

Cross References

This section cited in 34 Pa. Code § 71.23 (relating to procedures for collection—general); and 34 Pa. Code § 71.25 (relating to hearing procedures).

§ 71.25. Hearing procedures.

(a) If a hearing is requested as prescribed in § 71.24(d)(5) (relating to procedure for collection—review), the Department will immediately appoint a hearing examiner to hear testimony and receive evidence and to rule upon the issues pre-

sented. The provisions of this section supersede the provisions of 1 Pa. Code § 35.185 (relating to designation of presiding officers).

(b) The hearing examiner so appointed shall conduct a hearing, rule upon the issues presented, and issue a decision to all parties. Such decision shall affirm, revise, or otherwise rule upon the matters presented for review and shall include findings of fact, conclusions of law, and a determination as to the amounts due or overdue. The provisions of this subsection supplement the provisions of 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

(c) The Bureau will notify the political subdivision or instrumentality of the decision of the hearing examiner and will provide the political subdivision or instrumentality with a copy of such decision.

(d) Amounts determined to be due or overdue pursuant to subsections (b) and (c) shall be paid immediately by the political subdivision or instrumentality unless an appeal is taken; provided, however, that such appeal shall not operate as a supersedeas unless specifically so ordered by the Bureau or court.

Authority

The provisions of this § 71.25 issued under act of January 5, 1952 (P. L. (1951) 662, No. 491) (65 P. S. §§ 201—209).

Source

The provisions of this § 71.25 adopted June 6, 1980, effective June 7, 1980, 10 Pa.B. 2330.

Cross References

This section cited in 34 Pa. Code § 71.23 (relating to procedures for collection—general); and 34 Pa. Code § 71.24 (relating to procedures for collection—review).

[Next page is 81-1.]