

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

December 9, 2021

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, December 9, 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)).

Committee Members Present:

Marvin Becker, Chairperson
Tad Hawk, SERS Trustee
Timothy Blair, Executive Secretary

Others Present:

Jeff Houch, Assistant to the Executive Secretary
James Stivers, General Counsel
Eric Glaub, Manager, Claims Division
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Jason Allen, Claimant
Terry Hart, Claimant
Shafiah Dunmars, Claimant
Michael Block, Claimant's Attorney

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on November 10, 2021, 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 Executive Secretary Blair, and by unanimous vote, the minutes were approved by the Committee members present.

Routine Claims Report

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

Old Business

Raymond Bouton – Appeal of Adjustment to Monthly Pension Amount – Deferred

Mr. Eric Glaub, Claims Division Manager, informed the Committee at its July meeting that Mr. Bouton had asked to defer his case until he is able to attend the hearing in person. Mr. Bouton did not attend the August meeting, and his case was again deferred.

Mr. Glaub reminded the Committee that Mr. Bouton had requested a formal hearing that would be scheduled as soon as logistically possible.

Mark Ippolito – Appeal of SSA Award Overpayment – Deferred

Mark Ippolito has been receiving a SERS non-occupational disability benefit since June 29, 2017.

In June 2021, SERS was notified Mr. Ippolito was approved for a retroactive Social Security Administration (SSA) disability benefit effective December 1, 2018, for \$1,684.00 per month. The retroactive SSA disability benefit created an overpayment of SERS non-occupational disability benefits totaling \$52,204 for the period from December 1, 2018, through June 30, 2021. The overpayment is due in accordance with Section 14-125 of the Illinois Pension Code (40 ILCS 5/14-125), which specifies that a member's non-occupational disability benefit is to be reduced by the amount of the primary benefit the member would be eligible to receive under the federal Social Security Act.

SERS sent Mr. Ippolito a notification letter on July 1, 2021, to explain the calculation of the overpayment and amount due. The outstanding balance remains in full.

Mr. Ippolito is appealing the full overpayment amount. Following a brief discussion, the Committee decided to refer Mr. Ippolito's appeal of his full overpayment to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2021-15 to deny Mr. Ippolito's initial appeal to waive the overpayment caused for receiving a retroactive SSA disability benefit for the period in which he received non-occupational disability benefits. Executive Secretary Blair moved to adopt Recommendation No. 2021-15. The motion was seconded by Chairperson Becker, and all were in favor.

Yeashea Figgures-Lawton – Appeal of Non-occupational Disability Benefit Claim Denial – Personal Hearing via Teleconference – 9:00 a.m.

Yeashea Figgures-Lawton works as a Correctional Officer II for the Illinois Department of Corrections. She last physically worked on February 3, 2021. A medical leave of absence was started on February 16, 2021. She applied for a non-occupational disability benefit. The medical report received indicated an onset date of February 3, 2021. There was no release date for her return to work, no medical diagnosis for her

pain, and no restrictions were given.

Additional medical records were requested and received. The case file was sent to a medical consultant for review. The medical consultant indicated that the medical evidence in the file supported disability, but not until June 29, 2021.

Ms. Figgures-Lawton started a maternity leave on July 12, 2021. Therefore, she was not disabled for 30 days before she received full payment from her agency for the 10 weeks of maternity leave. She did not return to work after her maternity leave and has not supplied additional medical evidence to support her inability to return to work. As a result, the non-occupational disability claim was denied.

Ms. Figgures-Lawton is appealing the denial of her non-occupational disability claim. She is requesting her claim be approved effective February 2021, as well as for her current time away from work.

After hearing Ms. Figgures-Lawton present her case at their November 2021 meeting, the Committee decided to defer a decision pending receipt of further medical documentation to support her disability from April 2021 through present.

Mr. Glaub informed the committee that Ms. Figgures-Lawton had not yet submitted any new documentation and the case continued to be deferred.

New Business

Jason Allen – Appeal of Adjustment to Monthly Pension Amount – Personal Hearing via Videoconference – 9:00 a.m.

Jason Allen retired August 1, 2016. His pension required review because additional contributions were posted from back wages paid out by his former agency.

During the review it was determined the final average compensation (FAC) was calculated incorrectly at retirement because non-pensionable earnings were mistakenly included. Lump sum holiday payments were discovered within the initial calculation.

Lump sum holiday payments are not pensionable so the agency should not have withheld retirement contributions. A refund is due to Mr. Allen for these retirement contributions.

Mr. Allen's FAC was recalculated and adjusted in accordance with Section 14-148.1 of the Illinois Pension Code. The recalculation resulted in a lower FAC than was used at retirement and resulted in an overpayment in pension benefits. Since the mistake was undiscovered for more than 3 years the overpayment is not due and Mr. Allen's monthly pension amount was adjusted, as prescribed by law.

Mr. Allen is appealing the adjustment to his monthly pension amount. If the adjustment stands, a full refund is due to Mr. Allen for all contributions that were

mistakenly taken from lump sum holiday payments by his agency.

After hearing Mr. Allen present his case, the Committee decided to refer the matter to external counsel for a recommendation.

Terry Hart – Appeal of Adjustment to Monthly Pension Amount – Personal Hearing via Videoconference – 9:45 a.m.

Terry Hart retired July 1, 2015. His pension required review because additional contributions were posted from back wages paid out by his former agency.

During the review it was determined the final average compensation (FAC) was calculated incorrectly at retirement because non-pensionable earnings were mistakenly included. Lump sum holiday payments were discovered within the initial calculation.

Lump sum holiday payments are not pensionable so the agency should not have withheld retirement contributions. A refund is due to Mr. Hart for these retirement contributions.

Mr. Hart's FAC was recalculated and adjusted in accordance with Section 14-148.1 of the Illinois Pension Code. The recalculation resulted in a lower FAC than was used at retirement and resulted in an overpayment of pension benefits. Since the mistake was undiscovered for more than 3 years the overpayment is not due and Mr. Hart's monthly pension amount was adjusted, as prescribed by law.

Mr. Hart is appealing the adjustment to his monthly pension amount.

After hearing Mr. Hart present his case, the Committee decided to refer to external counsel for a recommendation.

Shafiah Dunmars – Appeal to Waive Overpayment – Personal Hearing via Videoconference – 10:30 a.m.

Shafiah Dunmars has 12 years and 7 months of service credit and is currently receiving a non-occupational disability benefit for a separate disabling condition. From July 31, 2015, through May 31, 2016, Ms. Dunmars received SERS temporary disability benefits as she was disputing the denial of workers' compensation benefits. On August 27, 2021, Ms. Dunmars was granted a permanent partial disability (PPD) settlement for a total gross payment of \$62,506.45 for injuries resulting from her first period of disability. Of that gross amount, \$12,501.29 covered attorney's fees, and \$568.49 covered medical expenses. In accordance with its rules, staff subtracted those amounts from the total gross payment and determined that SERS had a statutory obligation to offset her occupational disability benefits by \$49,436.67.

Since Ms. Dunmars received an employer-paid benefit under the Workers' Compensation Act, her SERS temporary disability benefits were converted to SERS occupational disability benefits, which resulted in an overpayment of temporary

disability benefits totaling \$30,448.71 and an underpayment of occupational disability benefits totaling \$16,773.24, leaving an arrearage of \$13,675.47 owed to the System.

When System staff calculated the offset to be applied to the occupational disability benefits Ms. Dunmars was due, they used the formula referenced under the relevant administrative rule (80 Ill. Admin. Code 1540.90). The Workers' Compensation maximum average weekly wage for the applicable occupational disability period was \$1,234.76 for awards for permanency, which equates to a weekly workers' compensation benefit of \$740.86 (60% of the average weekly wage). When determining the monthly offset to the occupational disability benefits due, staff multiplied the weekly workers' compensation benefit of \$740.86 by 52, then divided by 12 which produced a monthly offset amount of \$3,210. In accordance with the System's rules, the total amount of occupational disability benefits to be offset could not exceed \$49,436.67. Given that she was due occupational disability benefits for closed period of 11 months, the actual offset amount to her occupational disability benefits totaled \$35,314.18, well below the amount of the net PPD payment she received.

Ms. Dunmars' makes two requests in her appeal. Her first request is to have her overpayment of \$13,675.47 waived. She contends that the workers' compensation PPD payments do not trigger the conversion of her temporary disability benefits to occupational disability benefits. Said differently, she asserts that her temporary disability benefits from SERS should not be converted to occupational disability benefits because she was not awarded TTD benefits during that period. She also contends that no "excess" temporary benefits, as described in subsection (d) of Section 14-123.1, were paid by SERS because she should not have had her temporary disability benefits converted to occupational disability benefits. Furthermore, she contends that the workers' compensation settlement provides no determination that the injuries were occupational, only that money was paid on permanency to resolve a disputed claim.

Additionally, she contends that her "permanency" situation has created a financial hardship for her and that reimbursing the System by \$13,675.47 will increase that hardship.

In the alternative, Ms. Dunmars requests to have her overpayment of \$13,675.47 reduced by the amount of attorney's fees specified in the settlement, which is \$12,501.29. She points to the System's relevant administrative rule (i.e., 80 Ill. Admin. Code 1540.90(a)(5)) as the justification for this reduction. It is noted that when staff determined the maximum amount to be offset from her occupational disability benefits, it factored in the subtraction of those attorney's fees as identified in the determination of the net PPD settlement amount of \$49,436.67, which also represents the maximum offset amount as provided under the SERS plan design.

After hearing Ms. Dunmars and her attorney present her appeal, the Committee decided to refer the case to external counsel for a recommendation.

Melody Easterling – Appeal of Disability Benefit Overpayment Repayment Terms

Ms. Easterling was approved for a non-occupational disability benefit effective July 22, 2020.

She returned to work on April 19, 2021, which was confirmed by her agency on July 15, 2021. Due to untimely notification and a SERS administrative error, Ms. Easterling's disability benefit was not stopped until October 18, 2021, resulting in an overpayment for the period of April 19, 2021, to September 30, 2021. The overpayment due is in accordance with Section 14-124 of the Illinois Pension Code (40 ILCS 5/14-124), which states the benefit continues until the date on which the member engages in gainful employment.

SERS sent Ms. Easterling a letter on October 19, 2021 to explain the calculation of the overpayment and the amount due.

Ms. Easterling 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 22 months (1 year, 10 months).

Ms. Easterling has requested a payment plan in the amount of \$75.00 per pay (\$150.00 per month), which would repay the overpayment in 58 months (4 years, 10 months).

After discussing the facts of the case, a motion was made by Chairperson Becker to approve Ms. Easterling's appeal. The motion was seconded by Trustee Hawk and passed unanimously.

Joshua Knisley – Appeal of Disability Benefit Overpayment Repayment Terms

Mr. Knisley was approved for an occupational disability benefit effective February 24, 2018.

In November 2021, SERS received notification that Tristar underestimated Mr. Knisley's TTD Rate. Tristar recalculated his TTD rate to include his secondary employment. The underestimation in Mr. Knisley's TTD rate has created an overpayment of his SERS disability benefit for the period of February 24, 2018, through September 30, 2021. The overpayment due is in accordance with Section 14-129 of the Illinois Pension Code (40 ILCS 5/14-129).

SERS sent Mr. Knisley a letter on November 2, 2021 to explain the calculation of the overpayment and the amount due.

Mr. Knisley is currently receiving a disability benefit from SERS. SERS is to offset half the gross benefit, which will repay the overpayment in 10 months.

Mr. Knisley has requested a payment plan in the amount of \$685.73 per month, which would repay the overpayment 24 months (2 years).

After reviewing the facts of the case and some discussion, a motion was made by Chairperson Becker to approve Mr. Knisley's appeal. The motion was seconded by Trustee Hawk and passed unanimously.

James Rogers – Appeal to Receive Survivor Contribution Refund After Retirement

James Rogers retired September 1, 2021. He completed his application stating he was divorced with no dependents and did not want to receive the survivor contribution refund.

Ms. Rogers is appealing to receive the survivor contribution refund after retirement.

Following a brief discussion regarding the facts presented, a motion was made by Executive Secretary Blair to deny Mr. Rogers' request. The motion was seconded by Trustee Hawk and passed unanimously.

Helen Makris – Request Reinstatement of Written-Off Account for Reciprocal Service

Helen Makris' account was written-off in June 2017.

Ms. Makris is requesting her account be reinstated as she is reciprocal with SURS. Her address on file is correct, and she has supplied proper identification.

After a brief discussion, Executive Secretary Blair moved to approve the reinstatement of Ms. Makris' account. The motion was seconded by Chairperson Becker and passed unanimously.

Robert Rogers – Appeal to Waive Level Income Offset Overpayment

Robert Rogers retired under the Early Retirement Incentive (ERI) on October 1, 2002, at age 47 years and 1 month with the level income option at age 66 years and 2 months.

Mr. Rogers' pension was to be reduced for the level income option on October 1, 2021, because Social Security begins their benefits one month earlier for members born on the first of the month. Social Security started its benefit for Mr. Rogers on October 1, 2021, so his benefit from SERS was reduced in October 2021.

Due to a timing error, Mr. Rogers' pension was not reduced until November 2021, which resulted in an overpayment.

Mr. Rogers is requesting that the overpayment be waived.

After discussing the facts of the case, a motion was made by Executive Secretary Blair to deny Mr. Rogers' request. The motion was seconded by Trustee Hawk and passed unanimously.

James Claycomb – Appeal Reduction of Non-occupational Disability Benefit

James Claycomb currently has 15 years and 4 months of service credit and is receiving a monthly non-occupational disability benefit. He began receiving that disability benefit effective December 15, 2020. Mr. Claycomb was previously approved for disability benefits payable from the Social Security Administration (SSA) but chose to receive a reduced retirement pension from SSA instead so that he could avoid the offset to his SERS non-occupational disability benefit.

As his one-year benefit commencement anniversary approaches, Mr. Claycomb has been advised that he will need to apply for disability benefit payments from the SSA. Given the nature of his disabling condition along with the fact that he was previously approved for such benefits, it is likely that Mr. Claycomb will be approved for disability benefits payable from the SSA. Mr. Claycomb is very concerned about the financial impact of the offset as it is estimated to reduce his total gross monthly income by \$1,415.00.

It should be mentioned that if he were to begin his retirement annuity from SERS effective December 1, 2021, it is estimated to total \$1,837.59 per month. It should also be mentioned that he would be eligible to receive a refund of alternative formula contributions, which is estimated to total \$50,818.87.

Mr. Claycomb is appealing to the Executive Committee that his non-occupational disability benefit be exempt from the offset.

Following a review of the case and some discussion, Executive Secretary Blair moved to deny Mr. Claycomb's appeal. The motion was seconded by Trustee Hawk and passed unanimously.

There being no further business to be brought before the Committee, the meeting adjourned at 12:06 p.m.

The next meeting of the Executive Committee is scheduled for January 13, 2022, in the System's Springfield office.

Marvin Becker, Chairperson

Tad Hawk, SERS Trustee

Timothy Blair, Executive Secretary