

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

February 9, 2023

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, February 9, 2023, 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
Timothy Blair, Executive Secretary

Committee Members Present via Videoconference:

David Morris, Vice-Chairperson

Others Present:

Jeff Houch, Assistant to the Executive Secretary
Eric Glaub, Manager, Claims Division
Cory Mitchelle, Supervisor, Pension Section
P.J. Budd, Disability Section
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Cynthia Splayt, Stenographer
Iris Johnson, Claimant
Deborah Johnson, Claimant's Associate

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on January 12, 2022, were presented by Chairperson Becker for approval. Copies of the minutes were previously e-mailed to Committee members for review. Executive Secretary Blair moved to approve the minutes as submitted. The motion was seconded by Chairperson Becker and passed unanimously.

Routine Claims Report

The Routine Claims Report for January 2023 was presented. Following a brief discussion, the Routine Claims Report for January 2023 as prepared by staff, was received by the Committee.

Old Business

Garrick Randolph – Staff Direction on Forfeiture of Retirement Benefits Due to Felony Conviction - Recommendation

Garrick Randolph was employed by the Department of Corrections as a Senior Parole Agent, who separated from service in December of 2019. Mr. Randolph was charged with multiple felony counts that included aggravated battery (720 ILCS 5/12-3.05), custodial sexual misconduct (720 ILCS 5/11-9.2), and official misconduct (720 ILCS 5/33-3). On December 30, 2021, Mr. Randolph was convicted of the aggravated battery charge, and the other two charges were dismissed.

In March of 2022, Mr. Randolph submitted a retirement application to SERS intending to retire effective April 1, 2022. After becoming aware of Mr. Randolph's felony conviction, staff suspended the processing of his retirement claim pending receipt of an opinion from the Office of the Attorney General on whether Mr. Randolph's felony conviction was connected to his position. The System recently received such opinion, which states that resolution of the matter requires that the Committee make additional factual determinations to enable the Office of the Attorney General to determine whether there was a causal connection between Mr. Randolph's service and his conviction.

After reviewing the facts presented at their August 2022 meeting, the Committee decided to defer a decision pending further investigation and fact finding relative to Mr. Randolph's felony conviction.

Jeff Houch, Assistant to the Executive Secretary, informed the Committee at their November 2022 meeting that SERS had received documentation regarding Mr. Randolph's case from CMS and that documentation has been submitted to the Attorney General's office for further review and clarification of their earlier opinion.

Mr. Houch updated the Committee at their December 2022 meeting that the Attorney General's office was working on a new opinion regarding Mr. Randolph's case.

Mr. Houch informed the Committee at their January 2023 meeting that the case remained deferred as he continued to work with the Attorney General's office.

Mr. Houch informed the Committee that the Attorney General's office advised that Mr. Randolph's case could not be resolved by a legal opinion from that office and that it must be resolved by the board of trustees as fact finder to determine whether Mr. Randolph's felony conviction related to, arose out of, or was in connection with his service as a State employee. Attorney Evans presented Recommendation No. 2023-6, to terminate Mr. Randolph's pension pursuant to Section 14-149 of the Illinois Pension Code. After some discussion, Chairperson Becker moved to adopt Recommendation No. 2023-6. The motion was seconded by Executive Secretary Blair and passed unanimously.

Timothy Flenniken – Appeal of Nonoccupational Disability Overpayment – Formal Hearing – Recommendation

Timothy Flenniken was approved for a SERS nonoccupational disability benefit that became effective February 28, 2020. He remained on the benefit until he returned to work on July 28, 2022.

In September 2022, SERS was notified Mr. Flenniken was approved for a retroactive Social Security Administration (SSA) disability benefit effective March 1, 2020. This retroactive benefit created an overpayment of SERS nonoccupational disability benefits for the period of March 1, 2020 through July 27, 2022. The overpayment due is in accordance with Section 14-125 of the Illinois Pension Code.

A letter was sent to Mr. Flenniken on September 30, 2022 to notify him of the overpayment. His application to retire effective October 1, 2022, is still in processing.

Mr. Flenniken was originally receiving SSA survivor benefits from his deceased wife's account after her passing in 2007. When a person is granted SSA disability benefits but has previously received SSA survivor benefits, SSA converts the survivor benefits into disability benefits for the same period and reduces the disability award by the amount already received. As a result, Mr. Flenniken's retroactive award was less than the overpaid nonoccupational benefit owed to SERS.

Mr. Flenniken is appealing the overpayment and has requested a personal appeal.

Eric Glaub, Claims Division Manager, informed the Committee at their December 2022 meeting that Mr. Flenniken had subsequently asked for a formal hearing regarding his case and his appeal would be deferred pending the scheduling of such hearing.

Mr. Flenniken presented his appeal to the Committee. The oral proceedings were recorded by a stenographer, Debbie Burris, and the transcripts shall be provided to Mr. Flenniken and the Executive Committee. After reviewing the information presented in Mr. Flenniken's appeal and lengthy discussion, the Committee decided to defer a decision on the matter pending further conversations regarding the existing SERS policy.

Attorney Evans presented Recommendation No. 2023-7, to deny Mr. Flenniken's appeal. After discussing the facts presented, Executive Secretary Blair moved to adopt Recommendation No. 2023-7 and offer Mr. Flenniken a repayment plan in accordance with SERS policy. The motion was seconded by Chairperson Becker and passed unanimously.

Leigh Anne Sonneborn - Appeal of Termination of Nonoccupational Disability Benefit - Recommendation

Leigh Anne Sonneborn works for the Department of Insurance as an Insurance Analyst IV. She applied for nonoccupational disability benefits in March 2022 and was

approved. During the July 2022 certification process, the medical evidence provided suggests Ms. Sonneborn's impairments improved, so her claim was sent to MMRO for a medical review.

It was noted by Ms. Sonneborn's treating physician that she could mentally and physically perform all of her job duties, as long as she was able to work 100% from home. Ms. Sonneborn's agency will not accept the doctor's restrictions of 100% work from home.

Ms. Sonneborn's claim file was referred to our medical consultants, MMRO for review and determination of the inability to perform her job duties. The MMRO report found that the medical evidence did not support her mental or physical incapacity to perform her job duties.

Ms. Sonneborn has supplied additional documentation from her doctor and is appealing the termination of her disability benefits.

After hearing Ms. Sonneborn present her appeal at their January 2023 meeting, the Committee referred the case to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2023-2, to deny Ms. Sonneborn's appeal. After review and discussion, Executive Secretary Blair moved to adopt Recommendation No. 2023-2. The motion was seconded by Chairperson Becker and passed unanimously.

Crystal Williams - Appeal of Nonoccupational Disability Benefit Overpayment - Recommendation

Crystal Williams was on SERS' nonoccupational disability benefits February 19, 2020, through September 30, 2021. Her benefit ended because her half time ceased.

Ms. Williams returned to work from October 2021 through May 2022. She again applied for a nonoccupational disability benefit in May 2022, which was approved and paid through September 30, 2022.

Upon another review of her file, it was later discovered that Ms. Williams should not have received any additional nonoccupational disability benefits because her service credits were calculated incorrectly. Her return to work did not actually result in enough days worked to earn the necessary service credits to further extend her disability benefit.

Ms. Williams only worked a total of 25 days in the eight months between October 2021 and May 2022.

Ms. Williams did not earn enough service credit to extend her benefit by even one month, so she was ineligible for all benefits paid to her from May 2022 through September 2022.

Ms. Williams is appealing the overpayment of benefits. If the Executive Committee cannot forgive the overpayment, she is requesting a repayment plan in the least amount possible. She is currently on a medical leave of absence from her position.

After hearing Ms. Williams present her case at their January 2023 meeting, the Committee decided to refer her appeal to external counsel for a recommendation.

Eric Glaub informed the committee that Ms. Williams had not yet provided her waiver for her personal hearing. The committee decided to defer a decision on her appeal pending receipt of said waiver.

Laurissa Gripp - Appeal of Nonoccupational Disability Benefit Claim Denial - Recommendation

Laurissa Gripp works for the Department of Healthcare and Family Services as an Office Coordinator. She applied for nonoccupational disability benefits and states her work environment caused her disability.

Ms. Gripp's file was sent to MMRO for determination on her ability to perform her job duties. The MMRO report recommended a denial of benefits. The medical reviewer stated that based on the available records, the member is not considered mentally incapacitated to perform her duties as an Office Coordinator.

Ms. Gripp supplied additional documentation and is appealing the denial of her claim.

After hearing Ms. Gripp present her case at their January 2023 meeting, the Committee decided to refer to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2023-4, to deny Ms. Gripp's appeal. After some discussion, Executive Secretary Blair moved to adopt Recommendation No. 2023-4. The motion was seconded by Chairperson Becker and passed unanimously.

Daniel Nelson - Appeal of Nonoccupational Disability Benefit Claim Denial - Deferred

Daniel Nelson works for the Department of Insurance as a Public Service Administrator-8L. He went on a medical leave of absence in August 2017.

Mr. Nelson did not apply for a SERS benefit until February 2022. His case was referred in April 2022 for a review by MMRO to determine his inability to perform his job duties. MMRO determined Mr. Nelson was not mentally incapacitated to perform his duties as a PSA. They noted that during the relevant time, there was no documentation of severe symptoms, impairments, or substantial reduction in social, occupational, or general functioning.

Mr. Nelson's attorney requested an appeal of the denial. He submitted additional medical records from the VA hospital, showing 100% service-connected disability. He

also provided more information about Mr. Nelson's job duties.

Mr. Nelson's file was sent back to MMRO in December 2022. MMRO determined that the additional evidence did not support a reversal of their decision that Mr. Nelson was not mentally incapacitated from performing his job duties.

Mr. Nelson is requesting to appeal the denial of nonoccupational disability benefits.

Mr. Houch informed the Committee that he would be recusing himself from hearing Mr. Nelson's appeal due to a prior working relationship with the claimant.

Attorney Bradley Bauer presented the case on behalf of Mr. Nelson at the Committee's January 2023 meeting. After hearing the appeal, the Committee decided to defer a decision pending further research into the facts provided.

Additional documentation was provided on behalf of Mr. Nelson's appeal after Committee's January 2023 meeting. The Committee decided to refer the case to external counsel for a recommendation.

New Business

Iris Johnson – Appeal to Revoke Level Income Option – Formal Hearing – Springfield – 9:00 a.m.

On September 6, 2001, SERS received a retirement application from Iris Johnson to begin receiving retirement benefits effective November 1, 2000. During the application process, SERS staff documented that on September 24, 2001, Ms. Johnson elected to have her retirement benefit calculated under the level income option, based on her Social Security Administration (SSA) retirement pension starting at age 62 years, 1 month. Her retirement application included her Personal Earnings and Benefit Estimate Statement (PEBES) from the Social Security Administration, which enabled staff to calculate the payment schedule. As a result of her election, her initial monthly retirement annuity increased by \$466.83 and totaled \$754.33. Ms. Johnson received her first payment on October 24, 2001, which included payments retroactive to November 1, 2000. However, effective November 1, 2002, her monthly amount reduced by \$581.00, totaling \$194.96.

Ms. Johnson contends that this election should be revocable because she never made this election. She also contends that she never understood the level income option, and that SERS did not notify her in the initial benefit approval letter from October 19, 2001, that her "frontloaded" SERS benefit under this option would be reduced at age 62 years, 1 month. It should be stated that the last active member statement issued to Ms. Johnson was issued for the period that ended June 30, 1998. That statement indicated that if Ms. Johnson remained in service at her rate of compensation through October 31, 2000, her starting monthly retirement annuity would total approximately \$365.

The System acknowledges that accepting an election change over the phone is not

reflective of best practices and is vulnerable to these types of issues. However, the System contends that this action was performed because Ms. Johnson originally elected to have her SERS pension calculated under the level income option so that the pattern would reflect beginning her SSA benefit at age 65 years, 6 months. However, when staff performed the calculation under that scenario, it was discovered that the level income reduction to be applied to her SERS benefit at age 65 years, 6 months, would reduce her SERS pension to less than \$10 per month, which is prohibited by statute (see 40 ILCS 5/14-112). SERS contends that when staff notified her of that dynamic, she then instructed staff to base the level income option pattern to reflect beginning her SSA retirement pension at age 62 years, 1 month.

SERS contends that Ms. Johnson's submission of the PEBES document demonstrates that Ms. Johnson was familiar with the details of the level income program and was at least considering such option because only the member can obtain their PEBES statement from the Social Security Administration, and the only the only reason a PEBES statement is relevant to the SERS application process is for level income option purposes. These facts do not necessarily prove that she instructed SERS to change her election in this manner, but it does support that she had an interest in, and knowledge of the key details of the level income option program.

Furthermore, the System contends that if she did not intend to elect the level income option, then she should have resolved this error at the time the System notified her that her initial retirement annuity was more than twice the amount that she was projected to receive under her previous active member statements. The "definitely determinable benefit rule" under the Internal Revenue Code prohibits the pattern of such recurring pension payments to be modified after the payments begin (see 26 CFR § 1.401-1(b)(1)(i)). Given the dynamics of this appeal, changing her benefit payment schedule 22 years after it began will be difficult to justify non-compliance with such Internal Revenue code provision.

Ms. Johnson presented her appeal to the Committee. The oral proceedings were recorded by a stenographer, Cynthia Splayt, and the transcripts shall be provided to Ms. Johnson and the Executive Committee. After reviewing the information presented in Ms. Johnson's appeal and a lengthy discussion, the Committee decided to refer her case to external counsel for a recommendation.

Brenda Hullum – Appeal of SSA Award Overpayment – Personal Hearing via Teleconference – 9:45 a.m.

Brenda Hullum worked at the Illinois Department of Veteran's Affairs as a Veteran's Nursing Assistant Certified. In July 2019, Ms. Hullum was in a car accident that was unrelated to her job. She applied for nonoccupational disability benefits and has been paid this benefit since 8/5/2019.

In February 2021 her file was accepted by Midwest Disability for representation in filing for Social Security Administration disability benefits.

SERS received her notification of award from SSA in November 2022, with an onset date of November 2020. An overpayment of SERS benefit was calculated from November 1, 2020, through October 31, 2022.

Ms. Hullum is appealing the full overpayment of SERS benefits. She states she was given misguided information and that she was manipulated. She is appealing to have her overpayment dismissed.

After hearing Ms. Hullum present her case, the Committee decided to refer to external counsel for a recommendation.

Lindsey Plummer – Appeal of Occupational Disability Benefit Termination – Personal Hearing via Teleconference – 10:30 a.m.

Lindsey Plummer received SERS' temporary disability benefits from October 18, 2019, through September 30, 2021. She had previously received occupational disability benefits while receiving TTD from Workers' Compensation (WC) from July 2018 through October 17, 2019. TTD was terminated by WC, so Ms. Plummer applied for and was approved for a SERS temporary disability benefit. Ms. Plummer's benefit ended 9/30/2021 due to her half-time ceasing.

SERS learned that Ms. Plummer received a settlement from WC, so her temporary benefit was converted to an occupational benefit. This created an overpayment. SERS did not put Ms. Plummer on a future occupational benefit. SERS requested additional medical evidence from September 30, 2021, to show continued disability. Her file was sent to MMRO with all medical evidence SERS had received. The MMRO report does not find that she is currently disabled.

Ms. Plummer is appealing that the conversion ended September 30, 2021, and is asking for occupational benefits from October 1, 2021 to present.

After hearing Ms. Plummer present her case, the Committee decided to refer to external counsel for a recommendation.

Kaylee O'Connor – Appeal of Nonoccupational Disability Benefit Termination – Personal Hearing via Teleconference – 11:15 a.m.

Kaylee O'Connor works for the Illinois Department of Human Services at Shapiro Center as a Support Service Worker. She last worked on January 19, 2020, and started on SERS' nonoccupational disability benefits on March 16, 2020.

The medical evidence received with Ms. O'Connor's July 2021 certification suggested improvement of her medical impairments. Her file was referred to MMRO for review for determination on continuing her disability benefit.

MMRO's review of the file determined that the available medical evidence demonstrates significant improvement in her condition, such that she is no longer

considered incapacitated to perform her duties as a Support Service Worker. Her nonoccupational disability benefits were subsequently terminated by SERS.

Ms. O'Connor is appealing the termination of her benefits. She supplied a CMS-95 that was not included in the MMRO review. This form contains little information and nothing significant that would suggest a second MMRO review would lead to a different conclusion.

Ms. O'Connor presented her appeal to the Committee and asked for an additional month of disability benefits to assist her in getting cleared to return to work. After reviewing the facts of the case, Executive Secretary Blair moved to approve the extension of Ms. O'Connor's disability benefits through February 2023. The motion was seconded by Chairperson Becker and passed unanimously.

Jeredean Hightower – Appeal of SSA Award Overpayment – Personal Hearing via Videoconference – 12:00 p.m.

Jeredean Hightower works for the Department of Healthcare and Family Services as a Child Support Specialist I. She was on SERS' nonoccupational disability benefit from October 2018 to July 2020. During her time on disability her file was referred to and accepted by Midwest Disability to represent her in filing for SSA disability benefits. Ms. Hightower returned to work on 8/1/2020.

Ms. Hightower was awarded a closed period of Social Security disability benefits from April 2019 through October 2020. The date of the award was December 22, 2021. Midwest Disability sent SERS a copy of Ms. Hightower's award on December 27, 2022, also stating that SSA did not provide them a copy of the award until November 2022. Ms. Hightower never informed SERS of the SSA award. She returned to work before her SSA claim was approved. By the time she received SSA benefits, she was no longer getting disability certifications to complete. An overpayment was set up by SERS.

Ms. Hightower is appealing the overpayment. She claims she was not told when she received her backpay that she would owe SERS most of this money. She states she never received a letter from SERS or Midwest Disability about owing SERS money when she received the direct deposit from SSA. She feels she was taken advantage of by the Midwest Disability lawyers and she feels they should pay her overpayment.

Ms. Hightower presented her case to the Committee and asked for a reasonable repayment plan if her overpayment could not be forgiven. Upon determining that the overpayment is valid in accordance with 40 ILCS 5/14-125, Executive Secretary Blair moved to deny forgiveness of Ms. Hightower's overpayment and offer a repayment plan to repay the overpayment in 60 months (5 years). The motion was seconded by Chairperson Becker and passed unanimously.

Tracie Anderson – Appeal of Nonoccupational Disability Benefit Claim Denial

Tracie Anderson works as an Employee Screenings Service Assistant for the

Department of Transportation. She last worked November 14, 2022, and began a medical leave of absence on December 15, 2022.

Ms. Anderson's file was sent to MMRO to determine if she is physically or mentally incapacitated from performing her prior job duties. MMRO denied her claim. The reviewer noted that there were no reported or observed symptoms at a level of severity that would have been considered functionally impairing.

Based on the MMRO report, SERS denied Ms. Anderson's claim. Ms. Anderson states she has been unable to work due to her impairments and is appealing the denial of her disability benefit claim.

After reviewing the facts presented, Executive Secretary Blair moved to deny Ms. Anderson's appeal. The motion was seconded by Chairperson Becker and passed unanimously.

Glenda Reddings – Appeal to Receive Survivor Contributions Refund after Retirement

Glenda Reddings retired May 1, 2022. She completed her application stating she was single with no dependents. The question asking whether she wanted a survivor contribution refund was left blank, and such application clearly states that if such question is not answered by the member, then the survivor contribution refund will be forfeit.

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

After considering the facts presented, Executive Secretary Blair moved to deny Ms. Reddings' appeal. The motion was seconded by Chairperson Becker and passed unanimously.

Sharon Fred – Appeal to Receive Disability Benefits after Retirement

Sharon Fred applied to retire effective September 1, 2022. A removal from prelist form was completed to stop her disability benefit August 31, 2022. Ms. Fred didn't resign until September 30, 2022, so her pension could not begin until October 1, 2022.

Ms. Fred retired with 236.50 months of service credit. She recently paid the contributions to purchase 2.00 months of service credit from unused vacation days.

Ms. Fred is appealing to return to the disability benefit for two months so she can retire with 20 years of service for premium free insurance.

After reviewing the case and some discussion, Executive Secretary Blair moved to deny Ms. Fred's appeal and allow her to receive disability benefits retroactive for the month of September 2022, because she was eligible for the benefit at that time. The motion was seconded by Chairperson Becker and passed unanimously.

Diane Shasteen – Appeal to Retire with 20 Years of Service

Diane Shasteen applied to retire reciprocally with the State Universities' Retirement System effective October 1, 2022. She had 9 months of concurrency between both systems, which brought her total service credit to 236.50 months after the reductions were made.

Ms. Shasteen is requesting to retire with 20 years of service to receive premium free insurance.

After discussing the facts of the case, Chairperson Becker moved to deny Ms. Shasteen's appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

Discussion – Insurance Coverage Issue for Total Buyout Recipient

David Erickson terminated service effective June 30, 2020, and elected to receive a total buyout payment in lieu of a retirement annuity. The statutory administrator of the insurance program, CMS, relies on the retirement system to initiate that member's coverage as a benefit recipient. In this case, SERS mistakenly initiated insurance coverage for Mr. Erickson as a retirement annuity beneficiary. Mr. Erickson was approved and enrolled into the insurance program as an annuity beneficiary. This error was not caught until 9 months later. SERS staff then corrected the issue and notified CMS, who then removed him from coverage until July 1, 2021.

This error was able to persist this long because Mr. Erickson owed no premiums because he had over 32 years of service with no dependents, meaning that no monthly deductions were required. Mr. Erickson was enrolled effective July 1, 2021, but he is now receiving billings from his medical services providers for the amounts initially paid by his insurance provider for services received in FY 2021, which should remain liabilities of the State. The System contends that Mr. Erickson was eligible for such coverage, and had SERS staff prevented this mistake, the State would have paid these amounts it is now trying to push back to Mr. Erickson.

SERS management has discussed this issue with CMS management, but CMS is unable to resolve this issue because the contract between the State and the insurance provider prohibits retroactive enrollment for this length of time. Given that this was the System's error, it is recommended that SERS cover the State's portion of healthcare insurance costs that David Erickson incurred during Fiscal Year 2021 (July 1, 2020 – June 30, 2021).

After discussing the facts presented, Executive Secretary Blair moved to approve payment of the State's portion of healthcare insurance costs incurred by Mr. Erickson during FY 2021. The motion was seconded by Chairperson Becker and passed unanimously.

There being no further business to be brought before the Committee, the meeting was adjourned at 1:35 p.m.

The next meeting of the Executive Committee is scheduled for March 9, 2023, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary