

**THE COMMONWEALTH OF MASSACHUSETTS**  
Public Employee Retirement Administration Commission  
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Somerville, MA 02145  
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[www.state.ma.us/PERAC](http://www.state.ma.us/PERAC)

M E M O R A N D U M

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: Retroactive Payments of Veteran's Benefits in Excess of 80% Limit

DATE: September 15, 1998

The Contributory Retirement Appeal Board has upheld the Division of Administrative Law Appeals' decision in the case of Dargan v. PERAC, CR-97-1418. This decision is now final and this memorandum is a follow-up to PERAC memorandum #41/1997. As a result of this decision, all surviving spouses and estates of veterans who were not previously paid all or part of the \$300 veteran's benefit because they were above the 80% limitation in G.L. c. 32, § 5(2)(c) will now need to be retroactively paid.

In PERAC memorandum #26/1996, pursuant to the case of Drew v. PERA, the Commission instructed the boards to only recalculate the veteran's benefit in excess of the 80% limitation for retirees and beneficiaries receiving benefits on the day of that decision. This new decision requires a retroactive payment of unpaid veteran's benefits to anyone who should have received all or part of the \$300 veteran's benefit regardless of whether a retiree or beneficiary was receiving benefits on the day of that decision. This new decision requires repayment regardless of the option the retiree chose.

In order to implement this decision, all boards must review all beneficiaries currently in pay status to determine if they are owed retroactive benefits due to this decision. If a board is able to search all their current and past member's records to determine eligible beneficiaries and estates, they should do so. Whether a board is able to conduct such a search or not, it is advisable for each board to publish a notice in their local newspaper to notify beneficiaries and estates of their right to apply for these retroactive benefits. A sample notice, which will be published by the Commission on Sunday, September 27, 1998 in the Boston Globe, Boston Herald, Worcester Telegram & Gazette and the Springfield Union News, is attached.

## MEMORANDUM

TO: All Retirement Boards

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Upon application, retirement boards must review their records to determine whether the applicant meets the criterion of this decision and was not previously paid as a result of the decision in the Drew case. If these applicants are eligible, the board must recalculate the retirement allowance. Again, these applicants may include surviving spouses and estates regardless of the option chosen.

Recalculated retirement allowances are to be submitted to the Commission for review and approval. When submitting a recalculation, include a copy of the original retirement allowance calculation and attach a completed WORKSHEET. For calculations involving retirement allowances in excess of \$9,000, which will not require recalculations for any COLAs, please use the SIMPLIFIED RECALCULATION WORKSHEET. For allowances that will be effected by the application of COLAs to the recalculated allowances, use the RETROACTIVE PAYMENT WORKSHEET. In the case where both a retiree and their beneficiary died prior to April 28, 1995, a separate worksheet should be completed for both the retiree and beneficiary. A copy of each of the worksheets is enclosed.

If you have questions, please contact this office.

## **LEGAL NOTICE**

Any beneficiary or estate of a public employee who received a retirement allowance under G.L. c. 32 and was denied all or part of the \$300 veteran's benefit because they were above the 80% statutory limitation may be eligible for a retroactive payment. Any such beneficiary or estate should contact the retirement board for the community in which the public employee worked or contact PERAC, in writing, including the member's name and the system from which they retired, at PERAC, Legal Notice, 5 Middlesex Ave., 3<sup>rd</sup> Fl., Somerville, MA 02145.

**RETROACTIVE PAYMENT WORKSHEET**

To be used for allowances less than \$9,000.

Board \_\_\_\_\_ Retiree or Beneficiary Name \_\_\_\_\_

1 - Year	2- Amount actually paid	3 - Amount that should have been paid	4 - Amount Underpaid
1961			
1962			
1963			
1964			
1965			
1966			
1967			
1968			
1969			
1970			
1971			
1972			
1973			
1974			
1975			
1976			
1977			
1978			
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1980			
1981			
1982			
1983			
1984			
1985			
1986			
1987			
1988			
1989			
1990			
1991			
1992			
1993			
1994			
1995			
1996			
<b>TOTAL</b>			

COLUMN 2 - Enter the amount that the retiree or beneficiary actually received during the year.

COLUMN 3 – Enter the amount that the retiree or beneficiary should have received based on the recalculation and application of a COLA to the appropriate portion of the allowance.

COLUMN 4 - Enter the difference between COLUMN 2 and COLUMN 3. The total of COLUMN 4 is the amount due to the beneficiary or an estate.

