

Number 142, Web Site:

**Reinstatement of your health insurance upon re-employment
A word to the wise, don't turn it down.**

By Fred R. Denson, Esq.*

Q: I have just returned from active duty and my employer asked me if I wanted to reinstate my health insurance coverage with the company group policy. My human resources director told me that I had a right to reinstate the coverage upon returning to work, but if I declined to accept the reinstatement, I would be subject to the normal reinstatement policies involving enrollment periods, waiting periods, etc. I want to decline the coverage because I have TRICARE transitional benefits for myself and my family for several months at a significantly reduced cost as compared to the company policy. If I decline the coverage now, will USERRA require my employer to reinstate my coverage immediately upon the termination of TRICARE?

A: I believe the answer to that is no, and I think that your employer is correct. USERRA states in 38 USC 4317 that "in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment if an exclusion or waiting period would not have been imposed under a health plan had coverage of such person by such plan not been terminated as a result of such service.

If you reject the coverage upon re-employment, you may jeopardize any protection for which you may be entitled under USERRA. This would also be true if you elected to reinstate your coverage but not to reinstate your family coverage that you had before activation, choosing instead to keep your family on the less expensive TRICARE plan. Your employer would not be required by USERRA at a later date, when your dependant TRICARE benefits have expired, to re-enroll their coverage as a separate entity.

Don't be penny wise and pound foolish. Don't turn down those health-care benefits when you return.

*Fred Denson is the general counsel for the Tennessee Military Department, which includes the Tennessee Army National Guard, the Tennessee Air National Guard, and the Tennessee Emergency Management Agency. He is also the state ombudsman for Tennessee in the DoD program, The Committee for Employer Support of the Guard and Reserve