

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

September 8, 2022

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, September 8, 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
Cory Mitchelle, Supervisor, Pension and Death Section
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Joyce Guccione, Claimant
Diane Skorch, Claimant
Abigail Robinson, Claimant
April Bruce, Claimant

Routine Claims Report

The Routine Claims Report for August 2022 was presented. Following a brief discussion, the Routine Claims Report for August 2022 as prepared by staff, was received by the Committee.

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on August 18, 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.

Old Business

Joyce Guccione – Appeal of Death Claim Determination and Overpayment – Deceased

Mbr: Salvatore Guccione – Personal Hearing via Videoconference – 9:00 a.m.

Salvatore Guccione died September 3, 2015, as an active State employee. He left behind two eligible survivors, a surviving spouse, Joyce Guccione, and a disabled child, Vincent Guccione.

SERS survivor benefits were established for Joyce and Vincent effective October 1, 2015, and in July 2016 and August 2016 respectively, their first payments were made. Vincent received the survivor annuity until his death on June 16, 2019. Upon his passing, and effective July 1, 2019, Vincent's portion of the survivor annuity was merged into Joyce's, who continued to receive the survivor benefit in full.

An Illinois Workers' Compensation Commission (IWCC) settlement contract was executed March 31, 2022, between Mr. Guccione's estate and the State of Illinois. Upon receipt and review of the IWCC settlement contract, SERS made the interpretation to convert the claim from a nonoccupational death to an occupational death. Doing so changes the calculation of the survivor benefits owed, and so the survivor benefits were recalculated using the occupational death calculations.

On June 7, 2022, a Notice of Occupational Death Benefit Approval letter was sent to Ms. Guccione, making her survivor benefit whole from October 1, 2015, through May 31, 2022, using the occupational death calculations.

SERS was later notified by CMS that the settlement contract was not for an occupational death, rather the settlement was intended only for the work injury, and not the death. On June 29, 2022, correspondence was sent to Ms. Guccione to notify her that the survivor benefit was converted in error because of this. The conversion created an overpayment totaling \$74,482.95 that must be repaid to the System, and her monthly annuity was returned to the previous amount before the conversion.

Ms. Guccione is appealing the death claim determination and corresponding overpayment.

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

Samuel Hill – Appeal of Disability Benefit Overpayment and Repayment Terms

Samuel Hill worked for the Department of Human Services at Chicago Read Mental Health Center. He was approved for a SERS nonoccupational disability benefit effective February 14, 2020.

Mr. Hill was approved for a retroactive Social Security Administration (SSA) disability benefit that became effective July 1, 2020. The retroactive benefit created an overpayment of SERS disability benefits for the period of July 1, 2020, through May 31, 2022, in the amount of \$39,675.00. The overpayment due is in accordance with Section 14-125 of the Illinois Pension Code.

The overpayment was reduced by \$4,517.25 for attorney fees, and \$35,157.75 remains outstanding. A letter was sent to Mr. Hill on July 6, 2022, to explain the reason for the overpayment and the amount due.

The retroactive disability award was reduced by SSA because Mr. Hill was already receiving reduced retirement benefits, so he only received \$13,551.75 from his award.

Mr. Hill's monthly gross disability benefit is \$596.62. He also receives \$1,680.00 per month from SSA. He has requested a personal hearing via teleconference to appeal his overpayment and the repayment terms.

After hearing Mr. Hill present his appeal at their August 2022 meeting, the Committee decided to defer a decision pending further communication with Mr. Hill.

Mr. Glaub informed the Committee that Mr. Hill would like to retire retroactively effective July 1, 2020, with the understanding that the entirety of his first pension payment and a portion of his second pension payment would be applied toward his overpayment.

Executive Secretary Blair moved to deny Mr. Hill's original request to appeal his overpayment and repayment terms, but approve his request to retire July 1, 2020, and then applying the retroactive pension payments to the payoff of his overpayment. The motion was seconded by Chairperson Becker and passed unanimously.

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

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 the public information associated to his conviction is silent regarding whether his employment with the State was relevant to the felonious act and therefore that office is unable to determine whether Mr. Randolph has been convicted of an offense that requires the forfeiture of his retirement benefits.

Opinions issued from the Office of the Attorney General have historically provided more guidance than the opinion issued on behalf of Mr. Randolph's claim, but there is

nothing provided in such opinion that the System disagrees with. The victim impact statement arguably connects Mr. Randolph's felonious act to this position, but that statement does not necessarily reflect the facts and the outcome of the case. It could also be said that the relationship between the act and his job may have been stronger if he was convicted of the other two charges, custodial sexual misconduct, and official misconduct. The Office of the Attorney General has stated that their work on this request is finished but have suggested the Committee my want to collect more information before making their decision.

After reviewing the facts presented at their August 2022 meeting, the Committee decided to defer a decision pending further investigation into whether Mr. Randolph's felony conviction was tied to his position as a State of Illinois employee.

Amanda Johnson – Appeal of Nonoccupational Disability Benefit Claim Denial - Recommendation

Amanda Johnson worked for the Illinois Department of Juvenile Justice as a Corrections Food Service Supervisor II. SERS received a completed nonoccupational disability application on February 23, 2022, citing an onset date of January 2, 2022.

The Disability Specialist 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 May 27, 2022, the case file was referred to our medical consultant, MMRO, for review.

A recommendation to disapprove the claim was received from MMRO on June 8, 2022. The report noted 'there is not support that the member is considered mentally incapacitated to perform her duties as a Corrections Food Supervisor II.' Ms. Johnson was sent a letter on June 9, 2022, to inform her the claim was denied.

Ms. Johnson is appealing the denial of her nonoccupational disability claim.

After hearing Ms. Johnson present her appeal at their August 2022 meeting, the Committee decided to refer the case to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2022-14, to deny Ms. Johnson's appeal. After some discussion, Chairperson Becker moved to adopt Recommendation No. 2022-14. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Abigail Robinson – Request to Change Tier Status – Recommendation

Abigail Robinson is a Tier 2 member employed by the Department of Transportation (IDOT) who first became a contributing member of SERS on September 1, 2011. Before she became a contributing member, Ms. Robinson was employed by the Illinois Tollway Authority for two separate periods. The first period began June 1, 2008, and ended August 31, 2008, and the second period began May 16, 2010, and ended August 15,

2010. During these periods, she made no contributions to SERS as a former statute that required employees to complete a 6-month qualifying period before qualifying for eligibility to participate in SERS was still in effect. Public Act 96-1490 provided that for those individuals who first enrolled in SERS on or after January 1, 2011, would not need to serve six consecutive months for a SERS-covered employer before he or she could begin contributing to SERS and attain membership status.

The qualifying period that was ended by Public Act 96-1490 is contained in Section 14-103.05(a), and provided that between January 1, 1984, and December 1, 2010, an employee needed to accrue six continuous months of service before he or she was eligible to be a member in SERS. Once the employee became eligible for membership in SERS, he or she would be eligible to purchase the "qualifying period" or "short periods". Short periods include periods of state employment prior to becoming a contributing member in which the employee didn't complete his or her qualifying period.

Ms. Robinson purchased her "short periods" and contends that such periods qualify her to be grandfathered into the Tier 1 plan. Additionally, she points to her member services account screen that identifies her membership date as June 1, 2008. Furthermore, a membership record document provided by SERS to Ms. Robinson indicated that she was a Tier 1 member. The System assumes that the petitioner will argue that she was provided multiple forms of information from the System which indicated she was a Tier 1 member and that she relied on that information for purposes of financial planning. It should be mentioned that the courts have determined that the Illinois public retirement systems are not authorized to provide equitable relief to members who rely upon incorrect information, see *Desai v. State University Retirement System of Illinois*, 2017 IL App (4th) 130825-U.

Ms. Robinson did not begin making contributions to SERS until September 1, 2011, nine months after the Tier 2 plan took effect. Section 1-160(a) of the Pension Code provides that the Tier 2 plan applies to a person who, on or after January 1, 2011, first becomes a "member or a participant under any reciprocal retirement system or pension fund established under this Code."

A "member" is defined as "any employee included in the membership of the system." 40 ILCS 5/14-103.06. Although Ms. Robinson was an "employee" when she received a salary (see 14-103.05(a)), she did not become a member until she first made a contribution to SERS on September 1, 2011.

SERS contends that the governing statutes and administrative rules are clear, an employee becomes a member on the date he or she meets the eligibility conditions for membership as provided in Section 14-103.05 of the Code, and the earliest date of a service performed during a qualifying period, if applicable, has no bearing on his or her membership date.

Sections 14-103.13 and 14-104(a) of the Pension Code clearly demonstrate that the legislature differentiates service performed during a qualifying period from service performed after the member qualified for membership in the System. When it enacted

the provisions of Section 14-104.5 of the Pension Code, the legislature made clear that a member's membership date is fixed to the date in which the member first met the statutory qualifications of a member. This Section governs the process for establishing service credit for service performed during a qualifying period. A provision of that section provides that the interest that is otherwise required for service credit purchases will be waived if the member completes the purchase in full within six months of his or her membership date. This provision is important because it demonstrates that the legislature believes that a member's membership date is permanently fixed to the date in which the member first attained membership status with SERS. If the legislature intended for the plan design to permit the membership date of a member to change to the date he or she first began service under a qualifying period, then this interest-free payment provision would have been technically inoperable because the plain language would prevent members for which that provision was created from benefitting from such payment option.

If the legislature intended for a member's membership date to change to reflect the dates of a qualifying period or short period that he or she purchased, then it would have included provisions like those provisions contained in Section 16-129.1 of the Pension Code.

"For purposes of this Section and subdivision (a)(B)(l) of Section 16-133, optional creditable service established by a member shall be deemed to have been earned at the time of the employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System."

If there remains any doubt on the legislative intent and the plain language of the relevant statutory provisions regarding the date an employee becomes a member, the rule provision contained in Title 80, Section 1540.210 of the Illinois Administrative Code eliminates any doubt. When JCAR approved this rule provision, it confirmed on behalf of the General Assembly that the membership date does not change if the member purchases service for short periods or qualifying periods.

"The term date he last became a member of the System as it pertains to the purchase of service credits is the first day of the latest or current period of membership and is not affected by the payment of contributions for any periods of service prior to or following this first day."

Ms. Robinson is appealing to the Executive Committee to grant her Tier 1 status due to her short periods that occurred before January 1, 2011 that she has purchased.

After hearing Ms. Robinson and her associate Mr. Richard Falen present her appeal, Laura Bautista presented the response on behalf of SERS.

These oral proceedings were recorded by a stenographer, Jennifer Crow, and the transcriptions shall be provided to Ms. Robinson and the Executive Committee.

Attorney Evans presented Recommendation No. 2022-13, to deny Ms. Robinson's

appeal. After reviewing the recommendation and discussing the facts presented, Executive Secretary Blair moved to adopt Recommendation No. 2022-13. The motion was seconded by Vice-Chairperson Morris and passed unanimously.

New Business

Diane Skorch – Appeal of Termination of Nonoccupational Disability Benefits – Personal Hearing via Teleconference – 9:45 a.m.

Diane Skorch works for the Illinois Department of Corrections as an Office Coordinator. She had last worked on January 13, 2022 and began a leave of absence on January 18, 2022. She then applied for a nonoccupational disability benefit with a release date to return to work March 21, 2022 from her doctor. Ms. Skorch was approved for a nonoccupational disability benefit effective February 17, 2022 through March 20, 2022.

Ms. Skorch did not return to work and her doctor extended her leave. Additional medical records were obtained to support the extension of her leave. It was determined the file should be reviewed by our medical consultant, MMRO, and so it was referred for review on June 13, 2022.

A recommendation to disapprove the claim was received from MMRO on June 22, 2022. The report noted ‘the member has experienced a material improvement in her depression and insomnia such that she is no longer considered mentally or physically incapacitated to perform her duties as an Office Coordinator.’ Ms. Skorch was sent a letter on June 27, 2022 to inform her that her nonoccupational disability benefit claim to extend her benefit was denied.

Ms. Skorch returned to work on August 1, 2022. She has requested an appeal via teleconference for the termination of her nonoccupational disability claim and is seeking to reinstate nonoccupational disability benefits from March 21, 2022 through July 31, 2022.

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

April Bruce – Appeal of Termination of Nonoccupational Disability Benefits – Personal Hearing via Videoconference – 11:15 a.m.

April Bruce worked for the Illinois Department of Children and Family Services as a Child Protection Specialist. She last worked on January 22, 2021. She then applied for a nonoccupational disability benefit due to stress related to work on February 8, 2021. Her treating physician anticipated a tentative return to work in April 2021.

Ms. Bruce was approved for a nonoccupational disability benefit effective March 18, 2021 and continued on the benefit for over 16 months. She states she has seen a psychiatrist, but her forms are completed by her treating physician. The treating physician’s diagnosis states the ‘patient cannot work in current position,’ then gives an

estimated return to work date of July 25, 2022.

Medical records from a July 5, 2022 office visit report state that no signs of her diagnosis resulting in the initial approval of disability benefits were reported. As a result, the Disability Examiner felt the member's condition was not as severe as when she was approved for the disability benefit. The case was reviewed by the Disability Supervisor, and then referred to the medical consultant, MMRO, for review.

A recommendation to disapprove the claim was received from MMRO on August 2, 2022. The report noted 'evidence supports that the member has experienced a material improvement in her condition such that she is no longer considered mentally or physically incapacitated to perform her duties as a Child Protection Specialist.' Ms. Bruce was sent a letter on August 2, 2022 to inform her that her nonoccupational disability benefit would cease effective July 31, 2022.

Ms. Bruce has requested a personal appeal for the termination of her nonoccupational disability claim.

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

Maria Ortiz – Request for Reappeal to Receive Survivor Contribution Refund after Retirement

Maria Ortiz requested a written appeal that was considered at the March 10, 2022 meeting of the Executive Committee. She appealed to receive a refund of her survivor contributions after retirement.

Ms. Ortiz's appeal to receive a survivor contribution refund after retirement was denied, and the decision became final at the meeting of the Board of Trustees on April 26, 2022.

Per correspondence dated August 23, 2022, Ms. Ortiz is requesting a reappeal to receive a survivor contribution refund.

After reviewing the documentation and determining no new evidence supporting Ms. Ortiz's request had been submitted, no Committee member moved to grant Ms. Ortiz a reappeal of her case.

Curtis Cave – Appeal of Nonoccupational Disability Benefit Claim Denial

Curtis Cave worked for the Illinois Department of Corrections as a Correctional Officer. He last worked on February 17, 2022. He then applied for a nonoccupational disability benefit on March 24, 2022. The treating physician anticipated a return-to-work date of May 14, 2022 but the member has not yet returned to work.

The Disability Specialist 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 June 16, 2022 the case file was referred to our medical consultant, MMRO, for review.

A recommendation to disapprove the claim was received from MMRO on June 30, 2022. The report noted that there is no support that Mr. Cave is considered incapacitated to perform his duties as a Correctional Officer. Mr. Cave was sent a letter on June 30, 2022 to inform him the claim was denied.

Mr. Cave has requested a written appeal the denial of his nonoccupational disability claim.

After discussing the facts presented, Executive Secretary Blair moved to deny Mr. Cave's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Carolyn Banks – Appeal of Temporary Disability Benefit Conversion Overpayment and for Reinstatement of Occupational Disability Benefits

Carolyn Banks worked for the Illinois Department of Healthcare and Family Services. She was injured on the job and filed a Workers' Compensation (WC) claim. The claim was denied, and she appealed the decision. She then applied for a SERS temporary disability benefit. Ms. Banks received a SERS temporary disability benefit from May 21, 2013 through September 2, 2013.

Ms. Banks then received a WC settlement on July 1, 2022 awarding her Total Temporary Disability (TTD) benefits from April 21, 2013 through September 2, 2013. In accordance with Section 14-123.1 of the IL Pension Code, the temporary disability benefit was converted to an occupational disability benefit. This conversion resulted in an overpayment of temporary disability benefits. Ms. Banks was also owed for the 30-day waiting period from April 21, 2013 to May 20, 2013 and the amount of that benefit was vouchered to be applied to the overpayment for this time period.

Ms. Banks was also on a nonoccupational disability benefit from February 4, 2018 through August 5, 2018. She was also awarded TTD benefits for this time, so the nonoccupational disability benefit was also required to be converted into an occupational disability benefit. This conversion resulted in an overpayment of nonoccupational disability benefits. Ms. Banks was also owed for the 30-day waiting period from January 18, 2018 through February 3, 2018 and the amount of that benefit was vouchered to be applied to the overpayment for this time period.

Ms. Banks was sent correspondence dated July 12, 2022 and July 13, 2022 to inform her of the overpayments and amount due.

Ms. Banks has requested a written appeal of the overpayment of benefits, and to have her occupational disability benefit restored from her date of retirement through present.

After reviewing the facts presented, Executive Secretary Blair moved to deny Ms. Banks appeal. The motion was seconded by Chairperson Becker and passed by unanimous vote.

Patrick Dilley – Appeal to Purchase Qualifying Period to Qualify for Alternative Formula Social Security Coordinated Rate

Patrick Dilley intended to purchase his qualifying period (6 months) to attain 240 months of service credit in the alternative formula and qualify for his benefit calculation to reflect the "Alternative Formula, Social-Security coordinated" rate of 2.5% for each year of service credit. When his retirement benefit was being processed, there was confusion between Mr. Dilley and his agency's payroll office. He intended to direct the necessary portion of the proceeds from the liquidation of his unused vacation days to cover the cost to purchase his qualifying period. Instead, that office deducted employee contributions on the amount of such payment at the alternative formula contribution rate of 8.5%, which added only 1.25 additional months of service credit.

Because of this mistake, his total service credit was 236.25 months of service, leaving him 3.75 months short of the 240-month requirement, which caused his pension to be calculated at the "Regular-formula, Social-Security coordinated" rate of 1.67% for each year of service credit. It should be mentioned that members who retire with less than the requisite amount of service credit under the alternative formula shall receive a refund of contributions equal to the difference between contributions made at the Alternative Formula, Social-Security coordinated rate (8.5%) and the contributions due under the Regular-formula, Social-Security coordinated rate (4%). The statute provides that such purchase must be completed before the member receives his first retirement payment.

Mr. Dilley is appealing to pay the cost necessary to establish his qualifying period.

After reviewing the information presented and a brief discussion, Vice-Chairperson Morris moved to approve Mr. Dilley's appeal. 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 11:56 a.m.

The next meeting of the Executive Committee is scheduled for October 13, 2022, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary