



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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February 22, 2024

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

Sent via email to: [REDACTED]

Hon. David Lande, J.W.C.
[REDACTED]

RE: PERS # [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Judge Lande:

I am writing in reference to the decision of the Board of Trustees (Board) of the Public Employees' Retirement System (PERS) denying your request to apply a purchase of prior service credit to your PERS-Workers' Compensation Judge Part (PERS-WCJ) membership account. The Board originally denied your request at its meeting on October 18, 2023. On December 6, 2024, you filed a timely appeal of the Board's decision.

The Board considered your appeal at its meeting of January 17, 2024. After careful consideration, the Board affirmed its prior decision, and finding no genuine issue of material fact in dispute, determined that an administrative hearing was not necessary to resolve your appeal. Thereafter, the Board directed the undersigned to draft this Final Administrative Determination.

Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its February 21, 2024 meeting.

FINDINGS OF FACT

The Board made the following factual findings.

You were enrolled in the PERS-WCJ on June 5, 2021. On April 29, 2022, you requested to purchase Military service credit for the period beginning on July 7, 1991 and ending on July 6, 1994. A letter dated May 26, 2022 from the Division of Pensions and Benefits (Division) advised

that you were eligible to purchase 36 months of Military service. The letter also advised that PERS-WJC enabling statute, Chapter 259, P.L. 2001, did not include a purchase provision. Therefore, your purchase of Military service would be credited as “regular” PERS service credit and would not be credited towards your PERS-WJC account.

A letter dated September 12, 2022 from the Purchase Section acknowledged receipt of your appeal for the purchase of additional service credit, and advised that your purchase request was under review.

By letter dated May 12, 2023, Shirlene Scott, Pensions Benefits Specialist, Purchase Section, advised:

...there are no provisions in the law allowing the purchase of Military service to be considered as Workers’ Compensation Judges Part Service. Therefore, the Purchase Section has no authority and must deny your request to allow the Military service time to be considered as Workers’ Compensation Judges Part service.

You appealed the decision to the PERS Board. At its meeting on October 18, 2023, the Board considered your personal statements and submissions, as well as all relevant documentation in the record. After careful review, the Board affirmed the Division’s administrative determination and denied your request to apply a purchase of service credit to your PERS-WCJ account.

On December 6, 2023, you filed an appeal of the Board’s decision.

At its meeting of January 17, 2024, the Board considered your written submission in furtherance of your appeal. Thereafter, the Board affirmed its original determination. Further, finding no genuine issue of material fact in dispute, the Board determined that an administrative hearing was not necessary. Thereafter, the Board directed the undersigned to draft this Final Administrative Determination.

Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its meeting of February 21, 2024.

CONCLUSIONS OF LAW

The Board made the following conclusions of law.

The membership and benefit provisions of the PERS-WCJ are controlled by N.J.S.A. 43:15A-143(2), which states, in pertinent part:

Notwithstanding the provisions of any other law, workers compensation judges shall be members of the Workers Compensation Judges Part, established pursuant to this act, P.L.2001, c.259 (C.43:15A-142 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.259. Membership in the retirement system shall be a condition of employment for service as a judge of compensation.

The purchase of PERS service credit for PERS-WCJ members is governed by N.J.S.A.

43:15A-152(a), which states:

- a. Any workers compensation judge who wishes to receive credit for previous service as a judge of compensation or in an office, position, or employment of this State or of a county, municipality, board of education, or public agency of this State, shall file an application therefor with the board of trustees and pay into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to the judge's age at the time of purchase and the type of service to be purchased, to the member's salary at that time. Such purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system over a maximum period to be determined by the board of trustees.

In your appeal, you asserted that your purchase of Military service credit should be treated as PERS-WCJ service rather than "regular" PERS service, as the legislative intent was to provide enhanced benefits for Workers' Compensation Judges. However, the PERS-WCJ statute authorizes two distinct types of purchases; "regular" PERS service and service as a Judge of Workers Compensation. In fact, the statutes treat each service differently for the purpose of calculating the retirement benefit. For example, N.J.S.A. 43:15A-146 provides that a PERS-WCJ member will receive a pension equal to 75% of their final salary under the following conditions:

Any workers compensation judge who has served at least 10 years as a judge of compensation and attained the age of 70 years shall be retired and shall receive the retirement allowance prescribed by this section.

Any workers compensation judge who has served at least 15 years as a judge of compensation and attained the age of 65 years, or served at least 20 years as a judge of compensation and attained the age of 60 years, may retire and receive the retirement allowance prescribed by this section. The retirement allowance shall consist of an annuity that shall be the actuarial equivalent of the member's accumulated deductions together with regular interest, and a pension that, when added to the member's annuity, shall provide a retirement allowance during the remainder of the member's life in the amount equal to three-quarters of the member's final salary.

Additionally, "regular" PERS service may be added to PERS-JWC service in order to qualify for benefits for judges retiring after having served as little as 5 years in that position. N.J.S.A. 43:15A-147 provides that:

Any workers compensation judge who has:

- a. served at least five years successively as a judge of compensation and attained the age of 65 years or more while serving in such office and has served at least 15 years of aggregate public service, or
- b. served at least five years successively as a judge of compensation and attained the age of 60 years or more while serving in such office and has served at least 20 years of aggregate public service, may retire and receive the retirement allowance prescribed by this section. The retirement allowance shall consist of an annuity that shall be the actuarial equivalent of the member's accumulated deductions together with regular interest, and a pension that, when added to the member's annuity, shall provide a retirement allowance during the remainder of the member's life in an amount equal to one-half of the member's final salary.

Thus, contrary to the assertions in your letter of appeal, the plain statutory language clearly contemplates that PERS-WCJ service time is treated differently from other PERS-covered service that is earned, purchased, or transferred. Thus, Such other PERS service, in the example of a 60-year-old judge, would support a lesser pension (one-half of final salary) than a pension based on 20 years of service as a judge of compensation (three quarters of final salary).

The Board also notes that the Workers' Compensation Judges Member's Guidebook Addendum defines "*Workers Compensation Judge service*" as "your total years of service in total service credit number of years in the WCJ Part." It further defines "*Regular PERS service*" as "the aggregate years of PERS service in titles other than those in the WCJ Part. This includes service purchased or transferred into the PERS."

For these reasons, the Board denied your request to apply Military service credit to your PERS-WCJ pension account.

As noted above, the Board has considered your written submissions, personal statements and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625

Sincerely,



Jeff S. Ignatowitz, Secretary
Board of Trustees
Public Employees' Retirement System

David Lande
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C: S. Scott (ET)