

**ILLINOIS MUNICIPAL RETIREMENT FUND**

**MEETING NO. 15-03S**

**BOARD OF TRUSTEE**

**SPECIAL MEETING**

The Board of Trustees held a Special Board Meeting at 2:20 p.m. on Thursday, March 19, 2015, in the Fund Office at 2211 York Road, Suite 400, Oak Brook, Illinois. Present were Trustees: Copper, Miller, Piechocinski, Stanish and Thompson. Trustees Henry, Kuehne and Stulir were absent. Staff member Kosiba was present.

(15-03S-01)(Report of Benefit Review Committee) The Chair of the Benefit Review Committee reported on the Benefit Review Committee meeting that was held on March 19, 2015.

It was moved by Mr. Piechocinski, seconded by Ms. Stanish, to accept the following recommendations of the Benefit Review Committee:

To adopt the following revised appeal procedures to implement the hearing officer model:

IMRF Board of Trustees Appeal Procedures (Non-Disability, including non-medical disability claims)

**I. Administrative Staff Determination**

1. Staff Determination: The IMRF administrative staff is responsible for the daily claims-processing function of the Fund, including processing of all claims for benefits or service credit or any other claims against or relating to the Fund.

2. Benefit Oversight Committee: The purpose of the Committee is to 1) review staff decisions in extraordinary situations which negatively impact a member's service credit or benefit payment, including termination of benefits, in order to achieve a substantial equality of treatment between members and fairness of treatment to a specific member given the unique circumstances of his or her claim; and 2) review certain hearing requests on non-disability claims to insure such claims are appropriate for a hearing. Decisions of the Committee shall be considered administrative staff decisions. The Committee shall be composed of the Executive Director, the Deputy Executive Director, the General Counsel, and the Benefits Manager.

**II. Hearing**

1. Petition: Any person or employer adversely affected by an administrative staff determination not involving a disability claim (medical) may petition for a hearing. The petition must be in writing but may be in any format and need merely inform the Fund of the petitioner's desire for a hearing.

The petition should be directed to the Associate General Counsel in the IMRF Oak Brook office and must be received by IMRF no later than sixty-three (63) days after the date of the administrative staff determination letter. Failure to timely file an appeal petition shall result in the administrative staff determination becoming a final administrative decision, for purposes of the Administrative Review Law, on the sixty-fourth (64th) day after the date of the staff determination letter.

2. Acknowledgment of Petition; Statement of Claim: Upon the filing of a petition for a hearing, the Associate General Counsel shall send an acknowledgment of the petition informing the claimant that he/she is required to file a Statement of Claim within ninety-one (91) days of the date of the appeal acknowledgement letter. The Statement of Claim shall include:

- the petitioner's name, MID, and address
- the name and address of the petitioner's authorized representative, if any
- a statement of the facts forming the basis for the appeal, which may include any new or additional evidence
- any documents or other materials the petitioner wishes to be considered in conjunction with the appeal
- an explanation of the relief sought

The Statement of Claim shall be limited to 20 pages, excluding exhibits. If typewritten, the pages must be 8-1/2" x 11", paginated, one-sided with 12-point font, double-spaced text. Exhibits shall be marked in a manner to allow electronic scanning. The petitioner shall file at least one unbound copy of the Statement of Claim with the Associate General Counsel. The Statement of Claim may be filed electronically with the Associate General Counsel.

Should the petitioner choose not to submit a Statement of Claim, as required by these procedures, the appeal will be considered at the first available hearing date occurring after the expiration of ninety-one (91) days from the date of the appeal acknowledgement letter.

In the event that a petitioner fails to submit a Statement of Claim, consideration of the appeal will be based solely upon the written materials that are already in the IMRF file on the due date for the Statement of Claim.

3. Presiding Authority: An Administrative Hearing Officer will hear appeals of staff decisions regarding the following:

- Employer contribution delinquencies
- Employer rates
- Accelerated payments due under section 7-172(k) of the Illinois Pension Code
- Eligibility for IMRF participation
- IMRF-reportable earnings
- Benefit forfeitures due to job-related felonies
- Contested beneficiary designations and eligibility
- ERI return-to-work violations

A hearing officer will be an independent attorney licensed to practice law in Illinois, designated by the Board of Trustees.

The Board of Trustees Benefit Review Committee will hear appeals of staff decisions regarding the following:

- Benefit calculation errors and resulting benefit recoupment
- Annuitant return to work issues (non-ERI related)

4. Scheduling of Hearing: Upon receipt of the Statement of Claim, the petitioner's claim shall be assigned to the next available hearing date. However, if the Statement of Claim reveals that the appeal only concerns legal, as opposed to factual issues, or if no Statement of Claim is filed and it appears from the staff determination that the appeal only concerns legal, as opposed to factual issues, a formal hearing will not be held, and the Board of Trustees will decide the appeal based solely upon the written record. In that case, the Board of Trustees will decide the appeal via Board Schedule H.

5. Notification: Upon scheduling of a hearing, a petitioner shall be provided with written notice of the date and place of the hearing and the subject matter of the hearing. The petitioner or his/her representative will be provided with all documentation and other materials to be presented at the hearing by the administrative staff.

6. Continuances and Extensions of Time: Continuances of the hearing date and other extensions of time may be granted to the petitioner upon request, if received more than 14 days before the scheduled hearing date.

An appeal will normally be considered at the first available hearing date after the receipt of the petitioner's Statement of Claim.

Absent extraordinary circumstances, no more than one continuance or extension shall be granted.

7. Late Submissions: Any documents or other materials that are submitted in addition to a Statement of Claim must be received by IMRF no later than twenty (20) days prior to the scheduled hearing date. Any additional materials received less than twenty (20) days before the hearing date will be considered a "late submission". Whenever a petitioner makes a late submission, the petitioner will be offered the following alternatives:

- The petitioner can proceed with the hearing as scheduled; however, the late submission will not be considered
- The petitioner can request, and receive, a postponement of the hearing until the earliest available future date in order to allow for consideration of the late submission.

If a hearing is postponed in order to allow for consideration of the late submission, any additional materials submitted within twenty (20) days of the re-scheduled hearing date **WILL NOT** be considered.

8. Failure to Appear: In the event that a petitioner fails to appear on the scheduled hearing date, the consideration of the appeal will be based solely upon the written materials that are already in the IMRF file. The recommendation to the Board of Trustees will be based on those materials.

9. Representation: The petitioner may be represented by counsel or a designated spokesperson at the hearing. The Associate General Counsel or his/her designated representative shall present the IMRF administrative staff position.

10. Conduct of the Hearing:

a. Appearance The petitioner is not required to personally appear at the hearing and may be represented solely by the Statement of Claim on file. In the alternative, at the petitioner's discretion, the petitioner or his/her representative may appear in person or the hearing may be conducted via telephone or video conference.

b. Procedures The Chairman of the Benefit Review Committee or the Administrative Hearing Officer shall conduct a full and fair hearing; maintain order and make a sufficient record for a full and true disclosure of the facts and issues. The hearing shall be informal and the rules of evidence shall not apply. The petitioner shall be limited to no more than 30 minutes to present their appeal.

The Benefit Review Committee or the Administrative Hearing Officer shall be provided with a copy of the Statement of Claim, a statement of the position of the administrative staff, which shall include the administrative staff determination, and such other documentation as is available.

Members of the Benefit Review Committee or the Administrative Hearing Officer may ask questions necessary for better understanding of the facts or law.

The Benefit Review Committee or the Administrative Hearing Officer may determine that additional information or further investigation is required before a decision can be made. If so, the hearing shall be continued and the staff directed as necessary.

Hearings before the Benefit Review Committee shall be open to the public, unless the chair, for good cause shown and pursuant to the applicable provisions of the Open Meetings Act, shall determine otherwise. A quorum of the Committee is needed for all of its hearings.

c. Record of Proceedings A record of proceedings shall be kept which shall be in the form of a non-verbatim summary report. The petitioner may obtain a verbatim record of the hearing by arranging for a court reporter. The petitioner is responsible for paying the actual costs entailed. The Associate General Counsel shall be the custodian of the documents and the record of proceedings.

d. Determination (Benefit Review Committee) Upon conclusion of all evidence and arguments, the Benefit Review Committee shall deliberate and make its decision as to the disposition of the claim. The vote of at least a majority of a quorum shall be required for any decision of the Benefit Review Committee. The Benefit Review Committee shall render one of the following recommendations to the full Board of Trustees:

- affirmation of the administrative staff determination
- reversal of the administrative staff determination
- request the development of an alternative resolution

- in the case of deadlock, continuation of the claim for consideration by the full Board of Trustees.

Where an appeal is to be decided via Schedule H, any one member of the Committee can request that the matter be removed from said Schedule and placed on a future Committee or Administrative Hearing Officer agenda for hearing and recommendation.

*e. Determination (Administrative Hearing Officer)*

Upon conclusion of all evidence and arguments, the Administrative Hearing Officer shall prepare written findings of fact and conclusions of law to support a recommendation to the Board of Trustees. That recommendation shall be:

- Affirmance of the administrative staff determination
- Reversal of the administrative staff determination
- Request the development of an alternative resolution

**III. Final Administrative Decision**

1. Decision of the Full Board of Trustees: The full Board of Trustees will consider the recommendation of the Benefit Review Committee or the Administrative Hearing Officer in making the decision for the Fund as to the disposition of the appeal. At least five (5) affirmative votes shall be required for any decision of the Board of Trustees. The Board of Trustees shall render one of the following decisions:

- affirmance of the administrative staff determination
- reversal of the administrative staff determination
- remand of the proceedings to the Administrative Hearing Officer for further explanation of the findings of fact and conclusions of law
- request the development of an alternative resolution.

The Board of Trustees will normally consider an appeal at the first available meeting following receipt of the recommendation or, if the appeal only concerns legal, as opposed to factual issues, after expiration of the aforementioned ninety-one (91) day period.

2. Final Administrative Decision: A decision of the Board of Trustees either affirming or reversing the determination of the administrative staff shall be a final administrative decision for purposes of review under the Illinois Administrative Review Act (735 ILCS 5/3-101 et seq.). Remand of the proceedings to the Administrative Hearing Officer by the Board of Trustees shall not be considered a final decision, nor shall requesting the development of an alternative resolution be considered a final decision.

3. Remand: In the case of a remand of the proceedings to the Administrative Hearing Officer, the Administrative Hearing Officer shall present the requested information to the full Board of Trustees at the next regularly scheduled meeting, and the Board of Trustees shall make its final administrative decision.

4. Notice of Decision: IMRF Staff shall send written notice of the decision of the Board of Trustees to the petitioner and, if applicable, the petitioner's representative.

**APPEAL PROCEDURES  
(DISABILITY-MEDICAL)**

**I. Administrative Staff Determination.**

1. Staff Determination. The IMRF Administrative staff is responsible for the daily claims-processing function of the Fund, including processing of all claims for disability benefits.

**II. Hearing**

1. Petition. Any person adversely affected by the disposition of a disability claim by the administrative staff may petition for a hearing before the Board of Trustees Benefit Review Committee. The petition must be in writing on a Form 5.70 "Request For A Hearing". A copy of this form is sent to the member at the time staff denies or terminates disability benefits. The completed 5.70 form should be returned to the Benefits Manager in the IMRF Oak Brook office and must be received by IMRF no later than sixty-three (63) days after the date of the staff disposition letter. Failure to timely file a 5.70 form shall result in the staff disposition becoming a final administrative decision, for purposes of the Administrative Review Law, on the sixty-fourth (64th) day after the date of the staff disposition letter.
2. Acknowledgment of Request for a Hearing. Upon the filing of the Request For A Hearing, the Benefits Manager shall send an acknowledgment of the Request.
3. Scheduling of Hearing. Upon receipt of the Request For Hearing, the Benefits Manager will schedule the hearing as follows:

If the Hearing Request indicates that additional medical information WILL NOT be submitted for consideration, the hearing will be scheduled for the next available meeting of the Board of Trustees Benefit Review Committee.

If the Hearing Request indicates that additional medical information WILL be submitted for consideration, the hearing will be scheduled for the next available meeting of the Board of Trustees Benefit Review Committee following the review of the additional medical information.

Additionally, if the appeal only concerns legal, as opposed to factual issues, or if the "Statement of Claim" portion of the 5.70 form is not completed and it appears from the staff determination that the appeal only concerns legal, as opposed to factual issues, a formal hearing before the Benefit Review Committee will not be held, and the Board of Trustees will decide the appeal via Board Schedule H.

**4. Notification.** Upon scheduling of a hearing before the Benefit Review Committee, a petitioner shall be provided with written notice of the date, time and place of the hearing. Due to the volume of medical records, the petitioner will not routinely be provided with all of the documentation and other materials to be presented to the Benefit Review Committee by the administrative staff. However, copies of any or all of those materials will be provided to the petitioner or his/her representative upon request.

**5. Continuances and Extensions of Time.** Continuances of the hearing date and other extensions of time may be granted to the petitioner upon request. The Benefit Review Committee will normally consider an appeal at the first available meeting after the receipt of the petitioner's medical information. If the petitioner does not submit additional medical information within ninety-one (91) days from the date of receipt, by IMRF, of the Request For A Hearing Form 5.70, the Benefit Review Committee will consider the appeal at the first available meeting after the expiration of the foregoing ninety-one (91) day period. Additional medical information or other materials must be received by IMRF no later than ten (10) days prior to the scheduled hearing date. All additional materials received less than ten (10) days before the hearing date will be considered a "late submission". Whenever a claimant makes a late submission, the Benefit Review Committee will offer the member the following alternatives:

1. The member can proceed with the hearing as scheduled; however, the Benefit Review Committee WILL NOT consider the late submission; or
2. The member can request, and receive, a postponement of the hearing until the earliest available future date in order to allow for consideration of the late submission.

If a hearing is postponed in order to allow for consideration of the late submission, any additional materials submitted within ten (10) days of the re-scheduled hearing date WILL NOT be considered by the Benefit Review Committee or by the full Board of Trustees.

In the event that a petitioner fails to appear on the scheduled hearing date, the Benefit Review Committee's consideration of the appeal will be based solely upon the written materials that are already in the IMRF file and no hearing will be held.

**6. Representation.** The petitioner may be represented by counsel or a designated spokesperson at the hearing. The Benefits Manager or his/her designated representative shall present the IMRF administrative staff position.

**7. Conduct of the Hearing.**

(a) **Appearance.** The petitioner is not required to personally appear at the hearing and may be represented solely by the medical records and related documentation on file with IMRF. In the alternative, at the petitioner's discretion, the petitioner or his representative may appear in person, or the hearing may be conducted via telephone or video conference.

(b) Procedures. The Chairman of the Benefit Review Committee shall conduct a full and fair hearing, maintain order and make a sufficient record for a full and true disclosure of the facts and issues. Three members of the Benefit Review Committee shall constitute a quorum and a quorum is needed for all hearings. The hearing shall be informal and the rules of evidence shall not apply. Any part of the evidence may be received in written form. The Committee shall be provided with a copy of the Statement of Claim, a statement of the position of the administrative staff, which shall include the administrative staff determination, and such other documentation (medical records, etc.) as is available. Members of the Benefit Review Committee may ask questions necessary for better understanding of the facts or law. The hearing shall be open to the public unless the chair, for good cause shown and pursuant to the applicable provisions of the Open Meetings Act, shall determine otherwise. An IMRF employer (participating municipality or participating instrumentality) may provide written materials to IMRF staff for incorporation into the packet submitted to the Benefit Review Committee and the full Board of Trustees. An employer may also attend hearings of the Benefit Review Committee and meetings of the full Board of Trustees and can make audio recordings of said hearings and meetings. An employer also has standing to, in a separate proceeding, contest a rate increase that might be assessed due to a decision of the Benefit Review Committee and the full Board of Trustees. However, an employer normally does not have standing to actively participate in an individual's appeal of an administrative staff determination.

(c) Record of Proceedings. A record of proceedings shall be kept which shall be in the form of a non-verbatim summary report. The petitioner may obtain a verbatim record of the hearing taken by a court reporter by making a timely request and paying the actual cost entailed. The Benefits Manager shall be the custodian of the documents and record of proceedings.

(d) Determination. Upon conclusion of all evidence and arguments, the Benefit Review Committee shall, in private deliberation, make its decision as to the disposition of the claim. The vote of at least a majority of a quorum shall be required for any decision of the Benefit Review Committee. The Benefit Review Committee shall render one of the following decisions: affirmance of the administrative staff determination; reversal of the administrative staff determination; remand of the proceedings to the administrative staff for further investigation; or, in the case of a deadlock, continuation of the claim for consideration by the full Board of Trustees.

The decision shall be in the form of a recommendation to the full Board of Trustees.

Where an appeal is to be decided via Schedule H, any one member of the Committee can request that the matter be removed from said Schedule and placed on a future Committee agenda for hearing and recommendation.

### **III. Final Administrative Decision.**

1. Decision of Full Board of Trustees. The full Board of Trustees will consider the recommendation of the Benefit Review Committee in making the decision for the Fund as to the disposition of the appeal. The Board will also decide appeals in which a formal hearing has not been held before the Benefit Review Committee. At least five (5) affirmative votes shall be required for any decision of the Board of Trustees. The Board of Trustees shall render one of the following decisions: affirmance of the administrative staff determination or reversal of the administrative staff determination. The Board of Trustees will normally consider an appeal following receipt of the Benefit Review Committee's recommendation, or if the appeal concerns legal, as opposed to factual issues, after the expiration of the aforementioned ninety-one (91) day period.
2. Final Administrative Decision. A decision of the Board of Trustees either affirming or reversing the determination of the administrative staff shall be a final administrative decision for purposes of review under the Illinois Administrative Review Act (735 ILCS 5/3-101 et seq.)
3. Notice of Decision. The Benefits Manager shall send written notice of the decision of the Board of Trustees to the petitioner and, if applicable, the petitioner's representative.

Vote: Unanimous Voice Vote  
Absent: Henry, Kuehne, Stulir

Next, it was moved by Mr. Piechocinski, seconded by Ms. Stanish, to accept the following recommendations of the Benefit Review Committee:

- To uphold staff's determination to deny total and permanent disability benefits for Brent Bettenhausen.
- To uphold staff's determination to deny temporary disability benefits for Barbara K. Rifken.
- To overturn staff's original determination to deny temporary disability benefits for Sara Evans.
- To uphold staff's determination to terminate temporary disability benefits effective June 1, 2014, for Shari L. Tarnawa.
- To uphold staff's determination that Deborah Scott is not eligible to apply for IMRF disability benefits.

Vote: Unanimous Voice Vote  
Absent: Henry, Kuehne, Stulir

(14-03S-02)(Trustee Forum) The Chair reported the following Trustee requested authorization from the Board to attend the following conference:

Sharon U. Thompson                    "Pension and Financial Services Conference"  
NASP  
June 15-17, 2015  
Chicago, IL

It was moved by Ms. Stanish, seconded by Mr. Miller, to approve the above Trustee request.

Vote: Unanimous Voice Vote  
Absent: Henry, Kuehne, Stulir

(14-03S-03) (Adjournment) It was moved by Ms. Thompson, seconded by Ms. Copper, to adjourn the Special Board Meeting at 2:25 p.m.

Vote: Unanimous Voice Vote  
Absent: Henry, Kuehne, Stulir

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President

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Date

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Secretary

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Date