

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

September 12, 2024

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, September 12, 2024, at 8:45 a.m. in the System's Springfield office at 2101 S. Veterans Parkway.

Committee Members Present:

Arnold Black, Vice-Chairperson
Timothy Blair, Executive Secretary

Committee Member Present via Videoconference:

Marvin Becker, Chairperson

Others Present:

Jeff Houch, Associate Executive Secretary
Samantha Goetz, General Counsel
Cory Mitchell, Manager, Claims Division
Karen Brown, Supervisor, Disability Section
Jessica Blood, Recording Secretary
Aaron Evans, Attorney, Sorling Northrup
Dawn Scroggins, Claimant

Other Present via Videoconference:

Michael Marciniak, Stenographer
Rachel Clark, Claimant
Madison Schaal, Claimant

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on August 6, 2024, were presented by Chairperson Becker for approval. Copies of the minutes were previously emailed to Committee members for review. Chairperson Becker moved to approve the minutes as submitted. The motion was seconded by Vice-Chairperson Black and passed unanimously.

Routine Claims Report

The Routine Claims Report for August 2024 was presented. Following a brief discussion, the Routine Claims Report for August 2024 as prepared by staff was

received by the Committee.

Old Business

Christina Petrites – Settlement Offer – Deceased Mbr: Stanley Petrites – Deferred

Stanley Petrites was the eligible survivor of SERS retiree Virginia A. Petrites. Virginia died November 19, 2011, and Stanley became eligible for a monthly survivor annuity on December 1, 2011.

Stanley Petrites was living in Indiana and died on December 1, 2015. His death was not reported to SERS, and he was not found on a monthly death match list until May 10, 2022, after SERS switched vendors to Lexis-Nexis.

On May 13, 2022, SERS suspended the survivor benefit of Mr. Petrites and researched the situation. Christina Petrites, daughter of Stanley Petrites, became POA for Stanley on September 2, 2015, and SERS received the POA on September 25, 2015. After the death of Stanley Petrites, Christina did not report the death and made several changes on behalf of Stanley, including a switch to hard copy checks from direct deposit, submitting affidavits for lost checks and submitting a change of address form.

After the death of Stanley Petrites, Christina Petrites received and cashed checks in the amount of \$97,478.36. SERS has recovered \$1,371.46 for a remaining balance of \$96,106.90. The Illinois Attorney General's Office is representing SERS in trying to recover these funds from Christina Petrites. Her attorney has offered that Christina is able to pay \$20,000 to settle the claim.

After discussing the facts of the case at their May 2024 meeting, the Committee decided to defer a decision, pending research into Ms. Petrites' assets.

After discussing a brief update from the Attorney General's office at their June 2024 meeting, the Committee decided to continue to defer a decision on the case pending discovery of Ms. Petrites' assets. After receiving no further updates on the case at their July and August 2024 meetings, the Committee again agreed to defer a decision.

Jeff Houch informed the Committee that SERS provided the Attorney General's Office with information regarding a PPP loan that Ms. Petrites had received, adding that SERS has requested that their office continue with the discovery of Ms. Petrites' assets. The Committee again deferred a decision on her case.

Gwen Dowling – Appeal Termination of Temporary Disability Benefits – Deferred

Gwen Dowling works as an Assistant Local Office Administrator for the Department of Human Services. She suffered a work-related injury on August 25, 2017, and a second injury on May 20, 2019. She received TTD benefits from Workers' Compensation (WC) and an occupational benefit from SERS.

In November 2023 Ms. Dowling was found to be at Maximum Medical Improvement and was released to work full duty. Ms. Dowling did not return to work and is appealing the termination of her TTD benefits.

She applied for a temporary disability benefit while she appealed her WC termination. Her case was sent to SERS' medical consultants for review. The MMRO reviewer determined that Ms. Dowling was not mentally or physically incapacitated from performing her job duties as an Office Administrator.

It was discovered by looking at the Gallagher Bassett website that Ms. Dowling received a WC settlement, which was signed May 8, 2024. This settlement required her to resign from her agency and they noted she was unable to return to work, but also stated this was a disputed settlement.

Ms. Dowling requested a personal telephone appeal of her denial for temporary disability benefits. However, because she has received a WC settlement, she would be ineligible for temporary benefits.

The question now is whether she is eligible for a future occupational disability benefit. She is currently 58.8 years of age and could potentially draw an occupational benefit from SERS until age 65. The medical consultant has found her not disabled, but a WC settlement has found her unable to return to work and made her resign her position. The settlement found her to have a 17% loss of the use of person as a whole, but then settled on a disputed basis.

Ms. Dowling requested a personal hearing by telephone to appeal the termination of her disability benefit.

After hearing Ms. Dowling present her case at their August 2024 meeting, the Committee decided to defer a decision pending receipt of additional medical documentation.

Mr. Houch informed the Committee that Ms. Dowling had not submitted further documentation to support her case, and the Committee again decided to defer a decision regarding her appeal.

April Brown – Appeal Denial of Temporary Disability Benefits – Deferred

On March 31, 2024, April Brown began a leave of absence as she experienced an injury while working as a sergeant at the Pinckneyville Correctional Center. She applied for Workers' Compensation benefits and SERS occupational disability benefits. Her application for Workers' Compensation benefits was denied on April 22, 2024, which effectively disqualified her for occupational disability benefits payable from SERS.

Ms. Brown then applied for temporary disability benefits and the medical information she supplied was reviewed by SERS' consulting physician. The consulting physician opined that there was lack of medical evidence to support that Ms. Brown is

incapacitated to perform her duties as a correctional sergeant.

Ms. Brown is appealing the denial.

After reviewing the information provided at their August 2024 meeting, the Committee decided to defer a decision on Ms. Brown's case pending review of recently received medical documentation and consultation with MMRO.

Jeff Houch informed the Committee that Ms. Brown had since been approved for temporary disability benefits based on additional medical documentation that she had provided, so no further action on her appeal was necessary.

Terrence Heffron – Appeal to Revoke Reciprocal Retirement – Deferred

Terrence Heffron retired effective June 1, 2023. Mr. Heffron initially intended to retire reciprocally with IMRF, and his initial proportional SERS monthly annuity totaled \$1,448.33. When SERS recalculated his proportional annuity to assign his back wages to the pay periods in which they earned, it was also determined that his IMRF annuity totaled \$2,184.76 as that was the amount of his "money purchase" benefit calculation.

With a reciprocal retirement, Mr. Heffron's combined annuities between IMRF and SERS exceed the maximum amount prescribed by 40 ILCS 5/20-124, which causes both proportional annuities to be reduced. Specifically, his SERS monthly proportional annuity would be reduced from \$1,460.84 to \$1,250.38, and his IMRF annuity proportional annuity would be reduced from \$2,184.76 to \$1,870.00.

Mr. Heffron is appealing to revoke his initial intention to retire reciprocally, and to retire independently.

After discussing the facts of the case at their August 2024 meeting, the Committee decided to defer a decision pending further research and communication with IMRF.

Following a brief update from Mr. Houch on communications with IMRF, Executive Secretary Blair moved to approve Mr. Heffron's appeal. The motion was seconded by Vice-Chairperson Black and passed unanimously.

New Business

Dawn Scroggins – Appeal FAC Rate of Compensation – Interim Assignment Pay – Formal Hearing – 9:00 a.m.

Dawn Scroggins retired under the Tier 1 alternative formula plan with a benefit start date of June 1, 2024. Ms. Scroggins is appealing that the "rate of compensation" option of her final average compensation (FAC) component of her retirement annuity calculation should include her interim assignment pay. She contends that she was told by SERS representatives that the interim assignment pay would be included in her rate of compensation, and that the benefit estimate provided on her member services

account added her interim assignment pay to her rate of compensation. The phone recording supports that the SERS representative told her that they were unsure if "interim assignment" payments are included in the final average compensation (FAC) component of her retirement annuity calculation, and that "we are always going to use the base pay" and directed Ms. Scroggins to speak to her agency on what they will certify to SERS as her base rate.

40 ILCS 5/14-103.11 provides that the "rate of compensation" is the actual rate upon which the compensation of an individual is calculated at any time as certified on a payroll. 40 ILCS 5/14-103.12(c) provides that for a Tier 1 alternative formula plan member, "final average compensation" can include "the monthly rate of compensation received by the person on the last day of eligible creditable service." Ms. Scroggins' payroll office certified to SERS that her "monthly rate of compensation" was \$10,677.00, which excluded the "interim assignment" pay, and aligns with 40 ILCS 5/14-103.11 and 40 ILCS 5/14-103.12(c).

SERS administrators contend that their fiduciary duties obligate them to administer the plan to exclude interim assignment pay from the "rate of compensation". Additionally, Section 14-135.03 of the Pension Code authorizes the System to formulate policy for proper operation of the System. Title 80, Section 1540.30 a) 3) of the Illinois Administrative Code demonstrates that it has been the longstanding policy that the term "rate of compensation" means a member's "actual monthly base rate of pay".

Furthermore, in the Illinois Supreme Court ruling of *Marconi vs. Chicago Heights Police Pension Board*, the majority opinion stated that "perhaps the most important function of a pension board is to ensure adequate financial resources to cover the Board's obligations to pay current and future retirement and disability benefits to those who qualify for such payments." The majority opinion also stated that an important part of this responsibility is to provide measures "so that funds are not unfairly diverted". Excluding interim assignment pay from "rate of compensation" complies with this direction because if the administrators of that plan were to permit such pay to be included in the "rate of compensation", departments that employ Tier 1 alternative formula members could artificially and significantly increase such members' pension calculations and unfairly divert pension funds.

Finally, even if misinformation was provided by SERS representatives, it should be noted that when the 4th District Appellate Court of Illinois ruled on *Desai v. State Universities Retirement System*, 2014 IL App (4th) 130825-U, it stated that a retirement system cannot provide equitable relief to members who detrimentally relied on incorrect information provided by a retirement system because the Systems do not possess the statutory authority to do so.

Ms. Scroggins presented her appeal to the Committee. The oral proceedings were recorded by stenographer Michael Marciniak, and the transcripts shall be provided to Ms. Scroggins and the Executive Committee. After discussing the facts of Ms. Scroggins' appeal, the Committee decided to refer to external counsel for a recommendation.

Rachel Clark – Appeal to Process COLA Buyout Payment – PPP Loan Recipient Investigation – Personal Hearing via Teleconference – 9:45 a.m.

Rachel Clark retired effective October 1, 2023, from the Department of Human Services. She also elected the COLA buyout payment. Ms. Clark received a PPP loan in the amount of \$20,832 that was approved by Prestamos CDFI on May 15, 2021.

The Office of the Illinois Attorney General (OAG) has acknowledged that almost 300 former employees are under investigation for fraudulently obtaining loans under the Federal "Paycheck Protection Program" (PPP).

SERS has suspended the processing of buyout payments for any member who received a PPP loan until more information about these investigations becomes available. 40 ILCS 5/14-149 provides that "none of the benefits herein provided for shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his service as an employee." Title 80, Section 1540.395 k) of the Illinois Administrative provides that:

For cases in which a member is charged with a felony related to, arising out of, or in connection with his or her service as an employee and elects an accelerated pension benefit payment, the adjudication process related to the charges must be completed before the accelerated pension benefit payment is vouchered. If the member is convicted and sentenced of a felony related to, arising out of, or in connection with his or her service as an employee, the payment shall not be vouchered.

Ms. Clark has requested a personal hearing to appeal the decision to suspend her payment.

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

Dominique Washington – Appeal Termination of Nonoccupational Disability Benefit

Dominique Washington worked as a Mental Health Technician for the Department of Human Services at Shapiro Developmental Center. He went on a medical leave in June 2022 and started on a nonoccupational disability benefit in July 2022 due to back pain.

Mr. Washington had a normal MRI but reported pain with range of motion. He was noted to be moderately obese with a BMI of 38. He had some left-sided paralumbar tenderness, and his doctor took him off work.

His file was referred to MMRO for review. MMRO found that while he had not had significant medical improvement, his impairments did not make him physically incapacitated from performing his past job duties as a Mental Health Technician.

Mr. Washington's benefits were terminated effective August 31, 2024.

Mr. Washington is requesting a written appeal of the termination of benefits. He states he is still under his doctor's care, and he has been instructed to return to physical therapy. He submitted additional medical evidence including a normal MRI from August 8, 2024, and a recent office visit that showed normal gait without an assistive device, full ROM, normal reflexes and negative straight leg raising bilaterally. There is also a note from his doctor stating no return to work until evaluated at next appointment in September.

The Disability Section did not feel that the additional medical evidence provided would change the outcome of the MMRO review.

After reviewing the information provided and some discussion, Executive Secretary Blair moved to deny Mr. Washington's appeal. The motion was seconded by Vice-Chairperson Black and passed unanimously.

Dana McCarver – Appeal of Retroactive SSA Award Overpayment

Dana Mccarver works for the Environmental Protection Agency. She went on a nonoccupational disability benefit on August 26, 2023. She has end stage renal disease, is on dialysis, and was also approved for Social Security disability benefits with an entitlement date of August 1, 2023, and an initial entitlement monthly benefit of \$1,863.00.

On June 14, 2024, SERS received confirmation from the Springfield SSA of Ms. McCarver's SSA award, entitlement date and entitlement amount. On June 18, 2024, her overpayment calculation sheet was completed, and a letter was mailed to Ms. Mccarver about her overpayment.

Ms. McCarver's overpayment was from August 26, 2023, through May 31, 2024. This is 9 months and 6 days that her benefit should have been offset by her SSA benefit. This calculated to an overpayment of \$17,127.58. Her current monthly SERS benefit is now \$339.54. She is eligible to receive this benefit until June 30, 2025.

Ms. Mccarver is appealing her overpayment with SERS. She feels that she should not owe SERS any money, because she didn't really receive any benefits from SSA until August 2024. Apparently, Ms. Mccarver had some kind of overpayment from SSA, which they were recouping through her disability benefits.

Ms. Mccarver understands that her SERS benefit must be reduced going forward and is fine starting this offset as of August 2024, which is when she will start receiving SSA benefits, as her SSA overpayment will have been paid in full.

SERS is not responsible for covering Ms. McCarver's overpayment with SSA and is following Illinois Pension Code Statutes in offsetting her SERS disability benefit once she is entitled to her SSA benefit.

Ms. Mccarver is appealing her overpayment.

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

Roy Smith Jr. – Appeal to Change Effective Date of Retirement

Roy Smith Jr. initially elected to retire reciprocally between SERS and SURS, effective June 1, 2023, but he was eligible to retire effective February 1, 2023. Mr. Smith is requesting to change his retirement date to February 1, 2023.

Following a brief discussion regarding the information provided, Executive Secretary Blair moved to approve Mr. Smith's appeal. The motion was seconded by Vice-Chairperson Black and passed unanimously.

Gary Pignato – Appeal to Waive Overpayment of Occupational Disability Benefits

Gary Pignato worked for the Department of Transportation and went on an occupational disability leave in October 2016. He received a Temporary benefit from SERS from November 2016 through August 2021, when he had exhausted his half-time and his benefit terminated.

Mr. Pignato requested to retire April 1, 2023. He received a WC settlement, so his Temporary benefit was converted to an occupational benefit. This created an overpayment. SERS also paid Mr. Pignato's temporary benefit from the time his half-time terminated through March 31, 2023, just before his retirement date. This underpayment fully covered the overpayment which had been created.

The Pension Section recently contacted the Disability Section to see if we could pay occupational disability benefits for April and May 2023, as he had changed his retirement date to June 1, 2023.

Upon review, it was determined that Mr. Pignato was over the age of 60 when he went on his disability benefit in October 2016 and therefore, was not eligible for benefits past October 2021. Therefore, all benefits paid November 1, 2021, through March 31, 2023, are overpaid.

Mr. Pignato is requesting a written appeal. He states since the funds already received have been either spent to pay outstanding debt or otherwise now used, he is requesting consideration from the Executive Committee to waive any overpayments. He notes that his letter from SERS dated July 30, 2024, states his overpayment was paid in full and therefore he should not owe SERS any other funds.

After reviewing the facts of Mr. Pignato's case and some discussion, the Committee decided to defer a decision pending further research.

Add-on: Madison Schaal – Appeal Denial of Nonoccupational Disability Benefits – Personal Hearing via Videoconference – 10:30 a.m.

Madison Schaal works as a Mental Health Technician for the Choate Mental Health Center. She first went off work February 16, 2024, and returned to work April 15, 2024. She went out again June 7, 2024, and filed a new claim. She began a medical leave of absence on June 30, 2024, due to medical reasons. She has not returned to work.

Ms. Schaal's file was sent to MMRO for a medical review. The Medical Consultant opined that there was insufficient information to support that she is mentally incapacitated from performing her job duties.

Ms. Schaal provided additional medical evidence, and her claim was sent back to MMRO for an addendum to the original report. MMRO determined the additional medical evidence that Ms. Schaal provided was insufficient to support her claim.

Ms. Schaal is appealing the denial of her nonoccupational disability claim and requesting to be paid 50% of her earnings for the entire time she was unable to work due to her disabilities from February to April. She has requested a personal hearing via telephone.

After hearing Ms. Schaal present her case and some discussion, the Committee decided to refer to external counsel for a recommendation.

There being no further business to be brought before the Committee, the meeting was adjourned at 10:46 a.m.

The next meeting of the Executive Committee is scheduled for October 10, 2024, in the System's Springfield office.

Marvin Becker, Chairperson

Arnold Black, Vice-Chairperson

Timothy Blair, Executive Secretary