

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).
Added the N.J.S.A. reference.

17:2-5.13 Lump sum purchases

If a purchase is paid in a lump sum, the member shall receive full credit for the amount of service covered by the purchase upon receipt of the lump sum payment. The service may be used for any purchase for which it is authorized under the Public Employees' Retirement System Act (N.J.S.A. 43:15A-1 et seq.) and the rules of the Retirement System.

New Rule, R.1989 d.516, effective October 2, 1989.
See: 21 N.J.R. 1820(b), 21 N.J.R. 3176(b).
Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Amended by R.2005 d.75, effective February 22, 2005.
See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

SUBCHAPTER 6. RETIREMENT

17:2-6.1 Applications

(a) Applications for retirement must be made on forms required by the System. Such forms must be completed in all respects and filed with the Division of Pensions and Benefits (Division) on or before the requested date of retirement. A member's retirement application becomes effective on the first of the month following receipt of application unless a future date is requested. Members enrolled at multiple PERS locations must retire from employment in all covered positions before a retirement shall become effective.

(b) In the event a member files an incomplete application, the deficiencies shall be brought to the member's attention and the member shall be required to file a completed application with the Division to enable processing.

(c) A member shall, on the retirement application, select one of nine ways (options) to receive retirement benefits. Each option provides the member with a lifetime monthly retirement benefit. Once a retirement benefit becomes due and payable as defined by N.J.A.C. 17:2-6.2, the option cannot be changed. Except under the Maximum Option and Option 1, once a member designates a beneficiary, that beneficiary cannot be changed. P.L. 2001, c.120 provides for additional payment options that allow the member to choose an actuarially reduced retirement allowance in order to provide a beneficiary with an allowance equivalent to the full amount, three-quarters, one-half or one-quarter of the reduced allowance. If the beneficiary dies before the retiree, the retiree's allowance will increase to the maximum amount. These additional payment options shall be known as Options A, B, C, and D as defined below. The options, as established by N.J.S.A. 43:15A-50, include the following:

1. Maximum Option provides the largest allowance for the member but does not include a pension benefit paid to a beneficiary upon the member's death.

2. Option 1 provides a reducing retirement reserve to one or more beneficiaries. At retirement, a reserve amount is established to pay the member's lifetime retirement allowance. This reserve is reduced each month by the member's original monthly retirement allowance. Upon the member's death, the beneficiary or beneficiaries receive the balance of the reserve, if any.

3. Option 2 provides, upon the member's death, a lifetime monthly retirement allowance equal to 100 percent of the member's monthly retirement allowance to a beneficiary.

4. Option 3 provides, upon the member's death, a lifetime monthly retirement allowance equal to 50 percent of the member's monthly allowance to a beneficiary.

5. Option 4 provides, upon the member's death, a lifetime monthly retirement allowance to one or more beneficiaries. The member determines the retirement allowance which in the aggregate cannot be more than the Option 2 allowance.

6. Option A provides, upon the member's death, a lifetime monthly retirement allowance equal to 100 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

7. Option B provides, upon the member's death, a lifetime monthly retirement allowance equal to 75 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

8. Option C provides, upon the member's death, a lifetime monthly retirement allowance equal to 50 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

9. Option D provides, upon the member's death, a lifetime monthly retirement allowance equal to 25 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

(d) Before an application for retirement may be processed, the Division must receive proof of the member's age, if none is already in the member's record, proof of the beneficiary's age, if the member elected Option 2, 3, 4, A, B, C, or D, and a completed Certification of Service and Final Salary form from the employer setting forth the employment

termination date, and the salaries reported for contributions in the member's final year of employment.

(e) In addition to the foregoing requirements, a member's application for disability retirement must be supported by at least two medical reports, one by the member's personal or attending physician and the other may be either hospital records supporting the disability or a report from a second physician.

(f) Retired members, who return to public employment, shall have their previous retirement allowances cancelled and be reenrolled in the System pursuant to N.J.S.A. 43:15A-44 for those who retired on disability retirements or N.J.S.A. 43:15A-57.2 for those who retired on early, service, veteran or deferred retirements. A member who ceases covered employment and retires again must file a new retirement application with the Division in accordance with (a) through (d) above in order to initiate payment of the retirement allowance. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. The previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check. The retirement allowance shall become effective on the first of the month following receipt of the application unless a future date is requested.

(g) If the total amount of retirement allowances received by a member or beneficiary under the option selected is less than the value of the member's contributions and interest on those contributions, the balance of contributions and interest shall be paid in a lump sum to the member's designated beneficiary or estate.

Amended by R.1986 d.432, effective October 20, 1986.

See: 18 N.J.R. 1451(a), 18 N.J.R. 2135(b).

Deleted subsections (b) and (d) and recodified accordingly.

Administrative Correction to (a): Deleted text "at least one month".

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

Amended by R.2001 d.131, effective May 7, 2001.

See: 33 N.J.R. 372(a), 33 N.J.R. 1398(a).

In (d), substituted "a member's" for "an" and inserted "medical" preceding "reports"; and added (e).

Amended by R.2002 d.268, effective August 19, 2002.

See: 34 N.J.R. 1600(a), 34 N.J.R. 2971(a).

Added new (c); recodified former (c) as (d) and inserted "A, B, C, or D," following "4,"; recodified former (d) and (e) as (e) and (f).

Amended by R.2005 d.75, effective February 22, 2005.

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

Added (g).

Case Notes

Employee who sustained back injury which, at most, contributed to progression of arthritic condition by aggravation, held not to have disability which was a direct result of a traumatic event so as to entitle the employee to disability retirement benefits. *Gerba v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 174, 416 A.2d 314 (1980).

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event: remand to Appellate Division to determine whether traumatic event was of such nature as to allow benefits eligibility under enunciated standard. *Korelnia v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Special education teacher who suffered from numerous and unrelated ailments which rendered her unable to perform duties associated with her job was entitled to ordinary disability retirement allowance. *Daniels v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 292.

Tick bite was not traumatic event for purpose of awarding accidental disability benefits. *Ackerman v. PERS*, 96 N.J.A.R.2d (TYP) 42.

Retirement application had to be executed and filed prior to effective date of the retirement. *Knabner v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 85.

Former member was without standing to refile application for accidental disability retirement allowance. *Coleman v. Retirement System*, 93 N.J.A.R.2d (TYP) 265.

Breach of duty by city employees did not qualify nurse for modification of retirement date. *Kuehner v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 190.

Retirement application; effectiveness; arrival at New Jersey Public Employees' Retirement System. N.J.S.A. 43:15A-47. *Phillips v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 163.

Employee with diminished mental capacity due to alcoholism not entitled to retroactive effective retirement date. *Young v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 53.

Agreement with employer did not entitle employee to retroactive requested effective date of retirement. *Epps v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 45.

Approval of tax assessor's application for service retirement rescinded where tax assessor's close corporation was awarded contracts for essentially the same tax assessment work. *Board of Trustees v. Atkinson*, 92 N.J.A.R.2d (TYP) 8.

Decedent's signing of application for retirement and filing of support documents prior to his death held to constitute substantial compliance with regulatory requirements, in light of Division's failure to act on documents' deficiency in a timely fashion; survivors held eligible for insurance benefits. *Giaconia v. Bd. of Trustees, Public Employees' Retirement System*, 2 N.J.A.R. 304 (1980).

17:2-6.2 Effective date

A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or 30 days after the date of the retirement, whichever is later.

New Rule, R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Former N.J.A.C. 17:2-6.2, Effective dates; change, recodified to N.J.A.C. 17:2-6.3.

17:2-6.3 Effective dates; change

(a) A member shall have the right to withdraw, cancel or change an application for retirement at any time before the member's retirement allowance becomes due and payable by sending a written request signed by the member. Thereafter the retirement shall stand as approved by the Board.

(b) Except in the event of deferred retirement, if a member requests a change of retirement date or option selection before the member's retirement allowance becomes due and payable, said change will require approval of the Board and the revised retirement allowance shall not become due and payable until 30 days have elapsed following the effective date or the date the Board met and approved the change in the member's retirement application, whichever is later.

(c) A deferred retirement shall become effective on the first of the month following the member's 60th birthday. At the election of a member, if the member's 60th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 43:15A-38(b) and requests that date as the retirement date.

(d) In the case of deferred retirement, if an applicant desires to amend the retirement application, the amended application must be filed with the Division a minimum of one month prior to the effective date of retirement.

(e) Should the member continue to receive a salary beyond the effective date of retirement, no retirement benefits shall be paid for the period where the member received salary and no salary or service credit shall be provided for the service rendered after the approved effective date of retirement.

Amended by R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.1981 d.274, effective August 6, 1981.

See: 13 N.J.R. 244(f), 13 N.J.R. 525(b).

(f) added.

Recodified from N.J.A.C. 17:2-6.2 and amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section. Former N.J.A.C. 17:2-6.3, Effective date; death prior thereto, repealed.

Amended by R.2005 d.75, effective February 22, 2005.

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

In (e), deleted "after approval of the retirement by the Board of Trustees" following "effective date of retirement".

Case Notes

Reversal and remand of denial of veteran's retirement benefits was warranted where initial approval of application was rescinded without notice. *Galvano v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 388, 542 A.2d 926 (A.D.1988).

Retirement allowance was available only for those months after filing application for retirement. *Kamin v. Retirement System*, 93 N.J.A.R.2d (TYP) 249.

Employee with diminished mental capacity due to alcoholism not entitled to retroactive effective retirement date. *Young v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 53.

Agreement with employer did not entitle employee to retroactive requested effective date of retirement. *Epps v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 45.

Applicant not entitled to change effective date of service retirement so as to qualify for early retirement incentive program with effective

date after her retirement. *Pykon v. Board of Trustees of the Public Employees' Retirement System*. 92 N.J.A.R.2d (TYP) 144.

Absent a showing of a decedent's incompetence, mutual mistake, fraud or other compelling equitable considerations, a retirement application shall not be reformed; petition to change pension payment option denied. *Schaeffer v. Bd. of Trustees, Public Employees' Retirement System*, 8 N.J.A.R. 427 (1984).

17:2-6.4 Outstanding loan

(a) A member who has an outstanding loan balance at the time of retirement may repay the loan balance, with accrued interest, as follows:

1. In full before the retirement allowance becomes due and payable as provided in N.J.A.C. 17:2-6.2; or
2. By deductions from retirement benefit payments of the same monthly amount deducted from the member's compensation immediately preceding retirement until the loan balance, with accrued interest, is repaid as authorized by P.L. 1999, c.132 (N.J.S.A. 43:15A-34.1). If the member does not request repayment in full, repayment is by deductions in the same monthly amount deducted from the member's compensation immediately preceding retirement.

(b) If a retirant dies before the loan balance, with accrued interest, is repaid, the remaining balance is paid first from the group life insurance proceeds, and then from the proceeds of any other benefits payable on account of the retirant in the form of monthly payments or the balance of the Option 1 reserves or the balance of the retirant's accumulated deductions and regular interest that are due to the beneficiary or estate. If the retirant designated multiple beneficiaries to receive these benefits, each beneficiary shares in repaying the remaining balance in the same proportion in which they are entitled to the benefits.

Amended by R.1999 d.409, effective December 6, 1999.

See: 31 N.J.R. 2519(a), 31 N.J.R. 4119(a).

In (a), rewrote 2i, and added 3; deleted former (b) and (c); and recodified former (b) as (d).

Amended by R.2002 d.267, effective August 19, 2002.

See: 34 N.J.R. 1599(a), 34 N.J.R. 2970(b).

In (a), deleted existing 2 and recodified former 3 as 2.

Amended by R.2005 d.75, effective February 22, 2005.

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

In (a), amended the N.J.A.C. reference in 1 and added the N.J.S.A. reference in 2; in (b), substituted "1" for "I" following "Option"; inserted "accrued" preceding "interest" throughout.

17:2-6.5 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act; or,
2. Such conduct as evidences reckless indifference to safety; or,
3. Intoxication, operating as the proximate cause of injury.

17:2-6.6 (Reserved)

Recodified to N.J.A.C. 17:2-4.5 by R.2004 d.226, effective June 21, 2004.

See: 36 N.J.R. 620(a), 36 N.J.R. 3066(b).

Former N.J.A.C. 17:2-6.6, Retirement credit, recodified.

17:2-6.7 Disability determination

(a) A member for whom an application for accidental disability retirement allowance has been filed by the member, by his employer, or by one acting in behalf of the member, will be retired on an ordinary disability retirement allowance if the Board finds that:

1. The applicant was considered a member at the time of filing the application for a disability retirement allowance or is covered by the provisions of N.J.A.C. 17:2-6.15;
2. The member is physically or mentally incapacitated for the performance of duty; and
3. The member is not eligible for accidental disability since the incapacity is not a direct result of a traumatic event occurring during and as a result of the performance of the member's regular or assigned duties; and
4. The member meets the service requirement for ordinary disability.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), rewrote 1, and neutralized a gender reference in 3.

Case Notes

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event; remand to Appellate Division to determine whether traumatic event was of such nature as to allow benefits eligibility under enunciated standard (citing former rule). *Korelnia v. Bd. of Trustees, Public Employees Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Nurse entitled to accidental disability pension due to traumatic injury at work. *Mullen v. Board of Trustees of the Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 110.

Incident's lack of traumatic event defeats application for accidental disability retirement benefits. *Ming v. Board of Trustees, Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 90.

Denial of accidental disability benefits due to employee's failure to establish total and permanent disability affirmed. *Oliver v. Board of Trustees of the Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 77.

Electrical installer suffering personal injury from falling air conditioner unit entitled to accidental disability pension. *Zillante v. Board of Trustees of the Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 44.

Permanent injuries not arising from great rush of force or uncontrollable power fail to meet test to receive accidental disability benefits. *DiBlashi v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 36.

Failure to prove great rush of force or uncontrollable power defeats claim for accidental disability benefits. *Pino v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 21.

Ordinary disability retirement benefits granted bus driver who sustained shoulder injury after fall in parking lot. *Hessler v. Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 13.

Bus driver who sustained lower back injury when stack of tires fell on him did not suffer traumatic event and thus was not entitled to accidental disability retirement benefits. *Pino v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 298.

Motor vehicle operator who sustained arm and shoulder injuries when van door malfunctioned, and who later reinjured her arm while maneuvering client's wheelchair, was not entitled to accidental disability retirement benefits; neither incident constituted qualifying traumatic event. *McDaniel v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 284.

Survivors of maintenance worker whose blood alcohol level was in excess of legal limit at time he died in work-related automobile collision could not recover accidental death benefits; employee who drives automobile while intoxicated is willfully negligent and thus ineligible to receive such benefits. *Komiskey v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 271.

Housing inspector who experienced chest pains after climbing eight flights of stairs did not suffer traumatic event, and thus was not eligible for accidental disability retirement benefits. *Cartagena v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 266.

Clerk who tripped and fell down flight of stairs failed to establish that injuries she suffered rendered her unable to perform her regular employment duties, and thus she was not eligible for accidental disability retirement benefits. *Bonomo v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 261.

Injuries sustained by clerk stenographer when she fell over several boxes after being frightened by rat in workplace lunchroom were not caused by requisite "great rush of force or uncontrollable power," and thus clerk was not entitled to accidental disability retirement benefits. *Hunter v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 252.

Laborer who injured himself while attempting to lower entire man-hole casing by himself was not entitled to accidental disability retirement benefits; injury was not caused by requisite "great rush of force or uncontrollable power." *Tomasi v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 239.

Public works employee injured in slip and fall on bus steps did not suffer traumatic event entitling him to accidental disability retirement benefits. *Yodice v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 210.