

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

January 13, 2022

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, January 13, 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
Timothy Blair, Executive Secretary

Committee Members Absent:

David Morris, Vice-Chairperson

Others Present:

Jeff Houch, Assistant to the Executive Secretary
James Stivers, General Counsel
Eric Glaub, Manager, Claims Division
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on December 9, 2021, were presented by Chairperson Becker for approval. Copies of the minutes were previously e-mailed to Committee members for review. Chairperson Becker moved to approve the minutes as submitted. The motion was seconded by Executive Secretary Blair, and by unanimous vote, the minutes were approved by the Committee members present.

Routine Claims Report

The Routine Claims Report for December 2021 was presented. Following review and discussion, the Routine Claims Report for December 2021, as prepared by staff, was received by the Committee.

Old Business

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

Mr. Eric Glaub, Claims Division Manager, informed the Committee at its July meeting

that Mr. Bouton had asked to defer his case until he is able to attend the hearing in person.

Mr. Glaub reminded the Committee that Mr. Bouton had requested a formal hearing that would be scheduled as soon as logistically possible.

Yeashea Figgures-Lawton – Appeal of Non-occupational Disability Benefit Claim Denial – Deferred

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 informed the committee that Ms. Figgures-Lawton had submitted new medical documentation that was currently under review.

Jason Allen – Appeal of Adjustment to Monthly Pension Amount – Recommendation

Jason Allen retired August 1, 2016. His pension required review because additional contributions were posted from back wages paid out by his former agency.

During the review it was determined the final average compensation (FAC) was calculated incorrectly at retirement because non-pensionable earnings were mistakenly included. Lump sum holiday payments were discovered within the initial calculation.

Lump sum holiday payments are not pensionable so the agency should not have

withheld retirement contributions. A refund is due to Mr. Allen for these retirement contributions.

Mr. Allen's FAC was recalculated and adjusted in accordance with Section 14-148.1 of the Illinois Pension Code. The recalculation resulted in a lower FAC than was used at retirement and resulted in an overpayment in pension benefits. Since the mistake was undiscovered for more than 3 years the overpayment is not due and Mr. Allen's monthly pension amount was adjusted, as prescribed by law.

Mr. Allen is appealing the adjustment to his monthly pension amount. If the adjustment stands, a full refund is due to Mr. Allen for all contributions that were mistakenly taken from lump sum holiday payments by his agency.

After hearing Mr. Allen present his case at their December 2021 meeting, the Committee decided to refer the matter to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2022-1 to deny Mr. Allen's appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-1. The motion was seconded by Chairperson Becker and passed unanimously.

Terry Hart – Appeal of Adjustment to Monthly Pension Amount – Recommendation

Terry Hart retired July 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 the final average compensation (FAC) was calculated incorrectly at retirement because non-pensionable earnings were mistakenly included. Lump sum holiday payments were discovered within the initial calculation.

Lump sum holiday payments are not pensionable so the agency should not have withheld retirement contributions. A refund is due to Mr. Hart for these retirement contributions.

Mr. Hart's FAC was recalculated and adjusted in accordance with Section 14-148.1 of the Illinois Pension Code. The recalculation resulted in a lower FAC than was used at retirement and resulted in an overpayment of pension benefits. Since the mistake was undiscovered for more than 3 years the overpayment is not due and Mr. Hart's monthly pension amount was adjusted, as prescribed by law.

Mr. Hart is appealing the adjustment to his monthly pension amount.

After hearing Mr. Hart present his case at their December 2021 meeting, the Committee decided to refer to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2022-3 to deny Mr. Hart's appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-3. The motion was seconded by Chairperson Becker and passed unanimously.

Shafiah Dunmars – Appeal to Waive Overpayment – Personal Hearing via Videoconference – Recommendation

Shafiah Dunmars has 12 years and 7 months of service credit and is currently receiving a non-occupational disability benefit for a separate disabling condition. From July 31, 2015, through May 31, 2016, Ms. Dunmars received SERS temporary disability benefits as she was disputing the denial of workers' compensation benefits. On August 27, 2021, Ms. Dunmars was granted a permanent partial disability (PPD) settlement for a total gross payment of \$62,506.45 for injuries resulting from her first period of disability. Of that gross amount, \$12,501.29 covered attorney's fees, and \$568.49 covered medical expenses. In accordance with its rules, staff subtracted those amounts from the total gross payment and determined that SERS had a statutory obligation to offset her occupational disability benefits by \$49,436.67.

Since Ms. Dunmars received an employer-paid benefit under the Workers' Compensation Act', her SERS temporary disability benefits were converted to SERS occupational disability benefits, which resulted in an overpayment of temporary disability benefits totaling \$30,448.71 and an underpayment of occupational disability benefits totaling \$16,773.24, leaving an arrearage of \$13,675.47 owed to the System.

When System staff calculated the offset to be applied to the occupational disability benefits Ms. Dunmars was due, they used the formula referenced under the relevant administrative rule (80 Ill. Admin. Code 1540.90). The Workers' Compensation maximum average weekly wage for the applicable occupational disability period was \$1,234.76 for awards for permanency, which equates to a weekly workers' compensation benefit of \$740.86 (60% of the average weekly wage). When determining the monthly offset to the occupational disability benefits due, staff multiplied the weekly workers' compensation benefit of \$740.86 by 52, then divided by 12 which produced a monthly offset amount of \$3,210. In accordance with the System's rules, the total amount of occupational disability benefits to be offset could not exceed \$49,436.67. Given that she was due occupational disability benefits for closed period of 11 months, the actual offset amount to her occupational disability benefits totaled \$35,314.18, well below the amount of the net PPD payment she received.

Ms. Dunmars' makes two requests in her appeal. Her first request is to have her overpayment of \$13,675.47 waived. She contends that the workers' compensation PPD payments do not trigger the conversion of her temporary disability benefits to occupational disability benefits. Said differently, she asserts that her temporary disability benefits from SERS should not be converted to occupational disability benefits because she was not awarded TTD benefits during that period. She also contends that no "excess" temporary benefits, as described in subsection (d) of Section 14-123.1, were paid by SERS because she should not have had her temporary disability benefits converted to occupational disability benefits. Furthermore, she contends that the workers' compensation settlement provides no determination that the injuries were occupational, only that money was paid on permanency to resolve a disputed claim.

Additionally, she contends that her "permanency" situation has created a financial hardship for her and that reimbursing the System by \$13,675.47 will increase that hardship.

In the alternative, Ms. Dunmars requests to have her overpayment of \$13,675.47 reduced by the amount of attorney's fees specified in the settlement, which is \$12,501.29. She points to the System's relevant administrative rule (i.e., 80 Ill. Admin. Code 1540.90(a)(5)) as the justification for this reduction. It is noted that when staff determined the maximum amount to be offset from her occupational disability benefits, it factored in the subtraction of those attorney's fees as identified in the determination of the net PPD settlement amount of \$49,436.67, which also represents the maximum offset amount as provided under the SERS plan design.

After hearing Ms. Dunmars and her attorney present her appeal at their December 2021 meeting, the Committee decided to refer the case to external counsel for a recommendation.

Attorney Evans presented Recommendation No. 2022-2 to deny Ms. Dunmars appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-2. The motion was seconded by Chairperson Becker and passed unanimously.

New Business

Victor Rodriguez – Appeal of Disability Benefit Overpayment Amount and Repayment Terms

Victor Rodriguez worked for the Illinois Department of Transportation. He was injured on the job on May 4, 2019, and filed a Workers' Compensation (WC) claim. His claim was denied, and he appealed this denial by filing an Application for Adjustment of Claim. He then applied for a SERS temporary disability benefit.

Mr. Rodriguez received temporary disability benefits from SERS from May 14, 2019 through May 10, 2020. He returned to work on May 11, 2020.

Mr. Rodriguez won his WC appeal and was awarded TTD payments for part of the period SERS temporary disability benefits were paid. He also received a lump sum settlement; therefore, SERS converted his temporary disability benefits into occupational disability benefits, which created an overpayment.

The conversion for the settlement resulted in an overpayment of \$8,971.76 and the conversion for the TTD payments resulted in an overpayment of \$11,171.41, for a total overpayment of \$20,143.17 owed to SERS.

Mr. Rodriguez is appealing to seek a reduction in the total overpayment, in addition to a reduction in the monthly repayment terms. The reduction is specifically in the amount of \$11,424.74, which was the cost for attorney fees. He is requesting to repay the remaining overpayment in monthly installments of \$300.

Mr. Glaub informed the committee that Mr. Rodriguez had requested to defer his case to their February meeting.

Nina Watts – Appeal of SSA Award Overpayment Repayment Terms

Nina Watts was approved for a SERS nonoccupational disability benefit effective January 13, 2018.

In October 2021, SERS was notified Ms. Watts was approved for a retroactive Social Security Administration (SSA) disability benefit effective June 1, 2018. The retroactive benefit created an overpayment of SERS disability benefits from June 1, 2018 through December 15, 2019. A notification letter was sent to Ms. Watts on November 3, 2021 to explain the reason for the overpayment and the amount due.

In July 2020, Ms. Watts appealed to reduce the repayment terms of an overpayment that resulted from untimely notification of her return to work in December 2019. The appeal was approved by the Executive Committee in the amount of \$300.00 per month (\$150.00 per pay).

The Overpayment Section is to deduct 20% of the member's gross pay to be applied to the overpayments owed to SERS. Ms. Watts was sent an email on November 10, 2021 explaining the combined total balance and the new required repayment plan amount.

Ms. Watts is an active state employee, and the new repayment amount would pay off the remaining balance in 28 months (2 years, 4 months). Ms. Watts is requesting a payment plan in the amount of \$900.00 per month (\$450.00 per pay), which would repay the overpayment in 54 months (4 years, 6 months).

After reviewing the facts of the case and some discussion, Chairperson Becker moved to approve Ms. Watts' appeal. The motion was seconded by Executive Secretary Blair and passed unanimously.

Linda Jones – Appeal of SSA Award Overpayment Repayment Terms

Linda Jones was approved for a SERS nonoccupational disability benefit effective January 13, 2011.

In November 2014, SERS was notified Ms. Jones was approved for a retroactive Social Security Administration (SSA) disability benefit effective June 1, 2011. The retroactive benefit created an overpayment of SERS disability benefits from June 1, 2011 through September 30, 2013.

The overpayment due is in accordance with Section 14-125 of the Illinois Pension Code. SERS sent Ms. Jones a notification letter on December 3, 2014 explaining the calculation of the overpayment and the amount due.

A repayment contract was signed by Ms. Jones on February 5, 2015 agreeing to pay the

amount of \$200.00 per month to SERS. The last payment was received in October 2017.

Ms. Jones took a refund of her retirement contributions in February 2018 and the full refund amount was applied to the balance of the overpayment. Repayment letters for the remaining balance were sent on July 31, 2018 and December 10, 2021.

Ms. Jones is not eligible for any future benefits from SERS. She currently receives a monthly benefit from SSA. Under the signed contract repayment plan of \$200.00 per month, the overpayment would be paid in 93 months (7 years, 9 months). Ms. Jones is requesting a payment plan of \$100.00 per month, which would repay the overpayment in 186 months (15 years, 6 months).

Following a review of the case, Executive Secretary Blair moved to deny Ms. Jones' request. The motion was seconded by Chairperson Becker and passed unanimously.

Marisa Kibierrsa, Kara Stefanski and Danielle Stefanski – Appeal to Waive Overpayment of Death Benefits – Deceased Mbr: Daniel Stefanski

Daniel Stefanski retired October 1, 2017 with a Qualified Illinois Domestic Relations Order (QILDRO) on file. Mr. Stefanski had contributions and interest in his retirement account in the amount of \$20,663.18. He died on March 7, 2021. Over the course of his retirement, he received \$9,088.14 in pension payments and the alternate payee received \$9,087.15, resulting in a death benefit payable of \$2,487.89.

When the death benefit was paid, the amount paid to the alternate payee was not considered so it was mistakenly included in the lump sum payouts. This created an overpayment of \$9,087.15 total or \$3,029.05 for each of the three beneficiaries.

All three beneficiaries, Marisa Kibierrsa, Kara Stefanski and Danielle Stefanski are appealing the overpayment.

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

Connie Zuniga – Appeal to Receive COLA Buyout after Retirement

Connie Zuniga retired on April 1, 2020 from a nonoccupational disability benefit. She declined the COLA buyout at retirement.

Ms. Zuniga is appealing to receive the COLA buyout after retirement.

Following a brief discussion of the facts presented, Executive Secretary Blair moved to deny Ms. Zuniga'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

adjourned at 9:37 a.m.

The next meeting of the Executive Committee is scheduled for February 10, 2022, in the System's Springfield office.

Marvin Becker, Chairperson

Timothy Blair, Executive Secretary