

Meeting Summary

MainePERS Consensus-Based Rulemaking

October 12, 2022, Meeting, 11:00 a.m. - 12:00 p.m., via Zoom

In attendance:

- Representative Group of Participants
 - Maine Education Association – Nate Williams
 - Maine Service Employees Association – Tom Feeley
 - Professional Fire Fighters of Maine – Michael Scott
 - Attorneys who Represent Appellants – Jerry Conley
- Interested Parties
 - Susan Hawes
- MainePERS Staff
 - Mike Colleran, Chief Operating Officer and General Counsel, Chair
 - Chip Gavin, Chief Services Officer
 - Kathy Morin, Director of Actuarial and Legislative Affairs
 - Annie Gregori, Associate General Counsel

The group fully approved the proposed ground rules, although the ground rules subsequently may be re-opened.

Mike told the group that MainePERS was pulling-back the draft amended Rule 510 (Lump Sum Settlements) for more work and would circulate a new draft prior to the next meeting. Mike explained that the current rule language is correct for non-PLD plans, but that there is different statutory language for the PLDs that should be incorporated into Section 4 of the rule – “average annual earnings” rather than “average final compensation.” MainePERS has been following the statutory language, and the proposal is to have the rule language match the statute and MainePERS’ practice. Mike reported that MainePERS has not experienced issues with the rule and is not aware of issues experienced by others.

Mike explained the Actively-Seeking Work program participation information. The group asked whether 2022 was typical, the extent to which participants in the program had appealed, and the history behind creation of the program. Mike agreed to provide this additional information.

Annie reviewed the information from other systems on benefits for those no longer disabled. Benefits in all but one of the responding systems terminate within a few months. The other system provides a benefit that continues while the system attempts to place the person in an employment position. Annie will inquire as to what happens if that is unsuccessful and will report back to the group. Jerry suggested that we look at what happens with workers compensation permanent impairment as a possible analog.

Mike reviewed the proposed changes to Rule 702 (Appeals). The group was generally in agreement with the proposed changes, but Tom asked for more time to consider them, particularly the proposed changes to hearing officer authority to order independent medical examinations and medical reviews. The proposed amendments will be brought back next meeting, along with any other changes the group might suggest.

Mike explained that MainePERS still is working on the takeaways from the last meeting of a disability retirement rule document and copies of cases. MainePERS anticipates making the cases available through share file in the next day or two.

In a response to a question from Jerry, Mike summarized the long-term-disability insurance work that is being done by the Disability Working Group. Chip added that information about that is available on our web site.

Takeaways:

- Carryover from 9/26/22 meeting
 - MainePERS will draft a disability retirement rule document for discussion, which may be a draft rule or other document for issues to be discussed and decisions made.
 - MainePERS will pull together and provide copies of court decisions, hearing officer decisions reversing MainePERS, and decisions frequently cited by Hearing Officers over the past two years. Jerry Conley will identify any additional decisions he thinks should be provided.
- MainePERS will provide a new draft amended lump-sum settlement rule.
- MainePERS will provide further information on the ASW program, including whether 2022 was typical, the extent to which participants in the program had appealed, and the history behind creation of the program.
- MainePERS will make a further inquiry to the other system that continues benefits after the person is no longer disabled and provide any further information learned.
- MainePERS will look into workers compensation permanent impairment.