



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
P. O. Box 295

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www.nj.gov/treasury/pensions
November 17, 2022

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

Sent via email to: [REDACTED]

Daniel McNair
[REDACTED]

RE: PERS [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. McNair:

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 change your retirement option selection from Option A to the Maximum Option after the 30-day period for amending your application had expired.

The Board originally denied your request at its meeting of July 20, 2022. [REDACTED] filed a timely appeal of that determination on your behalf on September 7, 2022. At its meeting of October 24, 2022,¹ the Board found no genuine issue of material fact in dispute and denied your request for an administrative hearing. Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the PERS Board at its November 16, 2022, meeting.²

FINDINGS OF FACT

The record before the Board establishes that on December 30, 2019, you submitted an *Application for Retirement Allowance* for a Service retirement effective July 1, 2020, under Option

¹ Due to a scheduling conflict, this matter was moved from the agenda of the PERS Board's regularly scheduled meeting of October 19, 2022 to the agenda of a special meeting on October 24, 2022. Both meetings were conducted via teleconference.

² The meeting was held via teleconference.

A, and designated [REDACTED],³ as your pension beneficiary. A *Quotation of Retirement Benefits* (Quotation) was sent to you on January 30, 2020, at the address noted above. The Quotation included all options payable and listed [REDACTED] as your beneficiary.

The Quotation also advised:

Once you retire, **you cannot change your payment method option.** If you chose payment method options A, B, C, D, 2, 3, 4. **Under no circumstances can you change your beneficiary selection** once you retire, even if your beneficiary dies before you. You have the right to withdraw, cancel, or change your application for retirement at any time before the later of 30 days after your retirement date or 30 days after the Board of Trustees approves your retirement.

[(Emphasis in original.)]

At its meeting on February 19, 2020, the Board approved your retirement effective July 1, 2020, under Option A. On February 19, 2020, the Division memorialized the Board's decision via letter, and again you were advised that you had 30 days after the effective date of your retirement, or the date of Board approval, whichever is later, to make any changes to your retirement.

Thus, pursuant to N.J.A.C. 17:2-6.3(b), and as detailed in the Board letters, you had until July 31, 2020 to make any changes to your retirement. You did not request to make any changes to your retirement until October 7, 2020, well-beyond the 30 days as permitted under the regulation.

The Division's records indicate that you first contacted the Division on October 7, 2020 and requested to change your retirement option to the Maximum Option. In response, on November 10, 2020, a letter was sent to you indicating that you could not change your retirement option because your retirement was beyond the due and payable date. A copy of the Quotation was enclosed with the letter.

On June 25, 2021, you contacted the Division's call center to request to change your retirement option for a second time. You also asserted that you tried to contact the Division prior to your retirement but were unsuccessful. The representative advised that you were no longer able to change your retirement option as you were beyond the due and payable date, but instructed you to send a copy of your October 7, 2020, letter. The Division responded via letter dated June 29, 2021, advising you of the regulation and denied your request. You appealed the Division's determination to the Board.

At its meeting of July 20, 2022, the Board denied your request for the reasons detailed above. At its meeting of October 24, 2022, the Board denied your request for an administrative hearing and directed the Board Secretary to draft findings of fact and conclusions of law for review at its meeting of November 16, 2022.

CONCLUSIONS OF LAW

The Board made the following conclusions of law.

PERS regulations provide that "a member shall have the right to withdraw, cancel, or change an application for retirement at any time before the member's retirement allowance becomes due and payable..." N.J.A.C. 17:2-6.3(a). Such changes are permitted prior to the member's retirement becoming "due and payable," which occurs after 30 days have elapsed following the effective retirement date or Board approval, whichever is later. Ibid.

Here, there is no dispute that the Board approved your retirement application on February 19, 2020, with your retirement to become effective July 1, 2020. Thus, pursuant to the regulation, you had until July 31, 2022 to change your retirement option. However, you did not request to change your retirement option until October 7, 2020, well-beyond the 30 days permitted under the regulation. Accordingly, the Board denied your request to change your retirement option from Option A to the Maximum Option as you were beyond the time period for doing so under the regulation.

Daniel McNair
November 17, 2022
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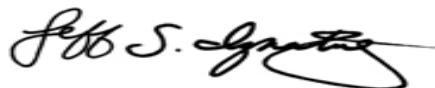
As noted above, the Board has considered your written submission and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and 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 also 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 Ignatowitz, Secretary
Board of Trustees
Public Employees' Retirement System

G-8 /SD
C: J. Ehrmann (ET)