

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM,

Petitioner-Appellant

v.

**BLUE HILLS REGIONAL SCHOOL RETIREMENT BOARD, ANDOVER
CONTRIBUTORY RETIREMENT BOARD, NEEDHAM RETIREMENT SYSTEM,
STONEHAM RETIREMENT BOARD, AND PLYMOUTH COUNTY RETIREMENT
BOARD,**

Respondents-Appellees.

CR-19-226, CR-19-227, CR-19-266, CR-19-281, CR-19-566

DECISION

Pursuant to G.L. c. 32, § 16(4), petitioner Massachusetts Teachers' Retirement System (MTRS) has filed objections to a decision of an administrative magistrate of the Division of Administrative Law Appeals (DALA), holding that (1) the MTRS' appeal in relation to one of the respondents (the Needham Retirement System) is untimely under G.L. c. 32, § 16(4), and, as to the other four appeals, (2) a six-year statute of limitations applies to reimbursement requests by a retirement system under G.L. c. 32, § 3(8)(c). We vacate the DALA magistrate's determination in all respects and remand the matter to the DALA for further proceedings.

The magistrate's determination as to the timeliness of MTRS' appeal with respect to the Needham Retirement System is inconsistent with our past precedent. The July 20, 2018, letter that the magistrate relies on here does not state that the decision is appealable, give notice of the appeal period, or identify where an appeal should be filed. *See Lawrence Lutes v. Clinton Ret. Bd. II*, CR-07-1100 (CRAB 11/16/2013) at 3, quoting *Barnstable County Ret. Bd. v. PERAC*, (CR-07-0163) ("[A] written ruling by a retirement board is not[] an appealable 'decision' within the meaning of G.L. c. 32, s. 16(4) unless it 'expressly states that it is an appealable decision and ... gives notice of the fifteen-day appeal period and to whom the appeal letter must be sent.'"). Accordingly, the

letter did not trigger any obligation to appeal, and MTRS' appeal to CRAB, which was timely filed after the Needham Retirement System did not act on MTRS' subsequent letter on April 8, 2019, should proceed on remand. *Id.*

Turning to the six-year statute of limitations issue, the magistrate's decision is inconsistent with our recent decision in *MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (CRAB August 2, 2024), and suffers from multiple flaws. We elaborate *on five* below.

First, the policy purpose of G.L. c. 32, § 3(8)(c), is "to ensure long-term stability of all public pension plans in the Commonwealth of Massachusetts." *MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (DALA July 26, 2019), citing *Haverhill Ret. Sys. v. Contributory Ret. Appeal Bd.*, 82 Mass. App. Ct. 129, 132-133 (2012). Quoting from *Suburban Home Health Care, Inc. v. EOHHS*, 488 Mass. 347, 354 (2021), the magistrate here observes that the imposition of a statute of limitations "represent[s] a policy determination by the Legislature as to the point at which even meritorious claims should be barred." But there is no reason to believe that the Legislature intended its purpose, of ensuring "the long-term stability of all public pension plans" in Massachusetts, to be undermined or defeated by a Board's "inaction" or "inattention." *See State Bd. of Ret. v. Woodward*, 446 Mass. 698, 708 (2006).¹ *See also MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (CRAB August 2, 2024) at 9-12. Nor is there any reason to permit a Board's "inaction" or "inattention" to limit the "full" reimbursement that the statute requires. *Id.*

The *second* problem with the magistrate's decision is the observation, based on *Suburban*, that a statute of limitations is intended to force even an agency serving the public to proceed expeditiously and diligently to enforce its rights. But a Board seeking reimbursement from another Board is not "enforce[ing] its rights," rather it is protecting the long-term stability of all public retirement systems (and, in turn, present and future public retirees) and acting in accordance with that statute that mandates reimbursement in full. *See MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (CRAB August 2, 2024) at 9-12.

Third, the magistrate claims that the reference in Section 3(8)(c) to reimbursement "in full" "likely means only that reimbursement must be entirely proportional, with no extra weight placed on service performed nearer to retirement." *Blue Hills* at page 10. But this reasoning misses the

¹ Relatedly, the magistrate characterizes *Woodward* as stating that a six-year statute of limitations applies to Section 3(8)(c). It does not do so; rather, *Woodward* merely observed that Section 3(8)(c) references "an action of contract."

mark-the provision for "full" reimbursement necessarily refers to the public policy the statute protects, again, the shared responsibility for retirement payments for workers that worked in multiple Chapter 32 retirement systems and, in conjunction, the long-term stability of all public retirement systems. *See MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (CRAB August 2, 2024) at 9-
15. Permitting less than full reimbursement, by application of a statute of limitations, tends to undennine that public policy. *Id.*

Fourth, the articulated policy purposes for statutes of limitations, in general, do not apply in the context of Section 3(8)(c). Unlike *Suburban*, there is no concern in the Section 3(8)(c) context to "preserve the integrity and accuracy of the judicial process by ensuring that courts have sufficient, reliable evidence to decide cases." 488 Mass. at 354. Here, (1) all the relevant evidence is in the records of the respective retirement boards and the employing units; (2) the retirement boards and employing units have both legal and fiduciary obligations to maintain correct and accurate records of prior employment, positions, salaries, and deductions over the course of many tens of years (sometimes going back 30 or 40 years); (3) the invoice amount is based on information provided by the retirement board representing the earlier years of a member's service, and is based on the actuary's calculation; and (4) the contract action depends solely on, or is triggered by, a refusal to pay an invoice *and* there is no contested factual issue (other than, was there an invoice and was it paid).² As well, Section 3(8)(c) includes no words of limitation that prevent (or otherwise bar) full recoupment. *See, e.g.,* G.L. c. 32, § 3(8)(c) (upon a request for payment, the treasurer of the second governmental unit "shall forthwith take such steps as may be necessary to insure prompt payment" of the amount identified by the requesting system).

F(fih, and relatedly, the magistrate, based on *Suburban*, asks what the "essential nature" of the right is here, to determine what limitations period applies. *Suburban*, however, expressly

² A statute of limitations also intends that a defendant might, at some point in time, be entitled to consider itself free of long time demands and its state of uncertainty be resolved, after some reasonable time within which a claimant might be expected (and required) to assert a claim. But, in the context of public retirement systems, every employer and retirement system is aware, as soon as an employee becomes a member of a system, that the system is likely to have some sort of liability to make certain retirement, pension, or annuity payments (or reimbursements) to that member (or another system) and that that liability will not be actually payable for many years or decades into the future. So, any notion that there is a right to "repose" or freedom from a demand or liability or uncertainty, after a period of time, is directly contrary to the fundamental aspects of a public retirement system.

observed that the relationship between Medicaid and a Medicaid provider is governed not just by provisions of law but also by a written, and required, agreement which functions as a contract. But here there is absolutely no agreement or contract between the two (or more) retirement systems involved.³ See *MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (CRAB August 2, 2024) at 13-15. The obligation to pay full reimbursement to the system that is actually paying a retirement allowance is purely statutory, and the obligation is triggered solely upon issuance of an invoice in the amount determined by the actuary. The remedy of "an action of contract," which the statute gives "in default of any payment," see G.L. c. 32, § 3(8)(c), is purely a mechanism given the invoicing system to enforce the statutory obligation of payment by utilizing judicial remedies associated with contract actions. There is no contract or agreement between the two public entities and the public policy, embodied in statutory provisions, is that "full" reimbursement is required to protect the fiscal integrity of all retirement systems.⁴

On remand, the magistrate should address the merits of the several Section 3(8)(c) requests at issue here, doing so in a manner consistent with our decision. The magistrate should also address whether PERAC has established any rules that may apply to Section 3(8)(c) requests and provide the parties an opportunity to address all factual and legal arguments relating to them.

Conclusion. The DALA magistrate's decision is vacated and the matter is remanded to DALA for further proceedings consistent with this decision.

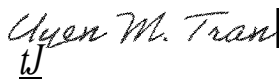
³ The right to bring an action of contract only arises upon "default" of payment, after invoicing. Therefore, failure to pay the invoice itself is the "breach" of any putative contract, as the action only arises in that circumstance, and the statute of limitations only begins to run from the date of breach. See *MTRS v. Clinton Ret. Bd.*, No. CR-18-348 (CRAB August 2, 2024) at 15-16; see also *Saenger Organization, Inc. v. Nationwide Ins. Licensing Assoc., Inc.*, 119 F.3d 55 (1st Cir. 1997).

⁴ Significantly, the pertinent sentence in Section 3(8)(c) referring to an action of contract is prefaced by the following language: "In default of any such payment." G.L. c. 32, § 3(8)(c). In the context of this section of the statute, such payment clearly refers to reimbursement "in full." *Id.* It thus stands to reason that the Legislature expressly authorized systems to use this remedy to seek full reimbursement, and not that the remedy would not serve to limit the amount any particular system could recover. *Id.*

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD


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