SECTION 1. PURPOSE AND SCOPE

The purpose of this Chapter is to set out the standards of “actively seeking work” for a person who was awarded disability retirement benefits pursuant to 5 M.R.S.A. §§ 17924 or 18524, and for whom a final determination has been made under 5 M.R.S.A. §§ 17929(2)(B)(1) or 18529(2)(B)(1) that the person does not meet the requirements for the continuation of disability retirement benefits. This Chapter shall apply to persons receiving disability benefits as of its effective date and thereafter.

SECTION 2. AUTHORITY

The authority for this Chapter is 5 M.R.S.A. §§ 17929(2)(B)(1) and 18529(2)(B)(1).

SECTION 3. DEFINITIONS

1. Actively seeking work. “Actively seeking work” means that the person attempts to find employment by doing all activities that a reasonably prudent non-incapacitated individual would do to secure work.

2. Actively seeking work status. “Actively seeking work status” means that a final determination has been made that the person no longer meets the requirements for the continuation of disability retirement benefits and that the person is able to engage in substantially gainful activity. In this status disability benefits are to be conditionally continued until the person has secured substantially gainful activity but only so long as the person is actively seeking work.

3. Substantially gainful activity. “Substantially gainful activity” means work consistent with the person’s training, education or experience resulting in annual earnings that exceed $20,000, or 80% of average final compensation at disability retirement, whichever is greater, adjusted by cost-of-living adjustments, if applicable.

SECTION 4. STANDARDS OF COMPLIANCE

After a final determination has been made that the person no longer meets the requirements for the continuation of disability retirement benefits and that the person is able to engage in substantially gainful activity, a disability retirement benefit recipient continues to receive a
conditional disability retirement benefit only if the person actively seeks work and only until substantially gainful activity is secured. A person in actively seeking work status is, at a minimum, required to:

1. Register with the Maine Department of Labor Career Center;
2. Participate in those job readiness or job seeking activities recommended by the Career Center;
3. Authorize the Maine State Retirement System to request and receive information from the Career Center and to verify any other information submitted by the person in actively seeking work status;
4. Make eight (8) job seeking employer contacts monthly, one of which must be in person.

All these requirements must be carried out in the manner by which a reasonably prudent person desiring to secure employment would proceed.

SECTION 5. DEMONSTRATION OF COMPLIANCE WITH STANDARDS

A person in actively seeking work status must demonstrate compliance with the standards set forth in Section 4 by submitting, by the 5th of each month, an accurate, complete and signed report of the following information to the retirement system on forms provided by the system:

1. Verification of eight (8) job seeking employer contacts, including date of contact, employer name and address, method of contact, and a short statement of the result of each contact.
2. Verification of an in-person employer contact, which must include the information specified in subsection 1 and must be signed by the employer.
3. Information pertaining to any job offer that the person has received and refused, including a detailed explanation for any such refusal.
4. Verification of the source and amount of any earnings, remuneration or other compensation from any employment, self-employment, commission sales, or other income for the previous month.
5. Verification of any change in name, address or telephone number.

SECTION 6. APPLICATION OF ACTIVELY SEEKING WORK COMPLIANCE STANDARDS

A person who is the recipient of a disability retirement benefit and who is in actively seeking work status must meet the standards of compliance as set forth in Section 4 and has the burden of demonstrating compliance as set forth in Section 5. For any person who does not demonstrate compliance with the standards as required in Section 5, the following shall apply:

1. For any month during the calendar year that the person does not meet all the required standards, the retirement system will suspend the payment of benefits. Such a suspension in
benefits will occur in the month following the month for which the standards have not been met. If the person subsequently resumes the adequate demonstration of compliance, the benefits will resume. Such resumption in benefits will occur in the month following the month for which the standards are again met. There will be no payment of disability retirement benefits for the month or months for which benefits are suspended under this subsection.

2. If the person fails to meet the standard for a total of any sequential or non-sequential six (6) months in any 12-month period, the retirement system will finally terminate the payment of benefits.

3. If the person refuses a job with duties that are within the capacity of the person as determined at the final discontinuance decision with respect to the condition(s) for which the retirement system awarded disability retirement benefits and that would generate an income equal to or greater than that member’s substantially gainful activity earnings level, the retirement system will terminate the payment of benefits as of the month following the month that the person refused the job offer.

4. A disability retirement benefit recipient in actively seeking work status who is incarcerated shall be deemed unable to actively seek work and the payment of disability retirement benefits will be suspended during the period of incarceration.

SECTION 7. TERMINATION OF ACTIVELY SEEKING WORK STATUS

For any person who secures a job or engages in activity that generates an income equal to or greater than that member’s substantially gainful activity earnings level, the retirement system will finally terminate the payment of benefits as of the month following the month the person accepts or engages in the job or activity.

SECTION 8: TEMPORARY SUSPENSION OF REQUIREMENTS

The requirements set forth in Sections 4 and 5 are temporarily suspended due to the COVID-19 crisis for the period starting March 1, 2020, and continuing until 30 days after the termination of the state of emergency declared by the Governor in accordance with Title 37-B, section 742 due to the outbreak of COVID-19.

STATUTORY AUTHORITY:
5 M.R.S. §§ 17103(4), 17929(2)(B)(1) and 18529(2)(B)(1)

EFFECTIVE DATE:
April 30, 2007 – filing 2007-152

AMENDED:
April 14, 2020 – Section 8 added, filing 2020-093 (EMERGENCY)
July 18, 2020 – Section 8, filing 2020-157