

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

Ralph Matthes,
Petitioner,

Docket No.: CR-24-0721

v.

Essex Regional Retirement System and
Public Employee Retirement Administration Commission,
Respondents.

Appearances:

For Petitioner: Ralph Matthes, pro se
For Respondent PERAC: Felicia McGinniss, Esq.
For Essex Regional Ret. Sys: Michael Sacco, Esq.

Administrative Magistrate:

Eric Tennen

ORDER GRANTING MOTION FOR SUMMARY DECISION

The Petitioner, Ralph Matthes, timely appealed a decision by the Essex Regional Retirement System (Essex) denying his request for retroactive disability payments after Essex terminated his payments. In his appeal, Mr. Matthes named the Public Employee Retirement Administration Commission (PERAC) as the Respondent. DALA initially kept PERAC as the Respondent; PERAC litigated the case and filed a motion for summary decision. Essex has received copies of all pleadings, and I now join Essex as a party. Essex did not file a response. Mr. Matthes was given time to file a response, which he did not do. PERAC's motion is now ripe for decision. I enter exhibits 1-9 into evidence.

FINDINGS OF FACT

Based on the nine exhibits attached to PERAC's memorandum, the following facts are not in dispute:

1. Mr. Matthes was an inactive member of the Essex Retirement System who at some point was awarded accidental disability retirement. (Exs. 1-9.)
2. Someone receiving disability benefits has an obligation to provide an annual statement of earned income. Here, Mr. Matthes failed to provide that for the year 2021. (Exs. 1-9.)
3. Accordingly, Essex sent Mr. Matthes a notice that failure to file this statement could result in termination of his benefits. (Ex. 1.)
4. Having failed to hear from him, Essex then notified Mr. Matthes that PERAC directed it to terminate his benefits. However, Essex said he could avoid termination by submitting his annual statement. If not, Essex would hold a hearing about his termination which he could attend. (Ex. 1.)
5. When he failed to provide an annual statement or attend the hearing, Essex voted to terminate his benefits. It sent him a letter indicating he could appeal the decision. He did not appeal. (Ex. 2.)
6. Despite its vote, Essex extended its original deadline to give Mr. Matthes more time to submit his annual statement. When he failed to do so, it held another hearing where it again voted to terminate his allowance. Essex issued him a letter indicating he could appeal that decision. He did not appeal. (Ex. 3.)
7. Finally, in April 2024, Mr. Matthes filed his annual statement. (Ex. 5.)
8. After he filed it, he requested a hearing so that Essex could consider retroactive

reinstatement of the benefits he lost. Essex held a hearing where it addressed Mr. Matthes's case. It is not clear whether he attended the hearing, but he provided Essex with some explanation for his failure to file the statement. He indicated he had very serious medical issues which prevented him from filing his statement; he offered to provide the medical records if necessary. (Exs. 6 & 7.)

9. Essex then wrote to PERAC asking for guidance about whether it had the authority to reinstate Mr. Matthes's benefits in this situation. PERAC advised Essex it did not because, as PERAC explained, PERAC does not have the authority to reinstate benefits once terminated. (Ex. 7.)

10. This appeal followed. In the course of this appeal, Mr. Matthes submitted voluminous medical records to corroborate his explanation that he was unable to comply because of very serious medical problems.

DISCUSSION

Summary decision may be granted when "there is no genuine issue of fact relating to all or part of a claim." 801 Code Mass. Regs. § I.01(7)(h). "In such a circumstance, a hearing serves no useful purpose." *Jordan v. State Bd. of Ret.*, CR-21-0201, 2022 WL 16921458 (Div. Admin. L. App., Feb. 18, 2022). This is such a case.

Members who receive disability retirement benefits have an obligation to show they are not earning excess payments. To fulfill this obligation, they are required to file a yearly statement "certifying the full amount of [their] earnings from earned income during the preceding year." G.L. c. 32, § 91A. "Said forms and information shall be submitted on or before April fifteenth of each year." *Id.* If a member fails to file these forms, they are offered a hearing

to show if there was good cause for this failure. *Id.*; *Gambale v. Essex Ret. Bd. and PERAC*, CR-15-003 (Contributory Ret. App. Bd., May 31, 2019); *Harper v. Middlesex Cnty. Ret. Bd.*, CR-21-0067, 2022 WL 16921434 (Div. Admin. L. App., May 13, 2022).

The consequences of failing to file the forms, or showing good cause for such failure at a hearing, are “harsh.” *Gambale, supra*. In those situations, “[s]ection 91A prohibits [the member] from being reimbursed for the period during which [they were] out of compliance with the annual reporting requirement.” *Id.*¹ However, if/when the member finally submits the required forms, “[t]he benefits start flowing again, but they don’t flow in reverse.” *Harper, supra*. This means that the member cannot collect benefits until the forms are filed, and no retroactive benefit payments are allowed.

Here, there is no dispute Mr. Matthes failed to file his annual form, failed to appear at a hearing concerning termination of benefits, and in turn, failed to show good cause why he failed to file the forms. That resulted in the termination of his benefits. And, although he has now filed his annual statement and his benefits have been reinstated, under § 91A, he is not entitled to retroactive payments.

Mr. Matthes raised some issues in these proceedings that conceivably could be considered “good cause” for his failure to file the forms. But he raised these issues for the first time after Essex had terminated his benefits. He did provide his medical records during this appeal, but not at the termination hearings before Essex, which were the forums in which these issues should have been raised. *See Harper, supra* (“If Mr. Harper had appeared at the

¹ Section 91A provides: “A member shall not be entitled to recover a retirement allowance for any period during which the member's rights in and to his retirement allowance were terminated for failure to submit a statement to the commission under this section.”

November 16, 2020 hearing, had lost, and appealed to DALA, a hearing before DALA on *that* appeal would also have been a time for Mr. Harper to show good cause."); *Fiore v. State Bd. of Ret.*, CR-15-0644 (Div. Admin. L. App. Apr. 5, 2019).

CONCLUSION AND ORDER

Essex and PERAC's decision denying the Petitioner's request for retroactive payments is affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Date: January 9, 2026

Eric Tennen

Eric Tennen
Administrative Magistrate