

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

December 14, 2017

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, December 14, 2017 at 8:30 a.m. in the System's Springfield office at 2101 S. Veterans Parkway.

Committee Members:

Loren Iglarsh, Chairman
David Morris, Vice-Chairperson
Timothy Blair, Executive Secretary

Others Present:

Jeff Houch, Assistant Executive Secretary
Steve Bochenek, SERS Attorney
Kathy Yemm, Manager, Claims Division
Alan Fowler, Manager, Accounting Division
Don Williams, Supervisor, Disability Section
Cory Mitchell, Acting Supervisor, Pension and Death Section
Jessica Blood, Recording Secretary
J. Stephen Frank, Claimant
Bryan Monk, Claimant
Eric Gibson, Claimant
Venasa Veal, Claimant
Jim Vainikos, Claimant's Attorney
Theresa Moore, Claimant

Minutes of the Previous Meeting

The minutes of the November 9, 2017 meeting of the Executive Committee were presented by Chairman Iglarsh for approval. Copies of the minutes were previously mailed to Committee members for review. There being no additions or corrections, on motion by Executive Secretary Blair, seconded by Vice-Chairperson Morris and by unanimous vote, the minutes were approved as submitted.

Routine Claims Report

The Routine Claims Report for the month of November, 2017 was presented. Following review and discussion, the Routine Claims Report for the period of November, 2017, as prepared by staff, was received by the Executive Committee.

Old Business

Martin Van Kampen – SSA Overpayment Constitutionality - Recommendation

Martin Van Kampen is an Assistant Attorney General. Mr. Van Kampen has requested a personal hearing. He is appealing the constitutionality of SERS offsetting his Social Security Disability award. If it is determined that SERS can offset his Social Security Disability award, then he is requesting SERS reduce the amount they are recovering for the overpayment. SERS is currently taking half of his gross income.

Attorney Bochenek presented Recommendation No. 2017-9 to the Committee to deny the request of Mr. Van Kampen to reduce the amount being recovered for his SSA overpayment. Chairman Iglarsh made a motion to accept Recommendation No. 2017-9. The motion was seconded by Executive Secretary Blair and all were in favor.

Dr. Howard Paul – Appeal Reduction of Pension

Dr. Howard Paul was a highly compensated employee of the State of Illinois Department of Mental Health and later the Department of Human Services. As such, he was subject to the Internal Revenue Code (IRC) Section 401(a)(17) limitation during his career.

When Dr. Paul retired, his pension was calculated prior to the reduction of the salary credits of his final calendar year of employment due to the IRC 401(a)(17) limitation. Essentially, his final year of salary was overstated in the calculation of his Final Average Compensation (FAC), making a recalculation of his pension necessary and creating an overpayment of the pension already paid to him.

When Dr. Paul was notified of this, he questioned whether he should ever have been subject to the IRC 401(a)(17) salary limitation. His contention is that he is exempt due to the “grandfathering” of the limitation for those members employed prior to 1996.

Although Dr. Paul repaid his resignation refund and reestablished his service from May 1984 through June 1986, the IRC 401(a)(17) is applied based on the Latest Date of Membership, which for Dr. Paul is May 1, 2001. This makes his salary subject to the limitation from the time that he was reemployed by the state through his retirement date.

Dr. Paul received annual notification of this limitation being applied to his retirement account. Additionally, he received the associated refund of the contributions he made. The file does not show that he ever inquired about the application of this limitation or raised this issue during his working career. Dr. Paul is appealing the reduction of his retirement benefit.

At the August 10, 2017 meeting of the Executive Committee, Dr. Paul’s attorney requested that the case be deferred until a formal hearing, including a court reporter, could be scheduled. The Executive Committee agreed and the case was deferred. The case was subsequently heard at a formal hearing on November 20, 2017.

After reviewing the facts of the case and some discussion, a motion was made by Chairman Iglarsh to approve Dr. Paul’s appeal of the reduction of his pension. The motion was seconded by Vice-Chairperson Morris and all were in favor.

New Business

J. Stephen Frank – Appeal to Use FAC from IMRF – Personal Hearing – 9:00 a.m. Springfield

James Frank retired reciprocally with the Illinois Municipal Retirement Fund (IMRF) effective June 1, 2017.

Mr. Frank’s last employment was with IMRF and the average earnings from IMRF were used to calculate the SERS retirement benefit.

IMRF has been reporting wages incorrectly to SERS. They have been including wages paid after the member left employment. Some of this money is wages from the last payroll, however it also includes sick and vacation pay that SERS cannot use in the calculation of a Final Average Compensation. IMRF is unable to provide a breakdown of wages to show the amount that is salary, so SERS excludes the last month of earnings and includes one previous month of earnings to compute a FAC.

IMRF reported wages in June, 2017 for Mr. Frank in the amount of \$38,791.25. SERS excluded this month and added on the earnings from June, 2013.

IMRF is using a FAC of \$8,853.08 due to a 125% cap. SERS is using a FAC of \$8,480.88. If SERS used the wages provided by IMRF, the cap would also be applied by our system. This would increase the member’s retirement annuity by \$193.79.

Mr. Frank is appealing the calculation of the FAC and requesting SERS use the earnings credited in June, 2017.

After some discussion, it was decided by the Committee to defer the case pending Cory Mitchell contacting City of Springfield payroll manager Patty Connelly to determine the wages paid for May, 2017, excluding payments not allowed by SERS statute.

Bryan Monk – Appeal of Tier 2 Determination – Personal Hearing – 9:30 a.m. Springfield

Bryan Monk was initially hired by the Department of Transportation (IDOT) in June, 2003. At that time, employees were subject to serve a six (6) month qualifying period prior to being included in SERS membership, “A person entering service on or after January 1, 1984 shall, upon completion of 6 months of continuous service which is not interrupted by a break of more than 2 months, become a member as a condition of employment. Contributions shall begin the first month after the completion of the qualifying period.” [40 ILCS 5/14-103.05] The following table shows Mr. Monk’s initial employment history with IDOT:

From	Through	Service Period
June 2003	July 2003	2 months
May 2004	August 2004	4 months

May 2005	August 2005	4 months
May 2006	August 2006	4 months
May 2007	August 2007	4 months

None of these short periods of employment meet the 6 months of continuous service which is not interrupted by a break of more than 2 months. Therefore, none of this service qualified Mr. Monk for membership within SERS.

When Mr. Monk was hired by IDOT in January, 2012, he became a member of SERS as a condition of employment: “A person entering service on or after December 1, 2010 shall become a member as a condition of employment and shall begin making contributions as of the first day of employment.” [40 ILCS 5/14-130.05 (a-5)]

Additionally, the general provision of the pension code, related to Tier 2 membership would apply to Mr. Monk’s January 2012 employment: “The provisions of this Section apply to a person who on or after January 1, 2011, first becomes a member or participant under any reciprocal retirement system or pension fund established under this Code...” [40 ILCS 5/1-160]

Mr. Monk, like other members of SERS, has the option of purchasing his short periods of employment to enhance his pension. The optional service purchase would not change the fact that Mr. Monk first became a member of SERS or a reciprocal retirement system on or after January 1, 2011, which is the defining factor in tier determination.

Without additional wage data and member contributions to support earlier employment on a state payroll (or documentation of employment within a reciprocal system), the fact remains that Mr. Monk first became a member or participant of SERS in January 2012. This would place him within the Tier 2 membership of SERS.

After reviewing the facts of the case and some discussion, the Executive Committee decided to refer Mr. Monk’s case to Attorney Bochenek for a recommendation.

Eric Gibson – Appeal of Tier 2 Determination – Personal Hearing – 9:30 a.m. Springfield

Eric Gibson was initially hired by the Department of Transportation (IDOT) in May, 2009. At that time, employees were subject to serve a six (6) month qualifying period prior to being included in SERS membership, “A person entering service on or after January 1, 1984 shall, upon completion of 6 months of continuous service which is not interrupted by a break of more than 2 months, become a member as a condition of employment. Contributions shall begin the first month after the completion of the qualifying period.” [40 ILCS 5/14-103.05] The following table shows Mr. Gibson’s initial employment history with IDOT:

From	Through	Service Period
May 2009	August 2009	4 months

This short period of employment did not meet the 6 months of continuous service which is not interrupted by a break of more than 2 months. Therefore, this service did not qualify Mr. Gibson for membership within SERS.

When Mr. Gibson was hired by IDOT in May, 2011, he became a member of SERS as a condition of employment: "A person entering service on or after December 1, 2010 shall become a member as a condition of employment and shall begin making contributions as of the first day of employment." [40 ILCS 5/14-130.05 (a-5)]

Additionally, the general provision of the pension code, related to Tier 2 membership would apply to Mr. Gibson's May 2011 employment: "The provisions of this Section apply to a person who on or after January 1, 2011, first becomes a member or participant under any reciprocal retirement system or pension fund established under this Code..." [40 ILCS 5/1-160]

Mr. Gibson, like other members of SERS, has the option of purchasing his short periods of employment to enhance his pension. He requested an estimate for this optional service purchase in January 2016, but ultimately did not make the purchase. The optional service purchase would not change the fact that Mr. Gibson first became a member of SERS or a reciprocal retirement system on or after January 1, 2011, which is the defining factor in tier determination.

Without additional wage data and member contributions to support earlier employment on a state payroll (or documentation of employment within a reciprocal system), the fact remains that Mr. Gibson first became a member or participant of SERS in May, 2011. This would place him within the Tier 2 membership of SERS.

After reviewing the facts of the case and some discussion, the Executive Committee decided to refer Mr. Monk's case to Attorney Bochenek for a recommendation.

Theresa Moore – Request to Waive Survivor Benefit Overpayment – Personal Hearing – 10:00 a.m. Springfield

Louis Moore retired effective December 1, 2002. He received a survivor contribution refund as he did not have any eligible survivors at that time.

Mr. Moore died in May, 2016. His surviving spouse, Theresa Moore, was paid a survivor annuity, although she was ineligible as the survivor refund was taken at retirement. This created an overpayment of \$40,340.80 for April 1, 2016 through September 30, 2017. Ms. Moore's survivor benefit was suspended as of September 30, 2017.

Ms. Moore is requesting that the Executive Committee waive the overpayment of her survivor benefit.

After some discussion, the Executive Committee decided to refer the case to Attorney Bochenek for a recommendation.

Venasa Veal – Appeal Future 7N Benefits – Personal Hearing – 10:30 a.m. Chicago

Venasa Veal works as a Mental Health Technician II for Ludeman Developmental Center. She last worked on December 11, 2012. She began a medical leave of absence on December 24, 2012 due to an injury. She received Temporary Total Disability benefits from December 1, 2011 through May 30, 2012.

Ms. Veal began receiving extended benefits as of May 16, 2012 which should have ended May 15, 2013. However, her agency continued to mistakenly pay her extended benefits until March 15, 2016. Ms. Veal started receiving TTD benefits again on December 1, 2013 through November 25, 2016. For the time periods of May 16, 2012 through May 30, 2012 and December 1, 2013 through March 15, 2016 she received both extended benefits and TTD benefits.

Ms. Veal appealed at the November 9, 2017 Executive Committee meeting to have her 12 month filing period waived. Her request was denied by the Committee.

Ms. Veal is now requesting future occupational disability benefits based on her worker's compensation settlement with the Illinois Workers' Compensation Commission.

Ms. Veal is 53 years old. If her request is granted she could remain on occupational disability until age 65. It would take approximately 2 years to offset Ms. Veal's settlement, at which point she would be receiving 75% of her FAC. At that time she would receive \$3,260.11 per month until age 65.

After reviewing the facts of the case and some discussion, a motion was made by Vice-Chairperson Morris to approve Ms. Veal's request to waive the 12 month filing limitation to allow for application of benefits. The motion was seconded by Chairman Iglarsh and all were in favor.

Deanna McDonald – Non-Occupational Disability 90 Day Waiver

Deanna McDonald works as a Security Therapy Aide I for DHS. She last worked on May 7, 2017. She began a medical leave of absence on May 18, 2017 due to medical issues. Ms. McDonald was under the impression that she had to wait 30 days before she could begin submitting her disability paperwork.

Ms. McDonald stated that she also had difficulty obtaining her birth certificate. She called SERS on August 21, 2017 to note that she had to send information to Wyoming to receive her birth certificate, which took several weeks and subsequently held up the remainder of her paperwork. Ms. McDonald stated that her symptoms from her impairments also contributed to her lack of knowledge regarding the application process. She is requesting that the Executive Committee waive the 90 day filing limitation.

Based on a review of the information submitted, a motion was made by Chairman Iglarsh to approve Ms. McDonald's request to waive the 90 day filing limitation. The motion was seconded by Vice-Chairperson Morris and all were in favor.

Carl Erickson – Occupational Disability 12 Month Waiver

Carl Erickson works as a plumber for Danville Correctional Center. He last worked on July 11, 2012. He began a service connected leave of absence on July 19, 2012 due to an injury sustained while working. He returned to work on October 29, 2012. He was paid TTD for this time period.

Mr. Erickson has requested that the Executive Committee waive the 12 month filing limitation.

After review of the case and some discussion, a motion was made by Executive Secretary Blair to approve Ms. Erickson's request to waive the 12 month filing limitation. The motion was seconded by Chairman Iglarsh and all were in favor.

Richard Lulay – Occupational Disability 12 Month Waiver

Richard Lulay works as a Highway Maintainer for IDOT. He last worked on April 20, 2016. He began a medical leave of absence on April 28, 2016 due to an injury sustained while working. Mr. Lulay returned to work on October 31, 2016. He was paid TTD for this time period.

Mr. Lulay requested that the Executive Committee waive the 12 month filing limitation.

After reviewing the facts of the case, a motion was made by Chairman Iglarsh to approve Mr. Lulay's request to waive the 12 month filing limitation. The motion was seconded by Vice-Chairperson Morris and all were in favor.

Whitney Holtz – Non-Occupational Disability 90 Day Waiver

Whitney Holtz is appealing the denial of disability based on the 90 day filing rule. Ms. Holtz was removed from payroll on March 20, 2015. Her 90 days expired June 16, 2015. The notification from the agency came on October 23, 2017. SERS sent Ms. Holtz the application forms on October 23, 2017. Ms. Holtz's application and medical documentation were received October 23, 2017. Ms. Holtz returned to work on April 7, 2015.

Based on the information submitted, a motion was made by Chairman Iglarsh to approve Ms. Holtz's request to waive the 90 day filing limitation. The motion was seconded by Executive Secretary Blair and all were in favor.

John Vicich – Appeal to Reduce SSA Overpayment Deduction

John Vicich was approved for a non-occupational disability benefit from SERS effective October 16, 2012.

Mr. Vicich was approved for a retroactive Social Security disability benefit effective November 1, 2015. The retroactive benefit created an overpayment to SERS totaling \$12,371.00 from November 1, 2015 through June 30, 2016.

SERS sent Mr. Vicich a notification letter on November 20, 2017 and a corrected overpayment letter dated December 6, 2017 due to the change in benefit. The letters explain the calculation of the overpayment and what was due to SERS. The calculation was complicated by the fact that Mr. Vicich received the award after he had retired and was eligible for social security due to age. Because of that, his benefit amount changed December 1, 2016. He reached full retirement age in December, 2016.

As stated in SERS Board Policy, the Overpayment Section is to deduct half the gross of any benefit being paid toward and overpayment owed to SERS.

Mr. Vicich retired July 1, 2016. His current monthly gross pension payment is \$969.07. Monthly deductions of \$77.71 federal tax, \$128.13 for state health and dental bring the net payment to \$763.23. Half the gross of the pension amount would be \$484.54. This amount would reduce the net pay to \$278.69 and the overpayment would be paid in full in 30 months. SERS is not currently reducing the pension due to the 30 day appeal process.

Mr. Vicich is appealing to reduce the monthly deduction for the overpayment to a lower amount due to financial issues.

After discussing the facts of the case, a motion was made by Chairman Iglarsh to reduce Mr. Vicich monthly overpayment deduction to \$250.00. The motion was seconded by Executive Secretary Blair and all were in favor.

Michael Colonna – Appeal Repayment of TTD Benefit Overpayment

Michael Colonna was approved for Temporary Occupational benefits from SERS and Tri Star effective April 16, 2015.

Mr. Colonna was paid by Tri Star through April 28, 2017 but SERS was not notified until July 20, 2017 of the termination of Tri Star benefits. This late notice caused an overpayment of SERS benefits in the amount of \$674.83 for the time period of April 29, 2017 through May 31, 2017.

SERS sent Mr. Colonna a letter on August 31, 2017 notifying Mr. Colonna of the overpayment and requesting the \$674.83 be repaid within 30 days. A second reminder letter was sent on October 3, 2017 when there had been no response from the first collection letter warning of an involuntary withholding (IW) being placed on any funds payable to him through the Comptroller's Office. SERS has not yet placed an IW on the Comptroller's website.

As stated in the SERS Board Policy, the Overpayment Section is to deduct half the gross of any benefit being paid toward an overpayment owed to SERS. At this time, Mr. Colonna is not receiving a benefit from SERS as he has to wait the required 150 day period to begin a temporary benefit offered by SERS for those employees whose worker compensation benefits have been denied or ceased. A copy of the letter explaining the temporary benefit was sent July 17, 2017.

If approved, Mr. Colonna's benefit will begin in March of 2018. The estimated amount of the benefit will be \$3,179.50 per month. Mr. Colonna is not eligible for a pension until April 1, 2022.

Mr. Colonna is appealing paying SERS at this time due to financial issues. He is currently receiving \$1,500.00 per month Social Security disability.

Based on the information submitted, a motion was made by Chairman Iglarsh to defer the repayment of Mr. Colonna's overpayment until he begins receiving retirement benefits. The motion was seconded by Vice-Chairperson Morris and all were in favor.

David Christopher Antonacci – Request Waiver of Death Benefits

Donna Antonacci, a retired state employee, died on October 2, 2017. A death benefit is payable in the amount of \$500.00.

Ms. Antonacci listed Christopher Antonacci as her primary beneficiary and Angela Digiovanna and John Digiovanna as secondary beneficiaries.

David Christopher Antonacci is requesting a waiver of the death benefits. He and Donna divorced in January, 2017.

After some discussion, a motion was made by Chairman Iglarsh to approve Mr. Antonacci's request to waive death benefits. The motion was seconded by Vice-Chairperson Morris and all were in favor.

Edward Smith – Appeal for Retirement October 1, 2017 Effective Date

Edward Smith applied for a retirement annuity to begin on October 1, 2017.

Prior to his retirement, he came into the SERS office and was provided an estimate for a retirement date effective October 1, 2017.

Once his retirement was ready to be calculated, a service credit error was discovered. Mr. Smith had received a disability benefit from January through April, 2012. An adjustment was later done for the same time frame that gave him an additional 2 months of service credit when he already had a full month of credit. Edward Smith is 1.50 months short of an October 1, 2017 retirement date.

Mr. Smith is requesting a retirement date effective October 1, 2017.

After reviewing the facts of the case and some discussion, a motion was made by Chairman Iglarsh to approve Mr. Smith's request for a retirement date effective October 1, 2017 contingent on his purchase of one half month service credit for vacation days within 30 days. The motion was seconded by Vice-Chairperson Morris and all were in favor.

Daniel Lewis – Request to Purchase Leave of Absence

Daniel Lewis requested an estimate for an optional service purchase due to a leave of absence. The only service credit missing from his retirement account is 0.75 month in June, 2017. This missing service credit is the result of Mr. Lewis being placed on suspension from June 2, 2017 through June 27, 2017. The CMS personnel history indicating such is attached. There is no provision in the law allowing for the establishment of service credit

during a suspension, therefore Mr. Lewis' request for the establishment of optional service was denied by SERS staff.

After discussing the facts of the case, a motion was made by Executive Secretary Blair to deny Mr. Lewis' request for option service purchase. The motion was seconded by Chairman Iglarsh and all were in favor.

There being no further business to be brought before the Committee, the meeting was adjourned at 1:00p.m.

The next meeting of the Executive Committee is scheduled for January 11th, 2018, in the Springfield office, with video conferencing in Chicago.

Loren Iglarsh, Chairman

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary