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

May 12, 2022

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, May 12, 2022, 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
David Morris, Vice-Chairperson
Timothy Blair, Executive Secretary

Others Present:

Jeff Houch, Assistant to the Executive Secretary
Eric Glaub, Manager, Claims Division
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Stephen Yokich, Attorney, AFSCME 31 and Illinois Federation of Teachers
Ed Graham, Attorney, Illinois State Board of Education
Deneen Taylor, Illinois Federation of Teachers
Talea Akers, Claimant (via teleconference)
Deborah Bault, Claimant
Kimberly Beachy, Claimant
Elizabeth Minder, Claimant
Sally Cray, Claimant
Carl Holman, Claimant
Melinda Lowder, SERS Member
Paula Williams, SERS Member

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on April 14, 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 by unanimous vote, the minutes were approved by the Committee members present.

Routine Claims Report

The Routine Claims Report for April 2022 was presented. Following review and discussion, the Routine Claims Report for April 2022 as prepared by staff, was received by the Committee.

Old Business

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

Raymond Bouton retired June 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 that Mr. Bouton's final average compensation (FAC) had been calculated incorrectly as a consequence of his employing agency's inclusion of non-pensionable lump-sum payments for holidays in its initial reporting of his compensation.

However, lump-sum salary payments for holidays are not pensionable under Article 14 of the Illinois Pension Code, so the agency should not have withheld retirement contributions on those payments to the member. See 40 ILCS 5/14-103.10 and 14-103.12. Consequently, the System must refund the excess contributions to Mr. Bouton and recalculate and adjust his monthly pension benefit in accordance with Section 14-148.1 of the Illinois Pension Code.

When the System performed that recalculation, it resulted in a lower final average compensation than the System had used to calculate Mr. Bouton's pension at retirement. Consequently, the System determined that Mr. Bouton's monthly pension benefit had been overpaid. However, since the mistake was undiscovered for more than 3 years and was not caused by incorrect information he supplied, the overpayment was not required to be repaid by Mr. Bouton. Instead, his monthly pension was adjusted to the correct level as required under Section 14-148.1 of the Illinois Pension Code. Mr. Bouton is appealing the adjustment to his monthly pension amount.

Attorney Evans presented Recommendation No. 2022-8 to deny Mr. Bouton's appeal. After some discussion, Executive Secretary Blair moved to adopt Recommendation No. 2022-8. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Roy Garcia – Appeal for Reimbursement of Overpaid Dependent Insurance Premiums – Recommendation

Roy Garcia began receiving retirement benefits effective November 1, 2006. On February 18, 2014, Mr. Garcia sent an email to an employee of SERS notifying her that he had divorced his wife, Jean. On that same day, that employee responded to him that he needed to provide proof of that divorce. SERS contends that Mr. Garcia never provided proof of divorce as there is no such record on file.

Prior to October 1, 2016, designated SERS employees were authorized to remove dependents from the member's State Group Insurance coverage with their access rights in the CMS system. However, before these SERS employees could perform such action, the member was required to provide supporting evidence that an "event" had occurred that warranted such insurance coverage. Mr. Garcia never provided this documentation to SERS, even after he was told it had not been received by the System.

On June 13, 2014, SERS received a QILDRO calculation order, which directed the System to divide his monthly retirement annuity so that Jean Garcia would receive $1,896.47 per month as his alternate payee. The System implemented this order.

On May 1, 2017, Mr. Garcia reached out to SERS with a request to drop Jean from his insurance coverage. Mr. Garcia was informed that he would need to perform that transaction with the "My Benefits" group at CMS. Mr. Garcia was able remove Jean from his insurance beginning May 1, 2017, but he is now appealing to the Committee to be reimbursed by SERS for the premiums "mistakenly" withheld from his pension payments during the period of February 2014 through April 2017, which total $11,578.06. His logic is that his email notification to SERS staff of his divorce, coupled with the delivery of his QILDRO calculation order to SERS should have automatically resulted in the removal of his ex-spouse from his Group Insurance coverage.

Staff contends that Mr. Garcia never provided the necessary documentation that supported that the divorce was finalized. When the SERS employees had permission to make such changes to Group Insurance program, they were required to obtain official documentation that supported the change outside of the benefits choice period. Furthermore, it should be mentioned that staff cannot assume that a QILDRO is the result of a divorce because QILDROs can be issued in other scenarios as described under 40 ILCS 5/1-119(b)(1). Additionally, there are no statutory provisions that require a retirement system to remove a dependent who becomes an alternate payee from the insurance plan after it receives a QILDRO calculation order. It should also be mentioned that Mr. Garcia received annual statements from CMS as it relates to his insurance coverage from 2014 through 2017, and those statements indicated that he was still carrying Jean as a dependent.

Attorney Evans presented Recommendation No. 2022-4 to deny Mr. Garcia's appeal. After a brief discussion, Chairperson Becker moved to adopt Recommendation No. 2022-4. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

<u>Yeashea Figgures-Lawton – Appeal of Non-occupational Disability Benefit Claim Denial – Recommendation</u>

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 had previously provided additional medical documentation that had been reviewed by an independent medical examiner to the Committee. After discussing the independent medical examiner's review, the Committee decided to refer Ms. Figgures-Lawton's case for a recommendation.

Attorney Evans presented Recommendation No. 2022-6 to deny Ms. Figgures-Lawton's appeal. After discussing the facts of the case, Chairperson Becker moved to adopt Recommendation No. 2022-6. The motion was seconded by Vice-Chairperson Morris, and all were in favor.

Linda Collins – Appeal to Waive Reduction to Pension – Recommendation

Linda Collins retired January 1, 2017. Her file was recently reviewed for a back wage adjustment from retirement contributions that posted to her account after she retired. The contributions were the result of payments made for both the Quinn era and Rauner era wage freezes.

The review led to Ms. Collins's FAC being reduced because when the earnings from her back wage payments were spread into the months in which they were earned, earnings used in the initial calculation fell outside her FAC range.

This reduced FAC led to a reduction in her pension amount. The initial calculation resulted in a monthly annuity amount of $4,578.68 and the adjustment resulted in a new initial monthly annuity amount of $4,577.78 for her pension benefit.

In accordance with Section 14-148.1 of the Illinois Pension Code, Ms. Collins's gross monthly pension benefit amount has been corrected. She was overpaid $58.65 in pension benefits because of this error. However, per Section 14-148.1 of the Illinois Pension Code, these monies cannot be collected as the error occurred over three years ago.

Linda Collins is appealing the reduction to her monthly pension annuity.

Attorney Evans presented Recommendation No. 2022-5 to deny Ms. Collins' appeal. After a brief discussion, Executive Secretary Blair moved to adopt Recommendation No. 2022-5. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

<u>New Business</u>

<u>Talea Akers – Appeal of Nonoccupational Disability Benefit Claim Denial</u>

Talea Akers worked for the Illinois Department of Corrections as a Correctional Officer. Her last day worked was November 28, 2021, and she filed a nonoccupational disability application on November 23, 2021 due to post-partum care.

The Disability Examiner found there was insufficient medical evidence to meet the statutory requirements to receive nonoccupational disability benefits. The case file was also reviewed by the Disability Supervisor to confirm. On January 3, 2022 the case file was referred to our medical consultant, MMRO, for review.

A recommendation to disapprove the claim was received from MMRO on January 20, 2022. The report noted 'there was no support that the member is considered mentally or physically incapacitated to perform their duties as a Correctional Officer.' Ms. Akers was sent a letter on January 28, 2022 to inform her that her claim had been denied.

Ms. Akers then inquired about an appeal of the unfavorable decision made on her claim. She also provided additional medical evidence in support of her claim. On March 23, 2022 the case file was resent to MMRO along with the new documentation she provided.

On March 31, 2022, MMRO provided an addendum to their initial report. The addendum also states that the additional medical evidence provided still does not support the approval of the nonoccupational disability claim. Ms. Akers was sent a letter on March 31, 2022 to inform her the claim was denied. She is now appealing the denial of her nonoccupational disability claim.

After hearing Ms. Akers present the facts of her case, the Committee decided to refer her case for a recommendation.

<u>Deborah Bault – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Personal Hearing – Springfield 9:45 a.m.</u>

Deborah Bault began receiving retirement benefits effective January 1, 2022. From January 1, 2020, through December 31, 2021, her employer, the Illinois State Board of Education (ISBE), issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of $3,078.14 for unused vacation days, for an aggregate total of $73,875.36. Because

Section 14-103.l0(b)(l) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, her final average compensation (FAC) calculation did not include the $73,875.36 in payments she received for unused vacation days from January I, 2020, through December 31, 2021.

Her current monthly gross pension payment totals $7,301.71. Ms. Bault is appealing to the Executive Committee to have her pension re-calculated so that it reflects the $73,875.36 in payments she received for unused vacation days under the Vacation Liquidation Program. If such appeal is granted, her monthly pension would increase to $8,389.78.

Ms. Bault includes several points of contention in support of her appeal. She contends that the policy of SERS to enforce the statute in this manner is not supported by an administrative rule and its enforcement of such policy without an administrative rule is invalid under the Illinois Administrative Procedures Act (5 ILCS 100/5-10). Furthermore, she contends that payments under the program are not "lump sum payments" given the nature of the payment schedule and how it is treated and characterized by ISBE and the collective bargaining agreements. Additionally, she contends that SERS has changed its position on such program as she believes SERS has been aware of such program since January 9, 2003. Finally, she contends that since SERS recently changed its policy on the treatment of payments under this program, then it should have notified those employees that were close to retiring, and its failure to notify such employees has created a hardship for those employees who made retirement decisions with incomplete information.

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

Kimberly Beachy – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Personal Hearing – Springfield 10:30 a.m.

Kimberly Beachy began receiving retirement benefits effective January 1, 2022. From January 1, 2019, through December 31, 2021, her employer, the Illinois State Board of Education (ISBE), issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of $832.94 for unused vacation days, for an aggregate total of $29,985.84. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, her final average compensation (FAC) calculation did not include the $29,985.84 in payments she received for unused vacation days from January 1, 2019, through December 31, 2021.

Her current monthly gross pension payment totals $4,211.48. Ms. Beachy is appealing to the Executive Committee to have her pension re-calculated so that it reflects the $29,985.84 in payments she received for unused vacation days under the Vacation Liquidation Program. If such appeal is granted, her monthly pension would increase to

$4,554.02.

Ms. Beachy includes several points of contention in support of her appeal. She contends that the payments under the Vacation Liquidation Program are not lump sums and should be included in the FAC calculation. She points out that if SERS intended to interpret "lump-sum payments" in this manner, it should be codified in the administrative code. She also contends that SERS has been aware of this program since 2002 and raised no issue until approximately 20 years after the program was created. Finally, she contends that the System's perceived recent change of interpretation regarding the program creates a hardship for those retirees that have little to no option to replace the loss of retirement income they will experience if such position remains in place.

After hearing Ms. Beachy present her appeal, the Committee decided to refer her case for a recommendation.

Deborah Crossley – Appeal to Receive Survivor Contributions Refund after Retirement

Deborah Crossley retired January 1, 2022. She completed her application stating she was single with no dependents and did not want to receive the survivor contribution refund.

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

After a brief discussion, Chairperson Becker moved to deny Ms. Crossley's appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

Wayne Chamberlain – Arrearage Settlement Offer

Wayne Chamberlain is an inactive Tier 1 member who received nonoccupational disability benefits through April 30, 2018. His disability benefits stopped because his duration on disability totaled ½ of his service credit earned prior to his disability benefit period. Due to a retroactive payment of Social Security Disability Benefits, an overpayment with SERS occurred and the arrearage currently totals $15,574.44.

Based on his current service credits with SERS, Mr. Chamberlain is ineligible to receive a retirement benefit and his spouse will not qualify for survivor's benefits. However, an estimated potential death benefit would total $19,308.47 upon his death. Mr. Chamberlain has requested that the System allow him to settle his arrearage by applying for a refund and settling his arrearage with the proceeds of that refund. The estimated refund would total $14,178.44. If the System accepts this offer, the rights and benefits associated with his SERS account would not apply to Mr. Chamberlain nor to his named beneficiary.

After some discussion, Executive Secretary Blair moved to approve Mr. Chamberlain's request. The motion was seconded by Chairperson Becker, and all were in favor.

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

The next meeting of the Executive Committee is scheduled for June 9, 2022, in the System's Springfield office.

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Marvin Becker, Chairperson

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David Morris, Vice-Chairperson

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Timothy Blair, Executive Secretary