

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

September 10, 2020

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, September 10, 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 2020-52.

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
Melissa Dahl, Claimant
Tara Grummel, Claimant's Associate
Kelley Smith, Claimant
Kevin Morrison, Claimant's Attorney

Minutes of the Previous Meeting

The minutes of the August 13, 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 Vice-Chairperson Morris and by unanimous vote, the minutes were approved as submitted.

Routine Claims Report

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

Old Business

Marissa Lange – Appeal Termination of Survivor Benefits – Deceased Mbr: Peter Ortiz – Recommendation

Marissa Lange, a surviving daughter of Peter Ortiz, had been receiving survivor's benefits as a disabled adult dependent since January 1, 2017. Through the annual benefit verification process, SERS staff discovered that Mrs. Lange was married on December 5, 2019, thereby rendering her ineligible for benefits as a survivor annuity beneficiary under Section 14-120 of the Illinois Pension Code. Additionally, an overpayment of benefits was created due to Mrs. Lange receiving benefits during the period of ineligibility.

Mrs. Lange claims that a SERS representative told her that marriage would not impact her eligibility for survivor's benefits. Furthermore, she pointed out that such information is not available in the System's survivor's benefits handbook. Mrs. Lange requested a personal hearing to appeal the termination of her survivor's benefits at the Committee's August 2020 meeting. The Committee decided to refer the case to outside counsel for a recommendation.

Attorney Evans presented Recommendation No. 2020-07 to deny Ms. Lange's appeal. After some discussion, a motion was made by Executive Secretary Blair to adopt the recommendation. The motion was seconded by Chairman Iglarsh and all were in favor.

Bennie Horton, Jr. – Appeal of Overpayment Repayment Terms

Bennie Horton, Jr., received a SERS temporary disability benefit from November 15, 2017, through July 15, 2019.

Mr. Horton's appeal for benefits under the Workers' Compensation Act was approved by the Illinois Workers' Compensation Commission and was received by SERS in October 2019. Due to the conversion from a SERS temporary benefit to a SERS occupational benefit, an excess benefit was paid under Section 14-123.1 of the Illinois Pension Code [40 ILCS 5/14-123.1] for the period of November 15, 2017, through July 15, 2019. SERS sent Mr. Horton a letter on October 23, 2019, explaining the calculation of the overpayment and the amount due.

If the Overpayment Section deducted half of the gross of Mr. Horton's benefit and applied it to the overpayment owed to SERS, the balance would be repaid in 17 months. Mr. Horton is requesting a reduced payment amount of \$500.00 per month, which will repay the balance in 76 months (6 years, 4 months).

After reviewing the case at its August 2020 meeting, the Committee decided to defer action pending further research. After reviewing additional information provided, a motion was made by Executive Secretary Blair to deny the request but offer a repayment plan to repay the overpayment in 60 months (5 years). The motion was

seconded by Chairman Iglarsh, and all were in favor.

New Business

Melissa Dahl – Appeal Denial of Nonoccupational Disability Benefit – Personal Hearing via Teleconference – 9:00am

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, the Committee agreed to defer its decision pending receipt of additional medical documentation.

Kamlesh Ramchandani – Request Reappeal for Pension to Remain Uncapped

Kamlesh Ramchandani requested a written appeal that was considered at the March 12, 2020 meeting of the Executive Committee. A staff review of his file for an adjustment discovered his final average compensation should have been capped. As a result, Mr. Ramchandani’s future pension amount was adjusted accordingly. He appealed to have his pension remain uncapped.

Mr. Ramchandani’s appeal was denied. The denial is supported by Section 14-103.12 of the Illinois Pension Code [40 ILCS 5/14-103.12], which provides the guidelines for capping certain final average compensation calculations, and Section 14-148.1 of the Code [40 ILCS 5/14-148.1], which directs the System to adjust overpaid benefits to the correct level. The decision became final at the May 26, 2020, meeting of the Board of Trustees.

Per a letter received on June 15, 2020, Mr. Ramchandani is requesting a reappeal for his pension to remain uncapped. He is citing a previous pension capping case that appeared before the Executive Committee in 2014.

After concluding that no new information pertaining to the appeal had been submitted, a motion was made by Chairman Iglarsh to deny Mr. Ramchandani's request. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Amanda Cannon – Appeal of SSA Award Overpayment Repayment Terms

Amanda Cannon was approved for a nonoccupational disability benefit from SERS effective May 9, 2014. Ms. Cannon was approved for a retroactive Social Security Administration (SSA) disability benefit effective October 1, 2014. The retroactive Social Security benefit created an overpayment to SERS from October 1, 2014, through October 7, 2014, and from October 21, 2014, through September 30, 2017.

The overpayment due is in accordance with Section 14-125 of the Illinois Pension Code [40 ILCS 5/14-125], which provides, among other things, that the SERS nonoccupational disability benefits that are received by a member are to be offset by Social Security benefits received by the member. SERS sent Ms. Cannon a notification letter on October 16, 2017, explaining the calculation of the overpayment and the amount due. SERS was deducting half of Ms. Cannon's gross nonoccupational disability benefit to satisfy the overpayment, but that deduction ended May 31, 2020, due to the half-time ceasing of that benefit. Ms. Cannon has not returned to work.

A payment of \$400.00 per month would repay the overpayment in 36 months (3 years). Ms. Cannon is requesting a payment plan of \$150.00 per month, which would repay the overpayment in 95 months (7 years, 11 months).

She also references reducing the balance due in her appeal letter, but a previous written appeal to do so was considered at the August 2019 meeting of the Executive Committee and was denied.

After review and some discussion, a motion was made by Chairman Iglarsh to deny Ms. Cannon's request but offer a repayment plan to repay the overpayment in 60 months (5 years). The motion was seconded by Vice-Chairperson Morris and all were in favor.

Deborah Norfleat – Appeal for Survivor Contribution Refund

Deborah Norfleat retired March 1, 2015. On her retirement application she listed a dependent daughter, Lexes Harper. Ms. Norfleat recently inquired about the survivor contribution refund. At that time, it was discovered Lexes is her granddaughter, not her daughter as she originally indicated on her application. Therefore, Lexes is not eligible for survivor benefits upon Deborah's passing.

Ms. Norfleat 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 the request. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Cynthia Slater – Appeal for Removal of Social Security Offset to Survivor Annuity – Deceased Mbr: Robert Slater Jr.

Robert Slater Jr. retired January 1, 2011. He died on May 28, 2020, leaving a surviving spouse, Cynthia Slater. Mrs. Slater was under the impression she was not to receive a reduction in her survivor annuity due to Social Security benefits.

Cynthia is appealing the Social Security offset being applied to her survivor annuity.

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

Kelley Smith – Appeal Overpayment of Disability Benefits – Personal Hearing via Teleconference – 9:45am

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 Pension Code into an occupational disability benefit under Section 14-123 of the Code.

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 as a job-related injury. This had the effect of opening the door to the workers' compensation offset described in Section 14-129 of the Code, which resulted in the temporary benefit overpayment by SERS.

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, which provides:

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.

SERS requires all temporary benefit recipients to sign an agreement to repay any conversion-related overpayments that might arise. It is SERS' position that the System is entitled to be made whole for temporary disability benefit overpayments because of the relevant provisions of the Pension Code and the signed agreement with Ms. Smith.

After reviewing the evidence presented and some discussion, the Committee decided to refer the case to outside counsel for a recommendation.

There being no further business to be brought before the Committee, the meeting was adjourned at 11:07 a.m.

The next meeting of the Executive Committee is scheduled for October 8th, 2020, in the Springfield office.

Loren Iglarsh, Chairman

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary