

17:3-2.7 Enrollment following deferred retirement

(a) The membership account under which a member elected deferred retirement, who resumes regular service prior to the normal retirement age, shall be reinstated.

1. He shall be assigned his original rate of contribution if he resumes service before a period of two years has elapsed since he last made a contribution to his account.

2. If there has been a lapse of more than two years, a commuted rate shall be assigned. Such commuted rate of contribution shall be determined by adding the lapsed period to his age as of the date of his original enrollment.

As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

17:3-2.8 (Reserved)

The rule formerly at this cite was entitled "Insurance liability for unenrolled members." It was repealed by R.1983 d.439, effective October 17, 1983. See: 15 N.J.R. 1177(a), 15 N.J.R. 1773(a).

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:3-3.1 Compulsory and optional enrollment

(a) For the purpose of contributory insurance, all eligible compulsory enrollees shall be required to participate in the contributory insurance program for one year (12 calendar months) from the date of enrollment, or the effective date of insurance premium deduction, whichever is later. Proof of insurability shall be required of all compulsory enrollees who filed an enrollment application beyond the year they first became eligible for membership in order to qualify for non-contributory and contributory insurance coverage.

(b) Optional enrollees may qualify for non-contributory and contributory insurance coverage, only if they were actively at work performing all of the duties that the position requires at the time they made application for enrollment and such application was filed within one year from the date they first became eligible for enrollment in the fund. If an application for an optional enrollee is not received within one year after he became eligible for enrollment, evidence of insurability will be required for noncontributory and contributory coverage.

(c) One year of insurance premiums will be required from the date the member's insurance premiums are effective, whereas insurance benefits will be effective on the date the member is enrolled in the System.

(d) When proof of insurability is required, the member's opportunity to prove such insurability shall expire one year (12 months) from the date the initial written notice is sent advising him that he must prove insurability by taking a medical examination.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1979 d.205, effective May 22, 1979.
See: 11 N.J.R. 208(a), 11 N.J.R. 359(a).
As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

Case Notes

PERS Board of Trustees ordered to pay death benefits to a life insurance beneficiary; de facto "active service" insurance protection. *Williams v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 137.

Denial of petitioner's request for payment of deceased wife's insurance benefits was appropriate; failure to convert group life insurance. *Arico v. Teacher's Pension and Annuity Fund*, 94 N.J.A.R.2d (TYP) 129.

17:3-3.2 Participation in the program

(a) Participation in the program for members who obtained contributory insurance coverage on or after July 1, 1971, means the sum of the years of service credited for retirement purposes at the time of retirement.

(b) A 10-month member will be credited with three months' participation if he is enrolled in the program in September.

R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
Amended by R.1985 d.431, effective September 3, 1985.
See: 17 N.J.R. 1252(a), 17 N.J.R. 2144(c).
(a) substantially amended.

17:3-3.3 Computation of insurance benefits

(a) Any member who is reported on a 10-month basis and who has not resigned or been discharged, shall be covered by his insurance benefits for the months of July and August provided he has filed a contract of employment for the next school year, or where the member has tenure. The death benefits shall be based on the base salary upon which contributions to the Annuity Savings Fund were actually made during the 12-month or 26 biweekly pay periods immediately preceding his death. The salary, in the month or biweekly pay period in which no salary was paid, shall be counted as zero.

(b) Full salary credit will be given for the month or biweekly pay period in which a member dies, if he was paid salary to date of death and the salary paid was sufficient to permit a full normal month's or biweekly pension and insurance contribution deduction provided such deduction was made by the employer.

(c) If a member dies within the first year following the date of his enrollment, the contributory insurance benefit shall be two times the member's annual base salary on which he contributed or would have contributed immediately prior to his death. The noncontributory insurance benefit shall be 1½ times the actual base salary upon which contributions to the Annuity Savings Fund were due from the date of enrollment to the date of death.

(d) For a member dying after the first year following his date of enrollment, both noncontributory and contributory insurance benefit shall be determined on the base salary on which contributions to the Annuity Savings Fund were made or would have been made during the 12-month or 26 biweekly pay periods preceding death.

(e) If a member has contributed pension contributions for less than a year but his enrollment has been in effect for more than a year, only those wages upon which pension contributions were based can be used as salary to determine the value of the noncontributory insurance benefit, whereas the contributory insurance benefit will be based on the member's annual salary on which he last contributed.

(f) Where a post-audit of insurance claim payments indicates the pension contributions reported by an employer were incorrect and resulted in the overpayment of an insurance claim to a member's designated beneficiary or estate, the employer will be billed for the value of the overpayment of the insurance benefits. Where post-audits establish the insurance benefits were underpaid, an additional check would be sent to the beneficiary for the value of the underpayment.

(g) Refunds of a deceased member's pension contributions will be made to the member's designated beneficiary or the employer after written confirmation is received from the employer setting forth the reason for the refund of pension contributions to either the beneficiary or to the employer.

(h) Members who prove their insurability for the group life insurance benefits shall have their insurance benefit calculated on the basis of the salary upon which pension contributions were based or received during their last year (ten and 12 months) of service prior to death, regardless of their effective date of insurance coverage.

(i) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by multiplying the total by the factors supplied by the actuary; such adjustment will compensate for State biweekly payroll schedules.

(j) In computing subsection (i) of this Section in the case of State employees reported on a ten-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive salary. The adjustment as specified in subsection (i) of this Section shall not be made.

(k) If a member was reported on a biweekly basis on any combination of ten and 12-month contract years, the last year's salary prior to death or retirement shall be determined on a proportional basis. The biweekly pay periods for which no contributions were made shall be counted as zero.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
As amended, R.1978 d.104, effective March 21, 1978.
See: 10 N.J.R. 37(c), 10 N.J.R. 176(a).

17:3-3.4 Contributory insurance rate

Effective January 1, 1980, the contributory group life insurance rate of contribution for all participating members shall be 4/10 of one per cent of the member's base or contractual salary.

As amended, R.1980 d.175, effective April 21, 1980.
See: 12 N.J.R. 157(e), 12 N.J.R. 354(a).

17:3-3.5 New enrollments and transfers; contributory insurance premiums

For new enrollees and transferees, contributory insurance premiums will be due from the date insurance is effective as shown on the certification, to the date payroll deductions are certified to begin. In no case will the retroactive premiums for more than 15 months be charged.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-3.6 Leave for illness

(a) Coverage during a leave of absence without pay due to illness shall apply only to the personal illness of the member.

(b) A leave of absence on account of another person's illness will not entitle the member to continued insurance coverage.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-3.7 Survivor benefits

(a) Payment of benefits to eligible survivors shall become effective on the first of the month of the member's death and shall terminate as of the month in which the survivor no longer qualifies for such benefits.

(b) In the instance of an active member who died in the performance of duty (accidental death), the initial pension payment will be for the month following the month in which the member died, and the last payment will cover the month immediately preceding the month the survivor dies or ceases to qualify for the continuance of benefits.

As amended, R.1975 d.140, effective May 27, 1975.

1. Any remaining balance shall be paid from the proceeds of any other benefits payable on the account of the retirant in the form of monthly payments or the balance of the Option I reserves that are due to the beneficiary or estate. If the retirant has designated multiple beneficiaries to receive such benefits, each beneficiary will share equally in repaying the loan from the benefits payable to them.

Amended by R.1982 d.14, effective February 1, 1982.
See: 13 N.J.R. 748(b), 14 N.J.R. 161(c).
Repealed and replaced (a) and (b).

17:3-6.5 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.

17:3-6.6 Retirement credit

(a) A member shall receive credit toward retirement for any month or biweekly pay period in which a full normal deduction is received by the Fund.

(b) A member who appeals the suspension or termination of his or her employment and is awarded back pay for all or a portion of his or her employment for the period of such suspension or termination shall receive retirement credit for the period covered by the award, regardless of the amount of the back pay awarded, provided a full normal pension contribution is received from the member or deducted from the value of the award. The amount of the pension contribution will be determined by the provisions of the award. If the member receives full back pay, including normal salary increases, then the contribution will be computed on the base salaries that the employee would have earned for the reinstated, suspended or terminated period. When the settlement is less than the full back pay, the pension contribution will be based upon the salary that the member was receiving for pension purposes prior to the suspension or termination of employment. In the event that the amount of back payment is insufficient to deduct the value of the normal pension contributions due, such contribution shall be paid by the member.

(c) It is the responsibility of the certifying officer to provide a letter attesting to the base salary or salaries to be used to compute pension contributions and to provide a copy of the resolution or legal document that details the terms of the settlement.

Amended by R.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
Amended by R.1981 d.140, effective June 4, 1981.
See: 13 N.J.R. 159(c), 13 N.J.R. 376(a).
(b) added.

Amended by R.1991 d.100, effective March 4, 1991.
See: 22 N.J.R. 3321(b), 23 N.J.R. 712(b).

In (b), amended method of computing back pay awards. Added (c).

Case Notes

Former teacher entitled to interest on monies improperly withheld from retirement account, but not reimbursement for overpayment of state income tax. *Nangle v. Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 14.

17:3-6.7 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 member was under the normal retirement age at the time of filing application for a disability retirement allowance; and
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 his regular or assigned duties; and
4. The member meets the service requirement for ordinance disability.

As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

Case Notes

Teacher injured while travelling to school at normal time was not entitled to accidental disability pension. *Loftus v. Teachers' Pension and Annuity Fund*, 95 N.J.A.R.2d (TYP) 14.

Accidental disability retirement benefits; slip and fall injury was not shown to be traumatic event. *Catarcio v. Teachers' Pension and Annuity Fund*, 94 N.J.A.R.2d (TYP) 99.

Ordinary disability retirement benefits were properly denied when employee failed to meet service requirement; out-of-state service. *Bewley v. Teachers' Pension and Annuity Fund*, 94 N.J.A.R.2d (TYP) 61.

Student's composition directed at teacher did not warrant accidental disability retirement in absence of actual threat. *Kablesh v. Board of Trustees*, 93 N.J.A.R.2d (TYP) 229.

Elementary school teacher with severe back pain entitled to ordinary disability benefits. *Dilascio v. Board of Trustees of the Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 105.

Third grade teacher injured while restraining violent student permanently and totally disabled by traumatic event qualifying her for accidental disability retirement benefits. *McCulloch v. Board of Trustees, Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 66.

Physical assault of teacher constituted a traumatic event within meaning of accidental disability retirement statute. *Malawka v. Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 21.

17:3-6.8 Option selection

If an applicant for an accidental disability retirement benefit is rejected for an accidental disability benefit, but is approved for the Board for retirement, in accordance with N.J.A.C. 17:3-6.7, he will be permitted, within 30 days following Board approval of his retirement, to amend the option selection which he made on the original accidental disability retirement application.

17:3-6.9 Employer and employee notices

(a) If an applicant for accidental disability retirement is found to be physically or mentally incapacitated for the performance of duty but is rejected for accidental disability retirement because the Board finds that the disability was not a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties, and if the applicant does not meet the minimum statutory requirements for any other type of retirement allowance, the Fund will notify both the member and his employer that the member was found to be physically or mentally incapacitated for the continued performance of duty, as was previously certified to the Fund by both the employee and his employer.

(b) Both the employer and the employee will also be advised that a copy of such notice will be placed in the member's file and will be given full consideration in any future claim for disability retirement benefits.

17:3-6.10 Employer application; employee notice

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of his employees, the member will be promptly notified by letter that:

1. His employer has initiated a disability application, on the member's behalf; and
2. His employer has certified that the member is permanently and totally disabled for the continued performance of duty; and, if appropriate;
3. His employer has certified that the member should be retired as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties;
4. He has a period of 30 days to contest his involuntary retirement before the Board acts on his employer's application;
5. He will be required to appear for an examination before a physician designated to conduct such an examination for the Fund; and
6. In the event the Board finds that he is totally and permanently incapacitated for the performance of duty, he shall be granted the maximum retirement allowance (without option) payable under the statute, if he (the member) does not file a completed "Application for Disability Retirement Allowance" setting forth the type of allowance he desires, before his retirement goes into effect; and

7. In the event the Board finds that he is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

17:3-6.11 Early retirement benefit

(a) The statutory reduction of $\frac{1}{4}$ of one per cent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55, if his 55th birthday occurs on or after the 15th day of the month.

(b) Retirement on the first of the month in which a member attains age 55 shall be classed as "early" retirement, although a reduction is not applied if his 55th birthday occurs before the middle of such month.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

Case Notes

Good cause was shown by school teacher who converted his ordinary disability retirement plan to early service retirement. *Steinmann v. State, Dept. of Treasury, Div. of Pensions, Teachers' Pension and Annuity Fund*, 116 N.J. 564, 562 A.2d 791 (1989).

17:3-6.12 Service retirement eligibility

A member becomes eligible for "Service" retirement on the first of the month following his 60th birthday.

17:3-6.13 Disability retiree; annual medical examinations

(a) All disability retirees, under the normal retirement age, may be required to undergo a medical examination each year for a maximum period of five years by a physician designated by the Fund as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board.

(b) Failure on the part of a retiree to submit to the required medical examination shall result in the automatic suspension of his retirement allowance until he submits to a medical examination.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

17:3-6.14 Disability retiree; annual report (employment, earnings, test and adjustment)

(a) All disability retirees, under the normal retirement age, shall be required to file a report with the Fund indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year: