

Attachment

March 6, 2024

**BEFORE THE
TEACHERS' RETIREMENT BOARD
STATE OF CALIFORNIA**

CALSTRS LEGAL REC'D
NOV 28 2023
AMB Page 30

**In the Matter of the Request to Change the Service
Retirement Benefit Effective Date of:**

PATSY WILLIAMS, Respondent

Agency Case No. STRS20230006

OAH No. 2023080816

PROPOSED DECISION

Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 30, 2023, from Sacramento, California.

Seth Curtis, Deputy Attorney General, represented complainant William Perez, Chief Benefits Officer of the California State Teachers' Retirement System (CalSTRS).

Respondent Patsy Williams was present at the hearing and represented herself.

Evidence was received, the record was closed, and the matter was submitted for decision on October 30, 2023.

FACTUAL FINDINGS

Background and Procedural History

1. Respondent was employed as a teacher for the Long Beach Unified School District. By virtue of her employment, she is a member of CalSTRS. Respondent retired from service effective July 2, 2012.

2. From approximately June 6, 2022, through July 7, 2022, respondent inquired with CalSTRS about the possibility of changing her retirement date to June 30, 2012, so that she was eligible for the Medi-Care Premium Payment Program (MPPP).

3. By letter dated September 28, 2022, Diane Alsup, Director of Service Retirement for CalSTRS, sent respondent a letter explaining that CalSTRS could not change her effective retirement date. Specifically, Director Alsup explained that "because CalSTRS did not receive a Service Retirement Application Change Request form within the allotted 30-day window according to law, CalSTRS cannot grant your request to change your retirement date from July 2, 2012, to June 30, 2012." Respondent was notified of her right to request an "executive review" of the determination. By email dated October 27, 2022, respondent requested an executive review.

4. By letter dated January 19, 2023, complainant wrote respondent a letter, upholding the September 28, 2022 determination to deny her request to change the date of her retirement. Complainant informed respondent of her right to appeal the denial and that pursuant to Government Code section 11500 she could request an

administrative hearing. Respondent elected to proceed to an administrative hearing before the Office of Administrative Hearings.

Medi-Care Premium Payment Program

5. Ashley Lopez-Trotter, an Appeals Specialist with the CalSTRS Services Retirement Division, testified at hearing about the MPPP, the history of respondent's service retirement, and the request to change her effective retirement date. Ms. Lopez-Trotter's duties include reviewing member inquiries, assisting with executive reviews, and following a matter through the appeal process. She is also a subject-matter expert in Teacher Retirement Law.

6. The MPPP allows CalSTRS to pay Medicare Part A hospital insurance premiums for eligible retired CalSTRS members. Education Code section 25940, subdivision (c), provided the Board with the authority to extend eligibility for the MPPP to members who retired on or after January 1, 2001. On June 3, 2011, the Board passed Board Resolution 11-18, which extended eligibility for the MPPP to members who retired on or before June 30, 2012. Specifically, the resolution provided that the "Board shall not at present, extend the Medicare Premium Payment Program to otherwise eligible Defined Benefit members who retire on or after July 1, 2012."

7. Information concerning the eligibility criteria for the MPPP was provided to members in publications, including the 2011 CalSTRS Member Handbook.

Respondent's Service Retirement

8. On or about November 9, 2011, respondent attended a benefits planning session in person with a CalSTRS employee at the Los Angeles County Office of Education. Respondent signed a "Benefits Counseling Appointment Summary

document” acknowledging receipt of the 2011 CalSTRS Member Handbook (2011 Handbook). Specifically, Page 42 of the 2011 Handbook provides information regarding the MPPP, including that CalSTRS will pay the Medicare Part A premium for employees who “Retire before July 1, 2012.”

9. On January 30, 2012, respondent called CalSTRS Customer Service to discuss retirement eligibility requirements and request information on getting her Medicare Part A premiums paid. The CalSTRS staff person told respondent that she would be eligible for MPPP, “as long as she retires prior to 7/1/2012 from Long Beach Unified.” The same day, CalSTRS sent respondent a letter explaining the MPPP eligibility requirements. The letter states in relevant part:

The CalSTRS Medicare Premium Payment Program pays your Medicare Part A premium beginning at age 65 or older if you or your spouse did not pay into Medicare and now are required to pay a monthly premium.

You will qualify for the CalSTRS Medicare Premium Payment Program if you meet the following criteria:

1. Retire prior to 07/01/2012* from LONG BEACH UNIFIED
2. Be a CalSTRS member receiving a monthly retirement allowance
3. Be ineligible for premium free Medicare Part A through Social Security
4. Enroll in Medicare Part A and B

Because CalSTRS does not have access to your Social Security or Medicare records, we do not know whether you are eligible to receive premium-free Medicare Part A. Call the Social Security Administration toll-free at 1-800-772-1213 or TTY 1-800-325-0778 to determine your eligibility and to enroll in Medicare.

The asterisk related to a footnote in the letter that stated the "Board does not currently have the authority to extend the Medicare Premium Payment Program to members who retire on or after July 1, 2012. However, the program may be extended in the future." Respondent was provided with the name and contact information for CalSTRS Medicare Unit to contact if she had any questions.

10. On January 31, 2012, respondent called CalSTRS Customer Service to discuss the MPPP. Staff confirmed that respondent would need to retire on or before June 30, 2012, to be eligible for the MPPP.

11. In Spring 2012, CalSTRS issued a newsletter sent to CalSTRS members. The newsletter had an article notifying members that MPPP would not be offered to members retiring after June 30, 2012.

12. On June 22, 2012, respondent called CalSTRS Customer Service to discuss her potential benefit effective date, her MPPP eligibility, and her last date of employment.

13. On June 28, 2012, CalSTRS received respondent's Service Retirement application (application). Respondent left blank the section of the application where she was supposed to list her retirement date. She listed her last day of work as June

29, 2012. CalSTRS staff called respondent and advise her of the missing retirement effective date.

14. On July 13, 2012, CalSTRS received a second copy of the first page respondent's application. She wrote her retirement date as "07/02/2012." She listed her last day of work as "6/29/2012."

15. By letter dated July 18, 2012, CalSTRS confirmed receipt of respondent's application. The letter informed respondent that if she needed to make changes to her retirement, she could submit a "Service Retirement Application Change Request form available at CalSTRS.com." Respondent was also informed that "CalSTRS must receive the form no later than 30 days from the date your first benefit payment is issued."

16. By letter dated July 25, 2012, CalSTRS informed respondent that her effective retirement date was July 2, 2012, and that she would receive her first retirement payment on August 2, 2012. Respondent did not file any request to change her service retirement date until June 2022.

17. Ms. Lopez-Trotter reviewed respondent's request to change her retirement date and determined that there was no basis to correct respondent's mistake, pursuant to Education Code section 22308. As a result, her request was denied.

Respondent's Evidence

18. Respondent explained that when she initially filed her application, CalSTRS staff informed her that she could not list her last day of work as her retirement date. CalSTRS staff told her she had to list the first day she no longer worked for the District. Respondent's last day of employment at the District was a

Friday, June 29, 2012. Respondent assumed that she had to list a workday as her effective retirement date, so she wrote July 2, 2012, a Monday, as her effective retirement date. She did not speak to anybody at CalSTRS about whether she could list June 30, 2012, or whether a July 2, 2012 retirement date would affect her eligibility for the MPPP.

19. Respondent admitted she made a mistake by listing July 2, 2012, as her retirement date. Respondent understood that she could have changed her effective retirement date no later than 30 days from the date her first benefit payment was issued. Respondent retired when she was 55 years old. She did not learn she was ineligible for the MPPP until she signed up for Medicare when she turned 65 years old. However, respondent felt she did everything she was supposed to do to ensure she qualified for the MPPP. Respondent explained that it is very important qualify for the MPPP because she is single and cannot afford the additional expense.

Analysis

20. Respondent has the burden of proving that she is entitled to change her retirement date to qualify for the MPPP. Respondent failed to meet this burden. The MPPP allows CalSTRS to pay Medicare Part A hospital insurance premiums for CalSTRS members who retired on or before June 30, 2012. Respondent was repeatedly provided information regarding the MPPP eligibility criteria. Despite being informed that she must retire on or before June 30, 2012, to be eligible for MPPP, respondent selected July 2, 2012, as her retirement date. She did so based on the mistaken belief that she had to list a workday as her retirement date. She did not speak with any CalSTRS staff about whether her assumption was correct or the effect of a July 2, 2012, retirement date on her MPPP eligibility. Respondent had 30 days from the date her

first benefit payment to change her retirement date. She failed to do so. As a result, her appeal must be denied.

LEGAL CONCLUSIONS

1. The matter arises under the California Teachers' Retirement Law, Education Code section 22000 et seq., which governs the State Teachers' Retirement Plan (Plan) and CalSTRS. The Teachers' Retirement Board (Board) is responsible for administering CalSTRS and the Plan. (Ed. Code, § 22201).

2. The Board "shall have the sole power and authority to hear and determine all facts pertaining to application for benefits under the plan or any matters pertaining to administration of the plan and the system." (Ed. Code, § 22201, subd. (a).)

3. Pursuant to Education Code section 22219, the Board may hold a hearing "for the purpose of determining any question presented to it involving any right, benefit, or obligation of a person under this part [the Teachers' Retirement Law]." The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, relating to administrative adjudication. (Ed. Code, § 22219, subd. (b).)

4. The party asserting the affirmative in an administrative action has the burden of going forward and the burden of persuasion by the preponderance of the evidence. (*McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051.) An applicant for retirement benefits has the burden of proof to establish a right to the entitlement, absent a statutory provision to the contrary. (*Greatorex v. Bd. of Admin.* (1979) 91 Cal.App.3d 54, 57.) Thus, respondent has the burden of proof to establish that she is entitled to backdate her effective retirement date.

5. Education Code section 24204, provides in relevant part that:

(a) A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for service retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(2) The effective date is later than the last day the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

[¶ ... ¶]

(b) A member who files an application for service retirement may change or cancel their retirement application if all of the following are met:

(1) The form provided by the system is received in the system's headquarters office no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system.

[¶ ... ¶]

6. Education Code section 22308 provides in pertinent part:

(a) Subject to subdivision (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any member or beneficiary of the Defined Benefit Program, and of any participant or beneficiary of the Cash Balance Benefit Program, if all of the following facts exist:

(1) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(2) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

(b) Failure by a member, participant or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

7. As set forth in the Factual Findings and Legal Conclusions as a whole, respondent retired effective July 2, 2012. Pursuant to Education Code section 24204, subdivision (b), respondent had 30 days from the date of her initial benefit payment to change her effective retirement date. Respondent failed to request a change within that timeframe. She also failed to make an inquiry regarding the effect the July 2, 2012, retirement date selection would have on her MPPP eligibility. As a result, respondent may not backdate her retirement date.

ORDER

The appeal of respondent Patsy Williams from the determination by CalSTRS that she may not backdate her retirement is DENIED. The determination made by CalSTRS is UPHeld.

DATE: November 27, 2023

Marcie Larson
Marcie Larson (Nov 27, 2023 14:33 PST)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings