

MINUTES
OF THE MEETING OF
THE EXECUTIVE COMMITTEE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

June 10, 2021

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, June 10, 2021, at 8:45 a.m. in the System's Springfield office at 2101 S. Veterans Parkway and by videoconference as allowed under Section 7(e) of the Open Meetings Act (5 ILCS 120/7(e)) and Executive Order 2020-7, as amended and reissued by Executive Orders 2020-33, 2020-44, and 2021-11.

Committee Members Present:

Marvin Becker, Chairperson
David Morris, Vice-Chairperson
Timothy Blair, Executive Secretary

Others Present:

Jeff Houch, Assistant to the Executive Secretary
James Stivers, General Counsel
Eric Glaub, Manager, Claims Division
Karen Brown, Supervisor, Disability Section
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Carol Davenport, Claimant

Minutes of the Previous Meeting

The minutes of the May 13, 2021, meeting of the Executive Committee were presented by Chairperson Becker for approval. Copies of the minutes were previously e-mailed to Committee members for review. Chairperson Becker moved to approve the minutes as submitted. The motion was seconded by Vice-Chairperson Morris and by unanimous vote, the minutes were approved by unanimous vote of the Committee members present.

Routine Claims Report

The Routine Claims Report for May 2021 was presented. Following review and discussion, the Routine Claims Report for May 2021, as prepared by staff, was received by the Committee.

Old Business

Vincente McElroy – Appeal of Temporary Disability Overpayment – Recommendation

Vincente McElroy worked for the Department of Human Services as a Security Therapy Aide and was injured on the job in 2011. As a result of his work-related injury, Mr. McElroy began receiving employer-paid benefits from the State and a SERS occupational disability benefit in 2012. Except for a 6-month return-to-work period in 2015, SERS continued providing an occupational disability benefit to Mr. McElroy until he once again returned to work in 2016. Following his 2016 return to work, the State denied Mr. McElroy employer-paid benefits for noncompliance with the requirements for receipt of employer-paid benefits. With the termination of employer-paid benefits, Mr. McElroy was no longer eligible for the SERS occupational disability benefit. Consequently, he filed a petition with the Illinois Workers' Compensation Commission and began receiving the SERS temporary disability benefit on November 3, 2016. An arbitrator for the Illinois Workers' Compensation Commission found Mr. McElroy permanently and totally disabled on an "odd-lot" basis (i.e., on account of repeated unsuccessful attempts to find work following a work-related injury) and awarded him a prospective weekly benefit commencing on June 25, 2020. However, no employer-paid benefit was ever provided to Mr. McElroy for the period from November 3, 2016 (i.e., the date when Mr. McElroy's SERS temporary disability benefit began) to July 15, 2018 (i.e., the date when maintenance payments to Mr. McElroy resumed). Mr. McElroy was eventually awarded Social Security disability benefits for the closed period from August 1, 2017, through July 15, 2018.

Under Sections 14-123.1 and 14-125 of the Illinois Pension Code (40 ILCS 5/14-123.1 and 14-125), the amount of a member's temporary or nonoccupational disability benefit must be reduced by the amount of primary benefit the member would be eligible to receive under the Social Security Act. Therefore, an overpayment exists for the overlapping periods during which Mr. McElroy was paid SERS and Social Security disability benefits.

Mr. McElroy was sent a letter dated March 9, 2021, which informed him of the SERS benefit overpayment and the amount due. Mr. McElroy requested a personal hearing to appeal the benefit overpayment that had resulted from his receipt of the Social Security disability award.

After hearing Mr. McElroy present his case at its May 2021 meeting, the Committee decided to refer the case to outside counsel for a recommendation. Following discussion of the case, the Committee deferred its decision pending further review of the facts of the case.

Edna Cañas – Appeal to Retire Effective May 1, 2021

When Edna Cañas retired on February 1, 2021, she believed that she had accrued enough service credit to retire with an unreduced pension benefit. However, when staff calculated Ms. Cañas pension, they realized that she was eligible only for a reduced

pension benefit.

Although Ms. Cañas had accrued 2.50 months of service credit from her paid sick and vacation days, she has been separated from her agency for more than 90 days. Under Section 14-104.3 of the Illinois Pension Code (40 ILCS 5/14-104.3), a SERS member, such as Ms. Cañas, may receive service credit for accumulated vacation, sick, and personal time only by making the required contributions within 90 days of withdrawal from service.

Ms. Cañas is appealing to allow the service credit purchase and to retire with an unreduced pension effective May 1, 2021. She has been notified that she would need to repay the pension benefits received for February, March, and April 2021, and would also have no insurance coverage during these months.

After review and some discussion at its May 2021 meeting, the Executive Committee decided to defer the case, pending the receipt of additional information from staff concerning Ms. Cañas.

After discussing the additional information provided by Ms. Cañas, Secretary Blair moved to deny Ms. Cañas' appeal for a retirement date effective May 1, 2021, but to allow her to rescind her application for a reduced retirement pension on the condition that all previously granted reduced pension payments to her are returned to the System. This decision will allow Ms. Cañas to apply for an unreduced pension once she is eligible for that benefit. The motion was seconded by Chairperson Becker, and all were in favor.

Carlton Dotson – Appeal of Temporary Disability Benefit Conversion – Personal Hearing via Teleconference – 9:00am

At Ms. Dotson's request, her case was deferred at the Committee's meeting on April 8, 2021, pending a discussion with her attorney regarding the waiver required for an informal conference. The Manager of the SERS Claims Division, Eric Glaub, informed the Committee that Ms. Dotson had again asked to defer her case and had indicated that she would have a decision by June 1, 2021, regarding the type of hearing being sought.

Mr. Glaub informed the Committee that Ms. Dotson had again asked to defer her case and stated that she would have a decision about the type of hearing being sought by June 28, 2021.

New Business

Anthony Respondi – Refund of Service Credit Purchase

In 2014, Anthony Respondi, a SERS member who had previously taken a refund of contributions, repaid that refund with "charged interest". Additionally, he purchased

his qualifying period. The amount of the total payment made was \$10,967.61, with \$8,327.13 representing the charged interest.

Mr. Respondi repaid the refund to qualify for a benefit from SERS by utilizing provisions of the Illinois Reciprocal Systems Act. SERS refunded \$174.57 to Mr. Respondi because he paid off the amount due earlier than required, and the total interest was reduced. Therefore, the total amount he paid to establish the service credit was \$10,793.04.

Mr. Respondi was recently provided an estimate of the monthly amount he can expect to receive from SURS and SERS, and he now believes that it is in his best interest to receive a refund of the payment he made in 2014. He is appealing to the Executive Committee that the “charged interest” be included in his refund. The statute and rules do not provide guidance on the treatment of the charged interest as it relates to a member requesting a refund of a payment to establish service credit.

After discussing the facts of the case, the Committee decided to defer a decision pending further review.

Kenneth Tupy – Retiree Returned to Work – Position Eligible to Decline Participation in SERS

Kenneth Tupy is a SERS retiree. Before his retirement, he served as a board member of the Prisoner Review Board (PRB) from 2016 through 2020. Board members of the PRB are appointed by the Governor and require the advice and consent of the Senate. Given this dynamic, Mr. Tupy had the option under subdivision (b)(3) of Section 14-103.05 of the Illinois Pension Code (40 ILCS 5/14-103.05(b)(3)) to accept or reject participation in SERS during his tenure as a PRB member. Mr. Tupy elected to participate in SERS for the duration of his service as a board member.

Mr. Tupy retired effective December 31, 2020. On May 3, 2021, he was appointed by Governor Pritzker to serve as a PRB member. He was advised that he is ineligible to make an election to decline participation in SERS for his 2021 appointment because he was reappointed to the same position and had previously elected to participate in SERS as a board member of the PRB. Section 1540.360 of Title 80 of the Illinois Administrative Code (80 Ill. Admin. Code 1540.360) provides that an election is valid and irrevocable for the entire period spent in a position, even upon reappointment to the same position. Appointment to a different position under Section 14-103.05(b)(3) requires the employee to complete a new election form. It states:

An election to be considered an “employee” under Section 14-103.05(b)(3) of the Illinois Pension Code is an irrevocable election for all periods during which the person is serving at the appointment of the Governor with the advice and consent of the Senate. The election is valid and irrevocable for the entire period spent in a position, even upon reappointment to the same position. Appointment to a different position under Section 14-103.05(b)(3) requires the employee to complete a new election form.

Mr. Tupy is appealing to decline participation in SERS for his service as a PRB member for the term beginning May 3, 2021, as he contends that he has been appointed to a different position and that he is permitted to make a new election. If he is allowed to decline participation in SERS, he will be permitted to serve in that role while receiving his SERS benefit.

After discussing the facts of the case, Secretary Blair moved to approve Mr. Tupy's appeal. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Essie Stephenson – Request for Refund of Survivor's Contributions

Essie Stephenson submitted a retirement application in August of 2015, indicating that she had a dependent son. The son was born on April 5, 1999 and was an eligible survivor at the time of Ms. Stephenson's retirement. Subsection (c) of Section 14-130 of the Illinois Pension Code (40 ILCS 5/14-130(c) provides that a member is eligible for a refund of contributions towards the survivor's annuity only if they have no eligible survivors as of the date of their retirement application.

(c) A member no longer in service who is unmarried and does not have an eligible survivors annuity beneficiary on the date of application therefor is entitled to a refund of contributions for widow's annuity or survivors annuity purposes, or both, as the case may be, without interest. A widow's annuity or survivors annuity shall not be payable upon the death of a person who has received this refund, unless prior to that death the amount of the refund has been repaid to the System, together with regular interest from the date of the refund to the date of repayment.

Ms. Stephenson requested information from the System about her survivor's benefits and related contributions. Staff informed her that her son is no longer eligible for a survivor's benefit because he is older than 18 and is not a full-time student. Ms. Stephenson then requested a refund of her survivor's annuity contributions, but she was told that only members at the time of applying for retirement are eligible to receive such refunds. Ms. Stephenson is appealing to the Executive Committee to grant her a refund of her contributions towards the survivor's annuity.

Following a review of the case and some discussion, a motion was made by Chairperson Becker to deny the appeal. The motion was seconded by Executive Secretary Blair, and all were in favor.

Duane Montgomery – Appeal of Corrected Monthly Pension Benefit Amount – Personal Hearing via Videoconference – 9:00am

Duane Montgomery retired December 1, 2015. His file was recently reviewed for a back wage adjustment and non-pensionable earnings were discovered in his initial final average compensation (FAC) calculation.

The non-pensionable earnings were for lump sum holiday payments and vacation days. In accordance with Section 14-148.1 of the Illinois Pension Code (40 ILCS 5/14-148.1), Mr. Montgomery's gross monthly pension benefit amount has been corrected. A refund of retirement contributions is due to Mr. Montgomery from the non-pensionable earnings.

Mr. Montgomery was overpaid in pension benefits because of this error. However, per Section 14-148.1 of the Illinois Pension Code, these amounts overpaid cannot be collected as the error occurred over three years ago and was not the result of incorrect information supplied by the affected member.

Mr. Montgomery is appealing the reduction to his monthly pension annuity that was applied due to the discovery of this overpayment.

The Manager of the Claims Division, Eric Glaub, informed the Committee that Mr. Montgomery had decided to defer his request for a personal hearing until he could participate in person.

Carol Davenport – Appeal of SSA Award Overpayment Repayment Terms – Personal Hearing via Teleconference – 9:45am

Carol Davenport was approved for a nonoccupational disability benefit effective September 9, 2017.

In November 2020, SERS was notified Ms. Davenport was approved for a retroactive Social Security Administration (SSA) disability benefit effective February 1, 2019. The retroactive benefit created an overpayment from February 1, 2019 through October 31, 2020. The overpayment is due under Section 14-125 of the Illinois Pension Code, which provides that SERS nonoccupational disability benefits are to be offset by the amount of the primary benefit the member would be eligible to receive under the Federal Social Security Act.

SERS sent Ms. Davenport a notification letter on December 2, 2020, to explain the calculation of the overpayment and the amount due. A second letter was sent on February 5, 2021.

The Overpayment Section is to deduct \$759.85 from the member's gross monthly disability benefit to be applied against the balance due. This will repay the overpayment in 56 months (4 years, 8 months).

Ms. Davenport has requested a payment plan of \$210.00 per month, which would repay the overpayment in 203 months (17 years).

After discussing the facts of the case, Chairperson Becker moved to approve the request for a \$210.00 per month payment amount through the end of calendar year 2021 or when Ms. Davenport retires, whichever happens sooner. At retirement or on January 1, 2022, the overpayment will be reevaluated using the appropriate repayment policy at

that time. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Christine Boes – Appeal to Receive Survivor Contributions Refund after Retirement

Christine Boes retired January 1, 2021. She completed her application stating she was divorced with no dependents and did not want to receive the survivor contributions refund.

Ms. Boes is appealing to receive the survivor contributions refund after retirement.

After review of the case, Chairperson Becker moved to deny Ms. Boes' appeal. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Teresa Beard – Appeal to Receive Alternative Formula Pension

Teresa Beard applied to retire effective April 1, 2021. The SERS Accounting Division performed an audit in mid-April on Ms. Beard's account and discovered there were two months of service credit that were not due since she was paid a disability benefit and an agency salary for the same time.

Ms. Beard's annual statements through 2020 all gave a March 1, 2021 eligibility date for an alternative formula retirement.

Ms. Beard is one month short of having 20 years for an alternative formula pension and free health insurance benefits; however, she has half of a month she can purchase from her vacation days, leaving her short by half of a month.

Ms. Beard is requesting to retire with an alternative formula pension effective April 1, 2021.

After some discussion, the Committee decided to defer a decision pending further review.

Michael Kennedy – Appeal of Disability Benefit Overpayment Repayment Terms

Michael Kennedy was on an occupational disability benefit from October 4, 2018 to January 19, 2019, and from March 1, 2019 to August 4, 2019.

In December 2019, SERS received notification that Tristar incorrectly calculated Mr. Kennedy's Average Weekly Wage and his TTD rate was increased, which required SERS to adjust his monthly Workers' Compensation offset accordingly.

This resulted in overpayments for the period of October 4, 2018, to January 19, 2019, and from March 1, 2019, to August 4, 2019. The overpayment is due under Section 14-129 of the Illinois Pension Code (40 ILCS 5/14-129), which provides that "any amounts provided for a member or his dependents under . . . [the Workers' Compensation Act or Workers' Occupational Diseases Act] shall be applied for the period of time prescribed

by such Acts for payments thereunder as an offset to any occupational disability . . . benefit . . . provided . . . [under] Article [14 of the Illinois Pension Code] in such manner as may be prescribed by the rules of the board.”

SERS sent Mr. Kennedy a letter on December 15, 2019, to explain the calculation of the overpayment and the amount due. Repayment notices were sent on February 6, 2020, and April 27, 2021.

Mr. Kennedy is an active state employee. SERS is to deduct \$549.50 per pay (\$1,099.00 per month) to apply to the overpayment. This will repay the overpayment in 11 months.

Mr. Kennedy has requested a repayment plan in the amount of \$150.00 per pay (\$300.00 per month). This would repay the overpayment in 40 months (3 years, 4 months).

After review of the case, Vice-Chairperson Morris moved to approve Mr. Kennedy’s appeal. The motion was seconded by Chairperson Becker, and all were in favor.

Reese Renfro – Appeal of Disability Benefit Overpayment Repayment Terms

Reese Renfro was approved for a nonoccupational disability benefit effective December 12, 2020.

He returned to work on January 4, 2021, which was confirmed by his agency. Despite reporting it to SERS, Mr. Renfro’s disability benefit was not removed until March 5, 2021. This resulted in an overpayment for the period of January 4, 2021 through January 31, 2021.

The overpayment is due under Section 14-124 of the Illinois Pension Code, which states that the SERS nonoccupational disability benefit continues only until “the date on which the member engages in gainful employment” or until one of the other statutorily defined endpoints for the benefit occurs. SERS sent Mr. Renfro a letter on March 11, 2021, to explain the calculation of the overpayment and the amount due.

Mr. Renfro is an active state employee. SERS is to deduct \$200.00 per pay (\$400.00 per month) to apply to the overpayment, which will repay the overpayment in 14 months (1 year, 2 months).

Mr. Renfro has requested a payment plan in the amount of \$100.00 per pay (\$200.00 per month), which would repay the overpayment in 28 months (2 years, 4 months).

After some discussion, Chairperson Becker moved to approve the appeal. The motion was seconded by Executive Secretary, and all were in favor.

Hillari Douglas – Appeal of Disability Benefit Overpayment Repayment Terms

Hillari Douglas was approved for a nonoccupational disability benefit effective September 27, 2020.

On March 4, 2021, SERS was notified Ms. Douglas returned to work on December 31, 2020, which was confirmed by her agency. Untimely notification of the return resulted in an overpayment for the period of December 31, 2020 through February 28, 2021.

The overpayment is due under Section 14-124 of the Illinois Pension Code, which states that the SERS nonoccupational disability benefit continues until “the date on which the member engages in gainful employment” or until one of the other statutorily defined endpoints for the benefit occurs.

SERS sent Ms. Douglas a letter on March 17, 2021, to explain the calculation of the overpayment and the amount due. A second notice was sent to her on May 13, 2021.

Ms. Douglas is an active State employee. SERS is to deduct \$390.90 per pay (\$781.80 per month) to apply to the overpayment, which will repay the overpayment in 8 months.

Ms. Douglas has requested a payment plan in the amount of \$25.00 per pay (\$50.00 per month), which would repay the overpayment in 126 months (11 years).

After review of the case, Chairperson Becker moved to deny Ms. Douglas’ appeal and offer a repayment plan that will repay the overpayment in 5 years. The motion was seconded by Executive Secretary Blair, and all were in favor.

Brenda Brookshier – Appeal of Disability Benefit Overpayment Repayment Terms

Brenda Brookshier was approved for an occupational disability benefit effective August 18, 2017.

In April 2021, SERS received notification that Tristar underestimated Ms. Brookshier’s TTD Rate. Tristar recalculated her TTD rate and the amount of the underpayment. The underestimation in Ms. Brookshier’s TTD rate has created an overpayment of SERS disability benefits for the period of August 18, 2017, through October 27, 2020. The overpayment is due under Section 14-129 of the Illinois Pension Code (40 ILCS 5/14-129), which provides that “any amounts provided for a member or his dependents under . . . [the Workers’ Compensation Act or Workers’ Occupational Diseases Act] shall be applied for the period of time prescribed by such Acts for payments thereunder as an offset to any occupational disability . . . benefit . . . provided . . . [under] Article [14 of the Illinois Pension Code] in such manner as may be prescribed by the rules of the board.”

SERS sent Ms. Brookshier a letter on April 17, 2021, to explain the calculation of the overpayment and the amount due. A repayment letter was sent on May 19, 2021.

Ms. Brookshier’s is currently receiving a disability benefit and SERS is to offset the full

gross benefit. The overpayment will be paid in 21 months (1 years, 9 months).

She has requested a payment plan in the amount of \$500.00 per month, which would repay the overpayment in 61 months (5 years, 1 month).

Ms. Brookshier's disability benefit half-time cease date is January 1, 2022. She is a Tier 2 member and will not be vested with the minimum service requirements to be eligible for a pension benefit.

After discussing the facts of the case, Chairperson Becker moved to deny Ms. Brookshier's appeal and offer a repayment plan that will repay the overpayment in 5 years as long as she remains on her SERS temporary disability benefit. Once a final determination is made and the temporary benefit is converted, repayment of the remaining overpayment will be reevaluated using the appropriate repayment policy at that time. The motion was seconded by Secretary Blair, and all were in favor.

Erin Moore – Staff Direction – Appeal for Retroactive Nonoccupational Disability Benefit

Erin Moore was required to go on bed rest early in her pregnancy in 1998. She was told by her Retirement Coordinator at the time that if she applied for disability benefits, the money would be taken from her retirement account. Therefore, Ms. Moore did not complete her disability application and opted to take FMLA leave from her agency.

Ms. Moore would now like to request disability for the time she was off work so that she can receive the service credits she is due. She has been able to provide all the required medical records needed to prove her inability to perform her job duties during her absence from work.

A 3900 Employer Statement was requested from her former agency. The agency was able to complete most of the form but stated that it could not provide her date last worked. In Ms. Moore's SRS file, there was a claim notification from 1998 which included her date last worked.

Since SERS does not have a complete 3900 form, staff is asking for approval to use the information in her file and the partially completed 3900 to approve and pay a closed period of nonoccupational disability benefits.

Following a review of the case and some discussion, the Committee directed staff to process the retroactive nonoccupational disability benefit for Ms. Moore using the records currently on file.

Discussion – Change to Disability Benefit Offset Policy

Jeff Houch, Assistant to the Executive Secretary, presented a proposed change in policy to the Committee that would require SERS to offset disability benefits made to a member by the total amount of payments he or she received from the SSA on or after

the effective date of a member's Social Security disability annuity.

After some discussion, Executive Secretary Blair moved to adopt the change in policy. The motion was seconded by Chairperson Becker, and all were in favor.

There being no further business to be brought before the Committee, the meeting adjourned at 12:14 p.m.

The next meeting of the Executive Committee is scheduled for July 8, 2021, in the Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary