

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

October 8, 2020

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, October 8, 2020 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 2020-55.

Committee Members:

Loren Iglarsh, Chairman  
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  
Aaron Evans, Attorney, Sorling Northrup  
Jessica Blood, Recording Secretary

Minutes of the Previous Meeting

The minutes of the September 10, 2020, meeting of the Executive Committee were presented by Chairman Iglarsh for approval. Copies of the minutes were previously emailed to Committee members for review. There being no additions or corrections, on motion by Executive Secretary Blair, seconded by Chairman Iglarsh and by unanimous vote, the minutes were approved as submitted.

Routine Claims Report

The Routine Claims Report for the month of September 2020 was presented. Following review and discussion, the Routine Claims Report for the period of September 2020, as prepared by staff, was received by the Executive Committee.

Old Business

Kelley Smith – Appeal Overpayment of Disability Benefits – Recommendation

Kelley Smith received temporary disability benefits from SERS for the period of

January 20, 2017, through March 26, 2017. On March 29, 2018, Ms. Smith was awarded a lump sum payment from the Workers' Compensation Commission for partial permanent disability (PPD) benefits. Consequently, SERS converted her temporary disability benefit under Section 14-123.1 of the Illinois Pension Code [40 ILCS 5/14-123.1] into an occupational disability benefit under Section 14-123 of the Code [40 ILCS 5/14-123].

The monthly amount of workers' compensation benefits exceeded the monthly amount she was eligible to receive from SERS, so no benefit should have been paid during that period. Therefore, the entire amount she received in the form of temporary disability benefits was an overpayment.

When the IWCC makes a final determination regarding the character of a disability in a worker's compensation case, SERS is required to convert the temporary disability benefit that has been paid into either an occupational or nonoccupational disability benefit. In Ms. Smith's case, the injury that served as the basis for SERS granting a temporary disability benefit was determined by the IWCC to be a job-related injury. This determination had the effect of causing SERS to convert the temporary disability benefit into an occupational disability benefit, which opened the door to the workers' compensation offset described in Section 14-129 of the Code. Because the amount obtained in workers' compensation benefits by Ms. Smith, less payments made for legal expenses and for medical, hospital, or burial expenses, was greater than the amount that the System owed as an occupational disability benefit, all of the amounts paid by the System as a temporary disability benefit under Section 14-123.1 were excess benefit payments that must be recovered by the System.

However, Mr. Kevin Morrison, the attorney for Ms. Smith, contends that the State is liable for such overpayment, given the provisions under Section 8(j) of the Worker's Compensation Act [820 ILCS 305/8(j)], which provides, in pertinent part, that:

Any excess benefits paid to or on behalf of a State employee by the State Employees' Retirement System under Article 14 of the Illinois Pension Code on a . . . disputed disability claim shall be credited against any payments made or to be made by the State of Illinois to or on behalf of such employee under this Act, except for payments for medical expenses which have already been incurred at the time of the award. The State of Illinois shall directly reimburse the State Employees' Retirement System to the extent of such credit.

Nevertheless, SERS requires all temporary disability benefit recipients to sign an agreement to repay any conversion-related overpayments that might arise. It is the System's position that it is entitled to be made whole for excess benefit payments, based on subsection (e) of Section 14-123.1 of the Illinois Pension Code cited above, and the signed agreement with Ms. Smith.

After reviewing the evidence presented at its September meeting, the Committee decided to refer the case to outside counsel for a recommendation.

Attorney Evans presented recommendation No. 2020-8 to deny Ms. Smith's appeal. After some review, a motion was made by Executive Secretary Blair to adopt recommendation No. 2020-8. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

### Melissa Dahl – Appeal Denial of Nonoccupational Disability Benefit

Melissa Dahl works as an Educator for the Department of Corrections. She began a medical leave of absence on April 24, 2020. On May 20, 2020, SERS received a nonoccupational disability benefit application from Ms. Dahl. She then returned to work with the Department on July 6, 2020.

Section 14-124(2) of the Illinois Pension Code [40 ILCS 5/14-124(2)] specifies that to be eligible for SERS nonoccupational disability benefits a member must, among other things, be "found upon medical examination to be mentally or physically incapacitated to perform the duties of the member's position."

A review of the case file by SERS staff resulted in the conclusion that there was not enough medical evidence provided to justify approval of a SERS nonoccupational disability benefit for Ms. Dahl. The case file was then sent to a medical consultant for an additional review. This review also resulted in a determination that there was not enough medical evidence provided to substantiate that the statutory requirements for approval of the nonoccupational disability benefit had been met.

Ms. Dahl requested a personal appeal of this decision via teleconference. After hearing Ms. Dahl present her case at its September meeting, the Committee agreed to defer its decision pending receipt of additional medical documentation.

Mr. Eric Glaub, Manager of the SERS Claims Division, informed the Committee that Ms. Dahl had provided additional medical documentation, which will be reviewed by an independent medical consultant. The Committee decided to defer Ms. Dahl's case pending the results of the medical consultant's review.

### New Business

#### Rhonda Newson - Appeal of SSA Award Overpayment Repayment Terms

Ms. Newson was approved for a nonoccupational disability benefit from SERS effective April 22, 2017.

In July 2020, SERS was notified that Ms. Newson was approved for a retroactive Social Security Administration (SSA) disability benefit effective September 1, 2017. The retroactive benefit created an overpayment to SERS from September 1, 2017, through June 30, 2020. The overpayment due is in accordance with Section 14-125 of the Illinois Pension Code [40 ILCS 5/14-125].

SERS sent Ms. Newson a letter on July 31, 2020, to explain the calculation of the overpayment and to specify the amount due. A repayment letter was sent on September 3, 2020.

SERS is currently deducting \$1,327.70 from Ms. Newson's monthly gross disability benefit to apply to the overpayment, which would repay the balance in in 59 months (4 years, 11 months).

Ms. Newson has requested a payment plan of \$833.00 per month upon SERS's receipt of an initial payment in the amount of \$29,662.00 to reduce the current balance. This plan would repay the balance in the same time frame.

After reviewing the information submitted, a motion was made by Executive Secretary Blair to approve Ms. Newson's request. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

#### Jetant Moore - Appeal of Overpayment Repayment Terms

Ms. Moore was approved for a nonoccupational disability benefit from SERS effective November 28, 2019.

On May 22, 2020, SERS was notified Ms. Moore had returned to work with the State of Illinois on March 23, 2020, and this was also confirmed by her agency. Under subsection (e) of Section 14-124 of the Illinois Pension Code [40 ILCS 5/14-124(e)], a member's nonoccupational disability benefit is terminated when the member engages in "gainful employment," which the Board's administrative rules define to include engaging in any employment by or for the State of Illinois. Due to the untimely notification of Ms. Moore's return to State employment on March 23, 2020, an overpayment was created for the period from March 23, 2020 through April 30, 2020.

SERS subsequently sent Ms. Moore a notification letter on June 1, 2020, explaining the reason for the overpayment and the amount due. A repayment notification letter was also sent on July 21, 2020.

Ms. Moore is an active state employee. SERS is deducting \$200.00 per pay (\$400.00 per month) to apply to the overpayment, which will repay the balance in 8 months. Ms. Moore has requested a payment plan in the amount of \$100.00 per pay (\$200.00 per month), which would repay the overpayment in 16 months (1 year, 4 months).

After review and some discussion, a motion was made by Chairman Iglarsh to approve Ms. Moore's request. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

#### Lori Breeding - Appeal for Survivor Contribution Refund

Lori Breeding retired May 1, 2020. On her retirement application she did not list a

spouse or any dependents. She did indicate that she wanted to waive the survivor contribution refund.

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

Following a review of the case, a motion was made by Chairman Iglarsh to approve Ms. Breeding's request. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

#### James Miller – Appeal to Waive Leave of Absence Requirement

James Miller has worked for the Illinois Department of Human Services since 2013. He is employed as a Security Therapy Aide II at Chester Mental Health Center. He inquired about the SERS nonoccupational disability benefit, but a leave of absence for disability has not been granted to him as required under paragraph (4) of Section 14-124 of the Illinois Pension Code [40 ILCS 5/14-124(4)].

The Department of Human Services is following an administrative rule (i.e., 80 Ill. Adm. Code 303.145) that allows disability leave to be granted only to an employee who is unable to perform a substantial portion of his or her assigned duties due to a temporary physical or mental disability. However, Mr. Miller has been declared permanently disabled by the Social Security Administration and is receiving a Social Security disability benefit.

Since Mr. Miller has been declared permanently disabled by the Social Security Administration, he is requesting the Executive Committee deem the disability leave requirement to have been met so that he can apply for the SERS nonoccupational disability benefit.

After discussing the facts of the case, a motion was made by Vice-Chairperson Morris to approve Mr. Miller's request. The motion was seconded by Chairman Iglarsh, and all were in favor.

#### Thomas Hobgood - Request to Convert Military Service Credit to Alternative Formula

In 2011, Mr. Hobgood purchased 48 months of military service credit. When he began his career with the State, Mr. Hobgood was employed in a regular formula position; therefore, the service credit he purchased was regular formula service credit. Subsequently, Mr. Hobgood was employed in a position with the State that allowed him to earn alternative formula service credit.

In 2019, Mr. Hobgood requested information on the cost to upgrade the service credit purchased in 2011 to eligible creditable service as defined under Section 14-110 of the Illinois Pension Code [40 ILCS 5/14-110]. At that time, Mr. Hobgood decided not to purchase the upgraded service credit.

Mr. Hobgood is now requesting that the Executive Committee allow for the already

purchased service credit to be converted to eligible creditable service on a pro-rated basis. In other words, Mr. Hobgood would like the amount that he has already paid for the purchase of regular formula service credit to be used instead for the retroactive purchase of eligible creditable service.

After reviewing the facts submitted and some discussion, the Committee decided to defer the case pending further research.

Add-on: John Grisham – Appeal of Nonoccupational Disability Overpayment Repayment Terms

John Grisham was approved for a nonoccupational disability benefit from SERS effective October 25, 2019.

On May 26, 2020, SERS was notified Mr. Grisham returned to work February 17, 2020, which was also confirmed by his agency. Untimely notification of his return to work resulted in an overpayment for the period of February 17, 2020, through April 30, 2020.

Mr. Grisham was approved for a nonoccupational disability benefit from SERS effective July 31, 2020. SERS is deducting half the gross of Mr. Grisham's benefit, which would repay the balance in 4 months. Mr. Grisham has requested a payment plan in the amount of \$650 per month, which would repay the balance in 11 months.

After discussing the facts of the case, a motion was made by Vice-Chairperson Morris to approve Mr. Grisham's request. The motion was seconded by Chairman Iglarsh, and all were in favor.

Add-on: Pamela Markusson – Reinstatement of Written-Off Account

Pamela Markusson's account was written-off in 2017. Ms. Markusson has since returned to work.

The SERS Accounting Division is requesting that the Executive Committee approve reinstatement of Ms. Markusson's account so that her written off prior service can be added to her current active service.

After brief discussion, a motion was made by Chairman Iglarsh to approve the request. The motion was seconded by Executive Secretary Blair, and all were in favor.

There being no further business to be brought before the Committee, the meeting was adjourned at 10:18 a.m.

The next meeting of the Executive Committee is scheduled for November 12<sup>th</sup>, 2020, in the Springfield office.

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Loren Iglarsh, Chairman

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David Morris, Vice-Chairperson

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Timothy Blair, Executive Secretary