

COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals
14 Summer Street, 4th Floor
Malden, MA 02148
www.mass.gov/dala**

Cameron Siegal,
Petitioner

v.

Docket No. CR-24-0077

Massachusetts Teachers' Retirement System,
Respondent

Appearance for Petitioner:

Cameron Siegal
103 Prospect Street
Dartmouth, MA 02748

Appearance for Respondent:

Ashley Freeman, Esq.
Massachusetts Teachers' Retirement System
500 Rutherford Avenue, Suite 210
Charlestown, MA 02129

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

Oregon has a mandatory retirement program for public employees with two components. Both components are employer-funded. Neither component is a supplemental plan under 807 CMR 19.04(2). A member of the Massachusetts Teachers' Retirement System (MTRS) may not purchase credit for out-of-state service if he is eligible to receive employer-funded retirement benefits. MTRS's denial of petitioner's application to purchase service in Oregon is affirmed.

DECISION

The petitioner, Cameron Siegel, appeals MTRS's denial of his application to purchase service credit for one out-of-state teaching position.

Procedure

On February 26, 2024, the Division of Administrative Law Appeals (DALA) issued its First Pre-Hearing Order. Among other things, the order required Mr. Siegal to file a prehearing memorandum on or before April 10, 2024.

In two undated documents that were postmarked April 20, 2024 and that DALA received on April 24, 2024, Mr. Siegal submitted a prehearing memorandum and asked for his appeal to be decided on written submissions. He did not note or explain that his prehearing memorandum was late.

On June 6, 2024, Mr. Siegal submitted a revised memorandum. He did not ask the Division of Administrative Appeals (DALA) for permission to do so and did not explain why he was doing so. The only notice that he was doing so was an easy-to-miss line under the docket number, “Revised Version—6/6/2024.”

On June 11, 2024, MTRS submitted a prehearing memorandum. On June 16, 2024, Mr. Siegal submitted an 18-page response to MTRS’s prehearing memorandum. Pages and pages of the response restated Mr. Siegal’s prehearing memorandum.

On August 23, 2024, MTRS responded to Mr. Siegal’s June 11, 2024 submission. MTRS’s one-page response included an important factual update of the case. On September 12, 2024, Mr. Siegal submitted a four-page response to MTRS’s August 23, 2024 submission.

MTRS submitted 12 exhibits. Mr. Siegal submitted exhibits marked 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, and 2.8; and unmarked documents, which he listed in an November 1, 2024 email as documents 4 to 10, which I have marked as Petitioner’s Exhibits 4 to 10. There are no Petitioner’s Exhibits 1 and 3.

Findings of Fact

Application to purchase service credit for out-of-state teaching

1. On October 3, 2022, Mr. Siegal, an MTRS member, applied to purchase service credit for six out-of-state teaching positions in Oregon. (Resp. Ex. 1)

2. On February 7, 2024, MTRS sent a letter to Mr. Siegal stating that he was ineligible to purchase service for five of the six positions. (Resp. Ex. 2)

3. The denial letter explained the reason that Mr. Siegal was ineligible as follows:

According to M.G.L. c. 32, § 3(4) no credit shall be allowed, and no payment shall be accepted, for any service for which the member shall be entitled to receive a retirement allowance from any other state. For purposes of our regulation 807 CMR 19.04, the term “retirement allowance” means any out of state government defined benefit plan, or defined contribution plan offered in lieu of a defined benefit plan or as the sole retirement plan but not as a supplemental plan, in which a member is eligible to receive, or has received, a benefit based on whole or in part upon employer contributions. According to the information provided by Oregon PERS [Public Employees Retirement System] upon withdrawal of your retirement account, you will receive employer contributions.

(Resp. Ex. 2)¹

4. On February 16, 2024, Mr. Siegal timely appealed. (Resp. Ex. 5)

5. In his first response to MTRS’s prehearing memorandum, Mr. Siegal conceded that his service in two of the five teaching positions was not eligible for service purchase. My reading of Mr. Siegal’s submissions led me to believe that he was no longer appealing MTRS’s denial of his application as it related to another two of the five teaching positions. On December 2, 2024, I emailed him, asking if that were so. On December 3, 2024, Mr. Siegal confirmed that his appeal

¹ In its prehearing memorandum, MTRS added four grounds to deny Mr. Siegal’s application. One reason that I accepted Mr. Siegal’s responses to MTRS’s prehearing memorandum was to allow him to counter MTRS’s four new grounds. However, three grounds involved Mr. Siegal’s teaching positions that are no longer part of this appeal. The fourth ground is also no longer relevant.

no longer related to the second two teaching positions. That left on appeal MTRS's denial of his application to purchase service for one teaching position.

Oregon Public Service Retirement Plan

6. The Oregon Public Service Retirement Plan (OPSRP) is a hybrid pension plan with two components: the Pension Program, which is a defined benefit plan, and the Individual Account Program (IAP), which is a defined contribution plan. (Resp. Ex. 6, p. 3) The IAP is the important plan in this appeal.

7.

The OPSRP Pension Program provides a life pension funded by employer contributions. The program is benefit-based and uses predictable criteria such as a pension determined by salary x length of service x a factor of 1.5 percent....

The IAP is applicable to all new hires and to all active Tier One and Tier Two members.² As a defined contribution plan, it has no guaranteed benefit. Employees (or employers on behalf of employees) make contributions into the IAP....

(Resp. Ex. 6, p. 3 (Background Brief, Oregon Legislative Committee Services). That is, the IAP is not an optional plan for Oregon public employees.

8. An Oregon employee's IAP "is funded by transferring a portion of an employee's pay into their IAP account each month." (Resp. Ex. 8, p. 1 (State of Oregon website)) That is, the plan is not optional.

9.

New employees become vested in their IAP as soon as their PERS membership begins (i.e., after their six-month membership wait time). Vesting in optional employer accounts may have different rules.

(Ex. 8, p. 1 (State of Oregon website)) Juxtaposing IAPs with "optional employer accounts"

² These terms are not significant for this decision.

further indicates that IAPs are not optional for Oregon employees.

Fern Ridge School District: Mr. Siegal's service and IAP

10. Mr. Siegal was a teacher in the Fern Ridge School District from August 2017 to June 2020. (Resp. Ex. 1, pp. 2, 5)

11. The Fern Ridge School District contributed to Mr. Siegal's IAP from March 2018 to June 2020. (Resp. Ex. 4; Resp. Ex. 3, p. 7 (email from Siegal to MTRS))

12. Mr. Siegal did not vest in the PERS *pension* plan and is not entitled to any *defined* benefits. (Pet. prehearing memorandum 2, MTRS prehearing memorandum 2)

13. As of October 31, 2022, Mr. Siegal had not withdrawn money from his IAP. (Resp. Ex. 1, p. 17)

14. As of October 31, 2022, Mr. Siegal could receive a retirement benefit. Although he was not eligible for a lifetime pension, he could apply for a lump sum from his IAP account. (Resp. Ex. 1, p. 17)

15. If Mr. Siegal withdraws money from his IAP, the source of the money will have been both him and the school district. (Resp. Ex. 1, p. 17)

Discussion

General Laws Chapter 32, section 3(4) generally allows members of the Massachusetts Teachers' Retirement System to count their employment as educators in other states toward their pensions by paying into the system's retirement fund. However,

no credit shall be allowed and no payment shall be accepted for any service for which the member shall be entitled to receive a retirement allowance from any other state.

G.L. c. 32, §3(4). In other words, the statute provides that if an MTRS member is entitled to a retirement allowance for out-of-state service, the member may *not* purchase that service in

Massachusetts.

[T]he intent of the Legislature was to prevent “double dipping,” that is, to prevent a retiree from receiving benefits from two different states for the same service. That result would tend to enrich the retiree and to diminish the state retirement funds, especially if multiplied by dozens or hundreds of employees over periods of years. A vital duty of state retirement boards is to preserve the body of funds necessary to fulfill a system’s obligations to oncoming thousands of retiring employees.

Nancy Sullivan v. Teachers’ Retirement System, CR-07-639 (DALA 2012) (citations and internal quotation marks omitted).

The term

“retirement allowance” [must] be construed in a broader sense, meaning “payments [that] have their source in the employer and employee relationship and are in the nature of further compensation for services rendered and are made either directly or indirectly by the employer.”

Id. (citations and internal quotation marks omitted).

An MTRS regulation defines “retirement allowance” under the statute:

[A]ny out of state governmental defined benefit plan, or defined contribution plan offered in *lieu* of a defined benefit plan or as the sole retirement plan but not as a supplemental plan, in which a member is eligible to receive, or has received, a benefit based in whole or in part upon employer contributions.

807 CMR 19.04(2) (emphasis in original). A key word in this appeal is “as” – in the phrase “but not as a supplemental plan.” More on that soon.

According to MTRS, a supplemental plan “refers to *optional* and *additional* retirement plans available to workers, *funded entirely by [the] employee.*” (Respondent’s Response) (emphasis in original) A supplemental plan is, for example, a non-employer-matched 401(k) plan, an Individual Retirement Account, or a 457(b) deferred compensation plan. (Respondent’s Response) MTRS’s interpretation of what constitutes a supplemental plan is authoritative and generally deserving of deference because MTRS wrote the regulation. *Freiner v. Secretary of*

Executive Office of Health and Human Services, 494 Mass. 198, 205 (2024). *See also Ellen Moynihan v. Massachusetts Teachers' Retirement System*, CR-16-567 (DALA 2018) (deferring to MTRS's interpretation of 807 CMR 19.04(2) as reasonable).

Under the regulation, an MTRS member may *not* purchase service for which the member received or was eligible to receive money, wholly or partly from employer contributions, from:

- (1) a defined *benefit* plan;
- (2) a defined *contribution* plan offered in lieu of a defined benefit plan; or
- (3) a defined *contribution* plan offered as the sole retirement plan but not offered as a supplemental plan, that is, an optional employee-funded retirement plan.

The Oregon IAP is not a defined benefit plan. Thus, (1) does not apply here.

The Oregon IAP is not offered *in lieu* of a defined benefit plan; it is offered *with* a defined benefit plan. Thus, (2) does not apply here.

The Oregon IAP is (A) not offered as the sole retirement plan; an Oregon public employee also has a pension program; (B) is not optional; and (C) is not entirely employee-funded. Thus, (3) does not apply here.

The regulation does not govern Mr. Siegal's situation. Nonetheless, the statute still prohibits service purchases when the member is "entitled to receive a retirement allowance from any other state." G.L. c. 32, §3(4). Therefore, "no credit shall be allowed and no payment shall be accepted" for that service. *Id.*

Mr. Siegal's argument is essentially this: The IAP is a supplemental plan. See his response to MTRS prehearing memorandum at 16 ("I have exhaustively demonstrated the supplemental nature of the IAP..."). Therefore, he argues, he is authorized to purchase his service for employment during which he had an IAP. However, the IAP is not a supplemental

plan.

Mr. Siegal apparently misinterprets “the term ‘supplemental plan’ to mean that because Oregon has a two-part mandatory retirement system, one must...be the real retirement plan and the other the supplemental plan,” as MTRS put it. (Respondent’s Response)

Conclusion and Order

MTRS’s denial of Mr. Siegal’s application to purchase service credit for his work in the Fern Ridge School District is affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/

Kenneth Bresler
Administrative Magistrate

Dated: December 13, 2024