



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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August 17, 2023

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

Sent via email to: [REDACTED]

Margaret McCormack
[REDACTED]

RE: PERS [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear McCormack:

At its meeting on July 19, 2023, the Board of Trustees (Board) of the Public Employees' Retirement System (PERS) considered your appeal of the Board's denial of your request to purchase service credit following the recalculation of your retirement benefit. The Board had originally denied your request to purchase service credit at its meeting of May 17, 2023. You filed a timely appeal of the Board's decision on July 5, 2023.

After careful consideration, the Board affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an administrative hearing. Thereafter, the Board directed the undersigned to draft a Final Administrative Determination, which was reviewed and approved at its meeting of August 16, 2023.

FINDINGS OF FACT

The Board made the following factual findings.

The record before the Board establishes that the Division of Pensions and Benefits' (Division) Retirement Bureau, Quality Control Section, reviewed your membership account and concluded that your retirement benefit had been overstated because of information provided on the *Certification of Service and Final Salary* form (provided by your former employer), submitted on December 9, 2021. The certification projected salary and service credit through pay period #3,

2022, which covers the period of January 15, 2022 through January 28, 2022. However, you did not continue working through that pay period, and the Division was required to recalculate your retirement benefit because you did not earn salary or make any pension contributions after pay period #23, 2021, which covers the period of October 9, 2021 through October 22, 2021. This correction reduced your total PERS service credit to 118 months, which also rendered you ineligible for group life insurance coverage as a retired member because your account lacked the requisite 120 months of service credit.

You represent that you relied on the December 28, 2021, *Quotation of Retirement Benefits*, which reflected 10 years and 1 month of service credit based on information provided on the aforementioned certification. However, the quotation included the following:

This Quotation of Retirement Benefits was prepared based on current information available in our system and projected information reported by your employer. Your benefit may be recalculated in the future due to an audit based on new information received from your employer or for a discrepancy in your account.

Further, the Board noted that you were provided two retirement estimates, sent to your home address, both dated May 25, 2021, based on retirement dates of September 1, 2021 and October 1, 2021, which reflected service credit of 9 years and 8 months and 9 years and 9 months respectively. Therefore, based on that information, once you were placed on an unpaid leave after October 22, 2021, it would be evident that your account would lack ten years of service credit.

As a result of the recalculation of the amount of your PERS service credit, you requested that you be permitted to purchase additional service credit in order to attain 10 years in the system to allow you to qualify for a life insurance benefit. After a review of your account, the Division determined that because a purchase application was not on file at the time your retirement became due and payable (March 2, 2022) you were not permitted to purchase any outstanding service time.

The Board considered your request to purchase service credit at its meeting of May 17, 2023. At the meeting, the Board found that you did not have a purchase application on file at the time your retirement became due and payable and therefore you are not eligible to purchase any outstanding service time. On or about July 5, 2023, you filed a timely appeal of the Board's decision and requested reconsideration.

At its meeting on July 19, 2023, the Board considered your appeal, affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an administrative hearing.

CONCLUSIONS OF LAW

The Board made the following conclusions of law.

Active PERS members are eligible to submit an *Application to Purchase Service Credit*.

The eligibility requirements are outlined in N.J.A.C. 17:2-5.1(a), which states, in pertinent part:

(a) Only active members of the System who are currently contributing, or who have contributed within the last two years to the System, shall be eligible to make application for purchase of service credit. Active members who are not currently contributing to the PERS, must purchase their requested service in a lump sum. The purchase request must represent active service in a State-administered retirement system for which the member received a salary and was eligible for enrollment, but the information must be verified by the employer as to salary information, service, and title.

[(Emphasis added)].

Based on the plain language of the regulations as applied to the facts in the record, the Board determined that you did not have a purchase application on file at the time your retirement became due and payable. Thus, you were no longer an active member of the PERS and were deemed ineligible to purchase service credit.

In your appeal, you claimed that you did not receive the two estimates that were sent to your home address, but agreed that information (the fact that you would not have the requisite 10 years to qualify for group life insurance) has never been disputed. You further claimed that you

relied on the information in the *Quotation of Retirement Benefits* and the advice of your Human Resource department that the PERS system had not been updated. However, as mentioned previously, the *Quotation of Retirement Benefits*, which you acknowledged receipt of specifically stated, "Your benefit may be recalculated in the future due to an audit based on new information received from your employer or for a discrepancy in your account."

Consequently, the Board found that because you are not an active PERS member you are not eligible to purchase additional service credit.

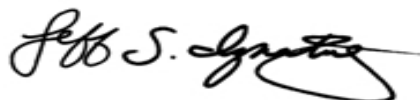
As noted above, the Board has considered your personal statements, written submission and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's 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 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

Margaret McCormack
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C: D. Bernardini (ET); S. Scott (ET)