

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

David Domingo,
Petitioner,

Docket No.: CR-26-0061

Dated: September 11, 2026

v.

Massport Employees' Retirement System,
Respondent.

Appearances:

For Petitioner: Eric D. Correia, Esq.

For Respondent: Richard Heidlage, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

The petitioner retired for accidental disability, with an effective retirement date prescribed by G.L. c. 32, § 7(2). After that effective date, the petitioner attempted to elect option (c) under G.L. c. 32, § 12(2), and to appoint a beneficiary for purposes of that option. The respondent retirement board properly declined to accept the appointment.

DECISION

Petitioner David Domingo appeals from a decision of the Massport Employees' Retirement System (board) declining to accept Domingo's appointment of an option (c) beneficiary under G.L. c. 32, § 12(2). The appeal was submitted on the papers without objection. I admit into evidence exhibits marked 1-14.

Findings of Fact

The following facts either are undisputed or are alleged by Domingo and taken as true for purposes of this decision.

1. Domingo served as a firefighter first with the town of Seekonk and then, beginning in 2012, with Massport. Domingo and his now-wife became a couple approximately in 2016 and began to live together approximately in 2018. (Exhibits 1, 6.)

2. In July 2020, Domingo sustained a severe knee injury. He began to receive long-term injured-on-duty benefits under G.L. c. 41, § 111F. Five years later, in March 2025, Domingo's fire chief filed an application to retire Domingo involuntarily for accidental disability. The application did not propose a specific retirement date. (Exhibits 1, 13.)

3. The board arranged for regional-medical-panel examinations of Domingo, held a hearing in November 2025, and voted at the hearing to approve the retirement application. Domingo received an invitation to the hearing but did not attend. (Exhibits 4, 11, 12.)

4. During the months of the retirement application's pendency, the board gave Domingo no information, whether accurate or inaccurate, about the date on which he might expect to retire. For his part, Domingo did not ask the board about his anticipated retirement date, did not express any preference with respect to the timing, and did not attempt to nominate any beneficiary for purposes of his retirement benefits. (Exhibit 2-4, 6.)

5. In late December 2025, the Public Employee Retirement Administration Commission ratified the board's approval of Domingo's retirement. The board identified the effective date of Domingo's retirement as December 28, 2025, the date when he last received § 111F benefits. (Exhibits 10, 14.)

6. In early January 2026, Domingo informally told the board that he wished to appoint his then-domestic-partner as his option (c) beneficiary under G.L. c. 32, § 12(2). The board informally responded that the appointment was no longer possible. On January 8,

Domingo asked the board in writing to make an exception. On January 15, he and his wife married in Rhode Island. On January 16, he filed a standard form seeking to appoint his wife as his option (c) beneficiary. (Exhibits 6, 7.)

7. In early February 2026, the board issued a formal decision declining to accept Domingo's appointment of his wife as his option (c) beneficiary. Domingo timely appealed. (Exhibits 8, 9.)

Analysis

The public retirement law affords retiring employees a choice among three benefit schemes. Option (a) offers the maximum retirement allowance. Option (b) offers a reduced allowance, with the proviso that, if the employee should die without receiving the equivalent of his or her career-long retirement contributions, the remainder will be refunded to a beneficiary. Option (c) offers a lower-still allowance to the member, but also a survivor's allowance to a beneficiary upon the member's death. *See* G.L. c. 32, § 12(2). The only individuals eligible to serve as option (c) beneficiaries are the employee's "spouse[,] former spouse who has not remarried, child, father, mother, sister[,] or brother." *Id.* § 12(2)(c), 3d para.

The governing statute imposes a strict deadline: "[N]o election of an option shall be valid unless such election is filed with the board . . . on or before the date [the employee's] allowance becomes effective." G.L. c. 32, § 12(1). *See Tarasyuk v. Massachusetts Tchrs.' Ret. Syst.*, No. CR-19-509, 2022 WL 22863706, at *2 (Contributory Ret. App. Bd. Dec. 1, 2022). In the case of a valid election, "the option elected shall take effect as of the date the retirement allowance . . . becomes effective." § 12(1).

In accidental-disability cases, the date on which the retirement allowance “becomes effective” is prescribed by G.L. c. 32, § 7(2). The effective date is whichever “last occurs” among three alternatives: “the date the injury was sustained,” “the date six months prior to the filing of the written [retirement] application,” or “the date for which [the employee] last received regular compensation for his employment.” *Id.* There is no dispute that the last occurring date in this case was the last date on which Domingo received § 111F pay, which counts as “regular compensation.” *See Leary v. Hull Ret. Bd.*, No. CR-06-341, 2012 WL 13406329, at *1 (Contributory Ret. App. Bd. Apr. 26, 2012).

The board’s decision complied with the foregoing rules. To recap, under § 12(1), Domingo’s opportunity to elect option (c) and to nominate a beneficiary for purposes of that option ended when his allowance became effective. Under § 7(2), the allowance became effective on the last date of Domingo’s § 111F benefits. With Domingo having chosen no option and beneficiary by that time, his allowance could only be paid “in accordance with the terms of option (b).” § 12(1). *See Morales v. State Bd. of Ret.*, No. CR-04-529, 2008 WL 7540637, at *3 (Contributory Ret. App. Bd. Dec. 23, 2008).¹

Domingo argues for a belated election opportunity based on the board’s failure to inform him about the looming consequences of his own failure to select an option and a beneficiary. As support for the argument, Domingo points to principles of due process, fairness, and estoppel. These principles do not warrant the relief that Domingo seeks. A claim

¹ The board was more concerned with the fact that, when his retirement became effective, Domingo was not yet married; twice during February 2026—with the allowance already payable—the board invited Domingo to choose a different option (c) beneficiary. (Exhibits 8, 10.) The legal merits of those invitations are not at issue here.

that Domingo has been deprived of his constitutional rights would need to be presented to the Superior Court. *See Naranjo v. Department of Revenue*, 63 Mass. App. Ct. 260, 266 (2005); *Baker v. Director of Div. of Unemployment Assistance*, 83 Mass. App. Ct. 1105, 2012 WL 6778429, at *1 (2013) (unpublished memorandum opinion); *Filkins v. State Bd. of Ret.*, No. CR-11-715, 2020 WL 14009539, at *10 (Contributory Ret. App. Bd. Jan. 8, 2020).² Intuitive concerns revolving around fairness and sympathy “may not trump a statutory rule.” *O’Malley v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 778, 782 (2024). *See also Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 446, 450-51 (2006). And any inadequate or erroneous information provided by a board to a member cannot alter the member’s statutorily prescribed entitlements. *Clothier v. Teachers’ Ret. Bd.*, 78 Mass. App. Ct. 143, 146 (2010); *Moynihan v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 1108, slip op. at 7-8 (2024) (unpublished memorandum opinion); *Awad v. Hampshire Cty. Ret. Bd.*, No. CR-08-621, 2014 WL 13121791 (Contributory Ret. App. Bd. Dec. 19, 2014).³

² On the merits of the constitutional claim, government agencies generally are not required to notify their individual constituents about rules—like G.L. c. 32, § 7(2)—that are “public and available.” *City of W. Covina v. Perkins*, 525 U.S. 234, 241 (1999). “The entire structure of our democratic government rests on the premise that the individual citizen is capable of informing himself about the particular [rules] that affect his destiny.” *Atkins v. Parker*, 472 U.S. 115, 131 (1985). *See also In the Matter of Enrollment in Retirement Plus*, No. CR-21-369, 2023 WL 5332723, at *3 n.4 (Div. Admin. Law App. Aug. 7, 2023).

³ Standard-form retirement paperwork prompts voluntary retirees to update their retirement options and beneficiaries. Everything in the main text having been said, it would be appropriate for the boards to make sure that involuntary retirees receive similar prompts sometime in advance of their effective retirement dates.

Conclusion and Order

For the foregoing reasons, the board's decision is AFFIRMED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals