

PROPOSED REVISED RULE

94-411 MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM (MainePERS)

Chapter 204: ~~WAIVER OF MEMBER~~ PAYMENT REQUIREMENT WHERE CAUSED BY ~~EMPLOYER~~ ERROR OR OMISSION

SUMMARY: This Chapter establishes standards for determining whether to grant a waiver under 5 M.R.S. ~~§§ 17054(3),~~ 17103(6) to a member, ~~or~~ retiree, or benefit recipient who, without the waiver, would be required to make payments to the Maine Public Employees Retirement System ("MainePERS") because of an ~~employer~~ error or omission.

SECTION 1. CRITERIA

In order to avoid imposing hardship on members, retirees, and benefit recipients while efficiently safeguarding and maximize the assets available for the payment of retirement and related benefits, waivers will be granted under 5 M.R.S. ~~§§ 17054(3),~~ 17103(6) ~~only in extraordinary circumstances meeting each of~~ accordance with the following ~~criteria~~:

1. The payment obligation will be waived if the amount to be recovered is no more than \$250. The member or retiree seeking the waiver did not cause or substantially contribute to the employer's error or omission;
2. Interest will not be charged if the payment obligation is the result of a mistake of or incorrect information provided by an employee of the retirement system or an employer or is the result of a good faith mistake by a member, retiree, or benefit recipient.

The payment obligation will be delayed, satisfied over time, or waived to the extent that requiring payment would be unreasonable or create financial hardship upon consideration of the personal economic stability of the member, retiree, or benefit recipient. The member or retiree seeking the waiver could not have prevented the employer's error or omission through reasonable actions;

- ~~3. The member or retiree seeking the waiver took reasonable steps to timely discover and mitigate the error;~~
- ~~4. The member or retiree seeking the waiver cooperated with any action that MainePERS has taken to recover the payment from the employer;~~
- ~~5. Granting a waiver would not have a significant adverse effect on MainePERS or any of the programs administered by MainePERS; and~~
63. Failing to grant a waiver would cause a serious, not reasonably avoidable financial hardship to the member or retiree seeking the waiver. In making this determination, the following factors must be considered:

- A. The total amount of the payment required;
- B. The amount of each installment payment if the payment may be made over time;

- C. The member, ~~or retiree's~~, or benefit recipient's personal and family income, earning potential, and assets; and
- D. The amount required for the member, ~~or retiree~~, or benefit recipient to pay for living necessities; ~~and~~
- ~~E. Whether the member or retiree received or will receive a benefit associated with the payment obligation.~~

~~SECTION 2. WAIVER AMOUNT~~

~~If a waiver is granted, the payment amount waived must be limited to that necessary to avoid a serious financial hardship to the member or retiree under the factors set forth in Section 1, subsection (6), above.~~

SECTION ~~3~~2. PROCEDURE

1. A request for a waiver must be submitted in writing to ~~MainePERS~~the Executive Director ~~within 30 days after receiving notice of the payment obligation and the process for requesting a waiver. The request must be accompanied by documentary proof establishing the criteria set forth in Section 1.~~
2. The member, ~~or retiree~~, or benefit recipient seeking the waiver must fully cooperate with ~~the Executive Director's~~MainePERS' review of the request and promptly provide any ~~additional~~ relevant information requested by ~~the Executive Director~~MainePERS.
3. The submission of a waiver request suspends the payment obligation until the ~~Executive Director or the Executive Director~~Chief Executive Officer or their designee issues a written decision on the waiver request.
4. The ~~Executive Director or the Executive Director's~~Chief Executive Officer or thier designee will issue a written decision on the waiver request. If the decision is a denial of the request, the member or retiree seeking the waiver may appeal to the Board of Trustees pursuant to 5 M.R.S. §17451. The waiver request and any appeal of the request decision may be decided in conjunction with the determination of the underlying payment obligation.

STATUTORY AUTHORITY: 5 M.R.S. §17103(4)

EFFECTIVE DATE:

May 8, 2016 – filing 2016-081