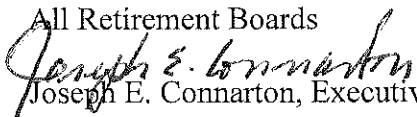


MEMORANDUM

TO: All Retirement Boards

FROM: 
Joseph E. Connarton, Executive Director

RE: 840 CMR 3.07 and 3.10 Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act)

DATE: December 10, 2013

The Commission has recently completed the regulatory process and adopted final regulations bringing the retirement system into compliance with the provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act). The regulations 840 CMR 3.07 and 3.10 were published in final form by the Secretary of State in the official register and effective on November 22, 2013. This memo will address the actions that each board must take to ensure that all eligible members of their system are notified of and provided with all required benefits.

As reflected in clause 2 of the amendments to 840 CMR 3.10 the HEART Act requires that plans treat participants who die on or after January 1, 2007, while performing qualified military service, as being reemployed and then dying for purposes of entitlement to certain additional benefits under the plan. This requirement applies to provisions such as:

- Accelerated vesting on account of death while an active employee;
- Eligibility for ancillary life insurance benefits, and
- Other survivor benefits that are available only when a participant dies while an active employee of the plan sponsor.

Clause 3 of 3.10 requires that members who die or are disabled, on or after January 1, 2007, while on leave for active military duty are treated as though they had been rehired as of the day before their death or disability and then terminated on the date of death or disability and granted creditable service. (Creditable service would be required to be granted up to the date of death or disability.)

Boards must search their records by means of a manual or computer search to identify all individuals who may have died while on leave for active military duty or who have been disabled and unable to return to employment while on leave for active military duty. The member or their surviving beneficiary should be contacted and a determination should be made by the board as to what additional benefits, if any, may be available to the member or beneficiary.



MEMORANDUM - Page Two

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(HEART Act)
DATE: December 10, 2013

In the case of a deceased member whose beneficiary claimed benefits under c. 32 §12(2)(d) the board may need to recalculate the benefit amounts if additional creditable service should be added. A beneficiary may not utilize the make-up payment provision of §12(2)(d) to purchase military service creditable service under c. 32 §4(1)(h). The make-up payment provision of §12(2)(d) only applies to credit for service rendered by the member prior to his last becoming a member. Veteran's creditable service is not the purchase of credit for service rendered rather it is the purchase on non-service time.

Any members who, after January 1, 2007, were denied creditable service for their military leave time for a failure to be reinstated or reemployed should be contacted and a determination should be made whether they would be eligible for any additional benefits if their military leave time was included as creditable service. In particular, if a member withdrew their accumulated total deductions because they did not have the minimum creditable service for ordinary disability or superannuation retirement they should be contacted and allowed to redeposit their funds and permitted to apply for ordinary disability or superannuation if they would now have the necessary service time. For any member re-depositing his accumulated deductions any funds transferred by the system from the special military reserve fund should also be re-deposited with regular interest into the military reserve fund.

It is not possible for this memo to encompass all possible scenarios that may arise as you review your membership records. Please do not hesitate to contact this office if you have any questions or specific situations that you wish to discuss.

/dmd

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