

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

KATHLEEN YOUNG,

Petitioner-Appellee

v.

BOSTON RETIREMENT SYSTEM,

Respondent-Appellant.

CR-19-0024

**ORDER DENYING MOTION
FOR RECONSIDERATION**

Respondent Boston Retirement System (BRS) has moved pursuant to 801 C.M.R.

1.01(7)(l) for reconsideration of our decision dated September 4, 2024. That section provides:

Motion for Reconsideration. After a decision has been rendered and before the expiration of the time for filing a request for review or appeal, a Party may move for reconsideration. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A, § 14(1) for the purposes of tolling the time for appeal.

BRS argues that the Contributory Retirement Appeal Board (CRAB) failed to consider the fact that because Ms. Young's pay was derived through an 03 account, that pay cannot be included as regular compensation in the calculation of her retirement benefit. We conclude that BRS's motion does not identify a clerical or mechanical error. We further conclude that the motion does not present "a significant factor" that was previously overlooked.

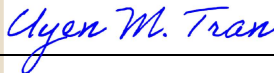
In this case, DMH/DMR paid EdCo for services rendered by EdCo employees and supervised those employees on their premises. In our September 4, 2024 decision, we determined that Ms. Young was employed by EdCo. She signed contracts with EdCo. She was paid by EdCo, and her contracts indicate that EdCo had hiring and firing power. Therefore, Ms.

Young's relationship with EdCo was one of actual employment. While EdCo was reimbursed for Ms. Young's services through an 03 account of DMH/DMR, not all employees whose funding originates in an 03 account should be considered employees of a pass-through agency. In this instance, the source of the funds by which EdCo paid Ms. Young does not preclude her from being considered an employee of the public entity that actually employed and paid her. The evidence demonstrates that the ultimate employment relationship was between Ms. Young and EdCo. Consequently, the original source of the funds by which Ms. Young was paid does not preclude her from being considered an employee of the public entity that actually employed and paid her. We explained that this situation is analogous to one in which an organization receives reimbursement for staff expenses by any other method such as an earmark in the state budget or grant funding. Accordingly, the pay Ms. Young received is deemed to be regular compensation in the calculation of her retirement benefit.

As we have already considered this issue in our September 4, 2024 decision and because we remain unpersuaded by BRS's arguments, the motion for reconsideration is denied.

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD



Uyen M. Tran
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Governor's Appointee



Patrick M. Charles, Esq.
Public Employee Retirement Administration Commission
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Date: December 2, 2024