

## **Affordable Care Act and Student FICA/Medicare Exception**

Minnesota State Colleges and Universities has determined that the Affordable Care Act (ACA) requires us to make health insurance available to student employees regularly working over 30 hours a week. Since 2005, it has been Minnesota State policy to withhold FICA/Medicare when student employees are regularly working 30 hours or more per week regardless of their enrollment. This policy is based on safe harbor standards issued by the Internal Revenue Service (IRS) in Revenue Procedure 2005-11 [https://www.irs.gov/irb/2005-02\\_IRB#RP-2005-11](https://www.irs.gov/irb/2005-02_IRB#RP-2005-11).

The 2005 student FICA exception regulations require us to determine whether the “educational” or “service” aspect is predominant for each student employee. A student worker receiving employment benefits such as life insurance, health insurance, sick or vacation pay, retirement plans, or certain tuition reductions and who is performing services that are predominately intellectual and varied in character, involving advanced knowledge, and consistent exercise of discretion and judgment, has left the safe harbor. The IRS is likely to perceive that “service” predominates and that the student worker is a “professional employee” requiring their wages to be subjected to FICA/Medicare taxation.

The Minnesota State Student FICA Guidelines are meant to minimize the risk of unfavorable findings in case of IRS audit.

You will find these guidelines on the Tax website Student FICA page at:

<http://www.minnstate.edu/system/finance/taxinformation/studentpayroll/studentfica.html>