



MIDDLESEX COUNTY RETIREMENT SYSTEM NEWS

Celebrating Over 100 Years of Public Service

Fall 2022

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Regular Compensation Update



*By Thomas Gibson,
Chairman*

As reported last Spring, the Supreme Judicial Court issued a decision clarifying the law regarding supplemental payment of sick leave and vacation in conjunction with payment of workers' compensation. In *Worcester Regional Retirement Board v. PERAC*, 489 Mass. 94 (2022), the Court determined that supplemental pay to an employee who is also receiving workers' compensation is not regular compensation and could not be used in retirement calculations. In certain cases, the Court's ruling also removed creditable service. The Court expressly stated that its ruling was retroactive, meaning that retired members and beneficiaries who received such payments would be subject to benefit reduction, and, in some situations, termination of benefits.

Fortunately, after the Middlesex County Retirement Board, along with other concerned entities, brought this inequity to the attention of the Legislature, the Legislature and the Governor approved a section in the State Budget Act which protected those who retired prior to July 1, 2022, from any benefit reduction or termination.

In a later decision issued on August 11, 2022, *O'Leary v. CRAB*, 490 Mass. 480 (2022), the Supreme Judicial Court affirmed that payments received in lieu of taking vacation time, as well as sellbacks of other accrued leave, are not regular compensation. MCRS had formally promulgated such a policy in 2015. Again, the Court expressly stated that its ruling was retroactive, negatively impacting any retiree whose retirement calculations included such payments.

A week prior to the Court's decision, on August 4, 2022, the Legislature and Governor enacted a law which protects retirees who retired prior to May 18, 2018. In those retirement systems where a program allowing sellbacks of unused vacation time as regular compensation was in place as of that date, the program was allowed to continue on a limited basis.

The Board will continue to report timely on litigation and legislation that impacts members and beneficiaries of MCRS.

www.middlesexretirement.org

Medicare Premiums and Social Security COLA —Good News!!

By Francine Kollias, MCRS Social Security Specialist



For several years I have been writing articles for the MCRS Newsletter to help you better understand Social Security and Medicare. I have also informed you about the Windfall Elimination Provision

(WEP), Government Pension Offset (GPO) and programmatic changes. Hopefully, this information has been helpful, but it certainly hasn't made you smile — until now!!

On September 27, 2022, the Centers for Medicare and Medicaid Services (CMS) announced Medicare updates for 2023. The good news is that Medicare Part B premiums are decreasing! In 2023, the standard monthly premium will decrease \$5.20 to the new rate of \$164.90/month per person. Those who receive Social Security payments will continue to have the premiums deducted from their monthly benefits. Those who pay Medicare premiums on a quarterly basis will be billed at a lower quarterly rate based on the new \$164.90 monthly premium.

The decrease in the Part B premium is due to lower than projected 2022 spending on certain Part B items and services. This resulted in larger reserves in the Part B account of the Supplemental Medical Insurance Trust Fund.

There is more good news to share! **On October 13, 2022, the Social Security Administration announced an 8.7% cost-of-living adjustment (COLA) for 2023.** The 8.7% COLA will begin with benefits payable in January 2023 and affects 70 million beneficiaries receiving Social Security and Supplemental Security Income.

These 2023 changes have delighted the Acting Social Security Commissioner Kilolo Kijakazi. “Medicare premiums are going down and the Social Security benefits are going up in 2023, which will give seniors more peace of mind and breathing room. This year’s substantial Social Security cost-of- living adjustment is the first time in over a decade that Medicare premiums are not rising and shows that we can provide more support to older Americans who count on the benefits they have earned.”

By the time you read this newsletter, you may have already heard the news. But good news is always worth repeating! For more information on either of these benefits, visit the CMS and Social Security Administration websites.

***I wish you good health and happiness
into the New Year!***



Pension Forfeiture: Know the Laws

Our members should be aware that Massachusetts has some of the strictest public pension forfeiture laws in the country. Under Massachusetts General Laws Chapter 32, §15, a member who is convicted of a crime which is legally or factually related to the member's position loses the right to receive a retirement allowance. Moreover, a member who is convicted of misappropriation of funds from the employer would not only lose the right to receive a retirement allowance, but would also forfeit the return of the member's retirement contributions.

As the law currently stands, there is no distinction between a member's conviction of a felony or misdemeanor, or of a federal or state offense. Once a direct link between the crime and the member's position is established, the retirement board is compelled to forfeit the retirement allowance. The law allows for no consideration of mitigating circumstances, such as social, psychological or economic factors, or of a member's good reputation and past good deeds – pension forfeiture is automatic by operation of law.

A member may appeal forfeiture of pension rights to the District Court, where a member can also argue that the pension forfeiture is an excessive

fine in violation of the Eighth Amendment to the United States Constitution. That determination, however, can only be made by the Court – the retirement board is required to follow Chapter 32's mandates and has no legal standing to decide constitutional issues.

The Legislature formed a Commission in 2016 to study pension forfeiture issues which have arisen

A MEMBER MAY APPEAL A FORFEITURE OF PENSION RIGHTS TO THE DISTRICT COURT, WHERE A MEMBER CAN ALSO ARGUE THAT THE PENSION FORFEITURE IS AN EXCESSIVE FINE IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

under the current law, as recognized by the Court. Several recommended legislative initiatives have been submitted to amend the “all or nothing” statutory requirement, allowing for partial pension forfeiture under certain criteria. However, the Legislature thus far has not taken any action to enact these recommended changes.

The Board will continue to monitor and report on all legislation that impacts members of MCRS.

Members' Alert: Beware of Retirement Scams!

We are advising our members of recent attempts to scam public employees, retirees, and beneficiaries regarding their retirement benefits.

Retirement Counseling Scam. This scam involves a person or entity reaching out directly to active and retired members of retirement systems, at their workplace or at home, posing as a sanctioned financial advisor. An offer is made to schedule a meeting to provide “free” counseling regarding retirement planning and pension benefits, including social security. These offers may appear to be coming from legitimate entities and may also indicate approval by your employer or MCRS, rendering the appearance of authenticity. However, the true goal of the scammer’s offer of “free” counseling is to obtain and illegally use your personal financial information, including account numbers and social security numbers.

Direct Deposit Scam. There have been increasing attempts by fraudsters pretending to be retirees seeking to change their direct deposit banking information. This scheme may involve submitting the retirement board’s form to make these bogus changes. **MCRS will accept direct deposit authorizations only when made on an original form with signature, and when delivered by US mail, commercial delivery service (e.g., FedEx, UPS), or in person. Forms will not be accepted by fax, scan, or email.** MCRS staff reviews each direct deposit authorization and may contact the retiree or beneficiary to verify the request.

We are alerting all members of these fraudulent phishing efforts and strongly urge anyone who may be contacted to check with MCRS regarding the validity of any communications you receive about your retirement benefits.



**Chairman
Tom Gibson
Serves as
MACRS Legal
Panel Moderator**

The Massachusetts Association of Contributory Retirement Systems held its annual Fall Conference October 2 – 5, 2022 in Springfield, Massachusetts. The Conference was attended by over 200 participants. The Board’s Chairman, Thomas Gibson, Esq., moderated the Legal Panel and joined fellow attorneys Christopher Collins, Gregory Galvin, Matthew Feeney, and Brendan McGough in a two-hour presentation and discussion. Topics included the disability retirement application process, third-party recovery actions, post-traumatic stress disorder, and other recent cases of note.



The Board has been closely monitoring legislation that would expand the opportunity for veterans to purchase their military service as creditable service, discussed further below. H5051 was reported out of the House Ways and Means Committee and was engrossed on July 28, 2022. The bill, which increases the time allowed for new members to elect to purchase their military service and allows active members an additional opportunity to do so, is now with the Senate Ways and Means Committee.

It is important to the Board that our members are aware of the retirement rights and benefits associated with military service. If you are a veteran or have served on active military duty since becoming a member, you should confirm that MCRS has a copy of your DD214s and military orders, so that MCRS can ensure that you have been credited with all the benefits to which you are entitled.

To be eligible for retirement veteran's benefits, one must be a "veteran" as defined under G.L. c. 4, §7, cl. 43rd as amended by the Acts of 2005, c. 130. Please note that the six months of active duty for training in the Active Reserves and the National Guard (ACDUTRA) does not qualify as active service.

Outlined below is a general summary of the retirement laws which pertain to military service and veteran's status:

» Veteran's Benefit:

If you are a veteran, upon retirement you will be entitled to \$15 a year extra for every year or fraction thereof of creditable service, up to a maximum additional benefit of \$300.00 per year.

» Veteran's Military Service Credit:

Eligible honorably discharged veterans have the right to purchase up to four years of military service to add to their creditable service. Members of the National Guard and Army Reserve who qualify as veterans may also be eligible to purchase military service on a pro-rated 5:1 ratio. Payment of 10% of your salary when you last became a member of a retirement system per year of creditable service purchased is required. No interest is owed on this purchase and the Middlesex County Retirement Board allows for installment payments up to five years.

» Active Military Duty While a Member:

When an active member is called to military service and then returns to their job, he or she is granted creditable service for this time towards their retirement, subject to certain statutory restrictions. There is usually a limit of four years that may be credited for military service towards your retirement, but if you were involuntarily called up to duty, this time can be exceeded.

*If you have any questions regarding these benefits,
please contact MCRS for more information at mrs@middlesexretirement.org.*

***The Middlesex County Retirement Board thanks
members for their military service!***



Reminder:

Health Insurance Premium Exclusion for Public Safety Retirees

If you are a retired public safety officer, the federal Pension Protection Act of 2006 allows you to exclude up to \$3,000 of your health, accident, or long-term care insurance premiums from your gross taxable income each year, as long as the premiums are deducted from your retirement allowance. The premiums can be for coverage for you, your spouse or dependents.

If you are filing a federal tax return, please read carefully the IRS tax instructions in order to take full advantage of this benefit. Premium contributions will be reflected on your 2022 1099R.

The following tips may be helpful when you prepare your federal return:

- » You must be a public safety retiree who retired for disability or after attaining “normal retirement age” (i.e., age 55 for Group 4 for those entering service prior to April 2, 2012, age 57 for Group 4 for those entering service on or after that date).
- » You need to file a federal income tax return in order to take advantage of the exclusion. If you do not file a federal return, then the exclusion will not benefit you.
- » Your insurance premiums must be deducted from your pension check and paid directly to the health insurance carrier. Medicare Part B premiums do not qualify.

Please be aware that the retirement office is not able to render tax advice. If you have your federal tax return prepared by someone, please make sure the tax preparer knows that you are entitled to the exclusion. For additional assistance, retirees should contact a tax consultant.



The Middlesex County Retirement Seal

The Official Seal of the Middlesex County Retirement System (depicted here) is based upon the famous Concord Minuteman Statue at the North Bridge in Concord. Unveiled with great fanfare on April 19, 1875, the statue was sculpted by Daniel Chester French in honor of Captain Isaac Davidson, who was killed at North Bridge during the Battle of Concord, exactly one hundred years prior.

Inscribed at the base of the statue is the first stanza of Ralph Waldo Emerson's Concord Hymn:

*By the rude bridge that arched the flood,
Their flag to April's breeze unfurled,
Here once the embattled farmers stood,
And fired the shot heard round the world.*

With his sleeves rolled, musket and plow in hand, the Concord Minuteman and the values represented by this sculpture have continued to provide inspiration to all Americans who value democracy over authoritarian rule.



Retirement Checklist

If you're approaching retirement, keep these milestone dates in mind....

*One year
before
retirement*

*3-4 months
before
retirement*

*1 month
AFTER
retirement*

1

Request a Benefit Estimate

2

Confirm Health Insurance Coverage With Your Employer

3

Apply for and Purchase Service Credit Enhancements

Submit a Completed Retirement Application

AND

Completed Option Selection Form to the Retirement Office



Expect Your First Direct Deposit the Last Business Day of the Month

» Visit www.middlesexretirement.org to download the appropriate forms and applications.



***Calling All Members:
Do You Have A Change of Address?
Notify Us In Writing.***

Please notify the Middlesex County Retirement System in writing of any change of address. Be it a permanent address change or a temporary winter mailing address, the retirement staff wants to ensure you receive your 1099R and other important notices.

Please visit our website at www.middlesexretirement.org to download a Change of Address Form. Then mail or fax the form to our office. For security purposes, we require the original document with your signature.



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