

UNDERSTANDING A POWER OF ATTORNEY



CAN I GIVE SOMEONE THE POWER OF ATTORNEY TO MANAGE MY PENSION AFFAIRS?

A Power of Attorney (POA) is a written legal authorization for another person to act in one's place. HMEPS will recognize an agent or attorney-in-fact ("agent") under a power of attorney only if HMEPS determines that the power of attorney is a valid Statutory Durable Power of Attorney as set forth in Section 490, Texas Probate Code.

A durable power of attorney contains a "durability clause," which is a provision that permits your designated agent to act on your behalf in the event you are unable to handle your affairs due to disability or incapacity.



CONSULT AN ATTORNEY BEFORE SIGNING A POWER OF ATTORNEY

A durable power of attorney grants broad power to another person. Because of this we recommend that you consult an attorney before signing a power of attorney. Some attorneys suggest:

- ★ You not execute a power of attorney unless you have a genuine need for one
- ★ You prepare a power of attorney and not sign it until it is actually needed
- ★ You consider putting an expiration date on the power of attorney (for example, two years) or otherwise restricting the power (for example, prohibiting the agent from changing a beneficiary designation).

The individual appointed under a statutory form durable power of attorney, by accepting or acting under the appointment, assumes the fiduciary and other legal responsibility of an agent. Therefore, you should inform your designated agent of the high standards of accountability and fair dealings associated with the fiduciary relationship and the severe penalties associated with any breach of duty arising from acts of self dealing or acts which exceed the scope of the agent's authority.

- ★ What Is A Power of Attorney?
- ★ How Is It Used?
- ★ What Are HMEPS' Requirements For A Power of Attorney?

WHERE CAN I FIND A POWER OF ATTORNEY FORM?

- ★ Section 490 of the Texas Probate Code contains a durable power of attorney form.
- ★ HMEPS can provide you with a sample form. When requesting a form, please notify HMEPS if the power of attorney will be signed with a mark (“x”) so that the appropriate sample form can be sent.



IF YOU HAVE FURTHER QUESTIONS ABOUT A POWER OF ATTORNEY, PLEASE CONSULT AN ATTORNEY.

HOW CAN I CHANGE MY AGENT UNDER THE POWER OF ATTORNEY?

If you want to change the agent who has your power of attorney, you must complete a new power of attorney that contains the changes you desire and that properly revokes the old power of attorney. HMEPS must receive written notice of the revocation and a new power of attorney.

WHAT IF I WANT TO REVOKE MY POWER OF ATTORNEY?

If you want to completely revoke (cancel) your power of attorney, you must submit to HMEPS a notarized document that properly revokes the power of attorney. Keep in mind that revocation does not terminate the agency as to the agent or other person who, without actual knowledge of the termination of the power by revocation, continues to act in good faith or reliance under the power.

Therefore, you must inform those who are acting under the power that the power has been revoked. If HMEPS recognizes a power of attorney that is later revoked, HMEPS is not liable for any payments made or actions taken at the request of the agent until the date HMEPS receives written notice that the power of attorney has been revoked and has reasonable opportunity to act.

If you have questions that are not addressed in the HMEPS Benefits Handbook or on our website, please contact HMEPS directly. Nothing contained herein may be construed to convey any right or privilege not otherwise provided by the pension law. In the event of any conflict, the pension law takes precedence.

**TALENTED PROFESSIONALS
COMMITTED TO EXCELLENCE**



HOUSTON MUNICIPAL EMPLOYEES PENSION SYSTEM

1201 Louisiana, Ste. 900
Houston, Texas 77002

Phone: 713-595-0100

800-858-1450

Fax: 713-650-1961

www.hmeps.org