

Regulation 35 Filing an Application for Monthly Benefits and Establishing an Effective Date of Retirement

100 Purpose

~~The purpose of this regulation is to clarify the effective date of retirement and the conditions under which a retirement option may be changed.~~

The purpose of the regulation is to prescribe 1) the forms and information necessary to file an application for monthly benefits, 2) the conditions under which an effective date of retirement is established, and 3) when changes in the option specified on the retirement application can and cannot be made.

101 ~~When a member is determined to have received his or her first check for purposes of changing the option selected.~~
Establishing the Effective Date of Retirement

~~Any member, who has made application for Superannuation Retirement (maximum allowance or Option 1) under Miss. Code Ann. Section 15(now Miss. Code Ann. §25 11 111 (1972, as amended)) or Disability Retirement under Section 16 of the Retirement Act (now Miss. Code Ann. §25 11 113 (1972, as amended)), may change the application anytime prior to cashing the first retirement check, or in the event of the death of the member prior to cashing the first retirement check, the spouse and/or dependent children, who qualifies in accordance with Section 15 (now Miss. Code Ann. §25 11 111(1972, as amended)), may make application for spouse benefits and/or dependent child benefits; provided, however, the benefits would become effective the first of the month after the last application or change in application is received by the Board.~~

1. Application for Service Retirement

- a. The effective date of service retirement shall be the first of the month following withdrawal or termination from service as defined under Miss. Code Ann. §25-11-103(aa) and receipt by PERS of the properly completed application for service retirement, provided that the member is eligible for service retirement benefits on said date.
- b. The Application Packet consists of the **Form 9A SRVC, Pre-Application for Service Retirement Benefits; Form 9S, Final Application for Service Retirement Benefits; Form PLSO, Partial Lump Sum Option Distribution Election** (if applicable), and proofs of birth of applicant and beneficiary(ies), if selecting a joint and survivor option.

- c. Receipt of **Form 9A SRVC, Pre-Application for Service Retirement Benefits**, will be used in setting the effective date of retirement provided that all other forms in the Application Packet as noted above are received in the PERS office no later than ninety (90) days following the effective date of retirement.
- d. All forms in the Application Packet must be on file in the PERS office before benefit payments can be initiated.
- e. Failure to submit all required forms in the Application Packet within ninety (90) days following the effective date of retirement, as established upon receipt of the **Form 9A SRVC**, will require the completion of a new Application Packet.
- d. Where a vested member has withdrawn or terminated from service but is not eligible for retirement benefits at the time of withdrawal or termination from employment and has not returned to covered employment, he or she may at a later date become eligible for a service retirement allowance. The effective date of retirement will be the first of the month following the event that qualifies him or her for retirement, provided the member has not taken a refund of his or her contributions and interest and PERS has received a properly completed application as noted above. Such events include:
 - (i) reaching the statutory age at which a member with the requisite minimum number of years of membership service is eligible for a retirement allowance; or
 - (ii) completion of the purchase of eligible service credit or repayment of a refund which gives the member the requisite years of creditable service necessary to qualify for a retirement allowance regardless of age.

2. **Application for Disability Retirement**

- a. The effective date of disability retirement shall be the first of the month after the later of either 1) receipt of a completed application, or 2) actual termination from covered employment as certified by the Employer.
- b. The Application Packet consists of the **Form 9A DSBL, Application for Retirement Benefits; Form 6, Disability Retirement Benefit Payment Selection; Form 8, Medical Information Form; Form 7, Statement of Examining Physician** for each physician listed on the **Form 8; Physicians' office records and hospital records** for each referenced treatment listed

on the **Form 8; Workers' Compensation Report of Injury** if applying for Duty-Related Disability; **PERS Form 6B, Employer's Certification of Job Requirements; Form P, Retiree Payroll Authorization; Form 9F, Family Information; Form 6S, Special Service Retirement Benefit Payment While Pursuing Disability Selection** (if applicable); **Form MPAC (Monthly Payment of Accumulated Contributions)**, if applicable; and proofs of birth for applicant and beneficiary(ies), if selecting a joint and survivor option.

- c. Receipt of the **Form 9A DSBL, Application for Retirement Benefits**, will be used in setting the effective date of retirement, provided that all other forms in the Application Packet as noted above are received in the PERS office no later than ninety (90) days following the effective date of retirement.
- d. All forms in the Application Packet must be on file in the PERS office before benefit payments can be initiated.
- e. Failure to submit all required forms in the Application Packet within ninety (90) days following the effective date of retirement as established upon receipt of the **Form 9A DSBL**, will require the completion of a new Application Packet.
- f. Once the application is made and disability benefits initiated, an applicant may not change the type of disability claim, i.e., he or she may not change the application from a claim for regular disability benefits to a claim for duty-related disability benefits.
- g. Once a member begins to receive a service retirement allowance, he or she may not apply for a disability retirement allowance.

3. **Application for Survivor Benefits**

- a. The effective date of survivor retirement benefits is the first of the month after date of the member's death and receipt of a completed application for survivor benefits. In the case where the application for survivor benefits is received within one (1) year following the member's date of death, the effective date of retirement is the first of the month after the member's date of death as certified on the death certificate, provided that all forms in the Application Packet as noted below are received in the PERS office ninety (90) days following receipt of the **Form 9A, Pre-Application for Survivor Retirement Benefits**. In the case where the application for survivor benefits is received more than one (1) year after the member's date of death, the effective date of retirement is the first

of the month following receipt of the **Form 9A SRVR** retroactive for not more than one (1) year.

- b. All applicable forms noted below must be on file in the PERS office before benefit payments can be initiated.
- c. The Application Packet consists of **Form 9A SRVR, Pre-Application for Survivor Retirement Benefits; Workers' Compensation Injury Report**, if applying for duty-related death benefits; proofs of births for member, spouse and children; Marriage License; Death Certificate; school attendance records, if children are between the ages of 19 and 23; **Form 14, Final Application for Spouse Survivor Retirement Benefits;** and/or **Form 15, Final Application for Dependent Child Survivor Retirement Benefits.** If someone other than a natural parent makes application for dependent child survivor benefits on behalf of the child, adoption papers, guardianship papers, or proof of representative payee status with the Social Security Administration or PERS will also be required.

4. **Advanced Application**

- a. After a member of the Public Employees' Retirement System (PERS), the Supplemental Legislative Retirement Plan (SLRP), or the Mississippi Highway Safety Patrol Retirement System (MHSPRS) becomes eligible to retire or after a previously retired PERS or SLRP member cancels his or her service retirement and has returned to covered employment and completed the requisite reemployment period for recalculation of benefits (i.e., in excess of six calendar months), he or she may file an Advanced Application with PERS.
- b. The Advanced Application allows the member to pre-select an option and designate a beneficiary to receive payments of monthly benefits in the event the member dies prior to retirement.
- c. To be effective, the Advanced Application must be on file in the PERS office at 429 Mississippi St., Jackson, Mississippi 39201 at the time of the member's death prior to retirement.
- d. In the event of the member's death prior to the actual effective date of retirement, benefits based on an Advanced Application on file with PERS will become effective the first of the month following the member's death.

5. **Effect of Death on Service Retirement Application**

- a. If a member dies before the effective date of retirement having a valid Advanced Application on file with PERS, benefits will be paid in accordance with the Advanced Application. If a member dies before retirement and there is no valid Advanced Application on file, benefits will be paid in accordance with the applicable law.
- b. If a member dies on or after the effective date of retirement but before benefits have begun and he or she has a completed **Form 9A SRVC** and **Form 9S** on file with PERS, benefits will be paid in accordance with **the Form 9A SRVC** and **Form 9S**. If both forms are not on file with PERS at the time of the member's death and before benefits have begun, the application will be considered void and benefits paid in accordance with the applicable law.
- c. If a member of PERS or SLRP dies after having canceled his or her service retirement but before completing the requisite reemployment period for recalculation of benefits (i.e., in excess of six calendar months), benefits will be paid to the lawfully designated beneficiary(ies) in accordance with the optional benefit payment plan in effect immediately prior to the cancellation of the service retirement allowance.
- d. If a member of PERS or SLRP dies with a valid Advanced Application on file with PERS after having canceled his or her service retirement and after having completed the requisite reemployment period for recalculation of benefits (i.e., in excess of six calendar months), benefits will be paid in accordance with the Advanced Application. If a member of PERS or SLRP dies without an Advanced Application on file with PERS after having canceled his or her service retirement and after having completed the requisite reemployment period for recalculation of benefits, benefits will be paid in accordance with the applicable law irrespective of any previous optional benefit payment plan selection.

102 **When a member may change an option after receipt of his or her first check
Withdrawal from Service or Termination from Service**

No change in an option selected under Section 17 (now Miss. Code Ann. §25-11-115 (1972, as amended)) of the Retirement Act shall be permitted after the member's death or after the member has cashed his first retirement check, except as otherwise provided by law.

MCA Section 25-11-103(aa) defines "withdrawal from service" or "termination from service" as the complete severance of employment from state service of an employee by resignation, dismissal, or discharge.

For purposes of setting the effective date of retirement, withdrawal from service or termination from service shall mean the cessation of the employee-employer relationship as characterized by resignation or termination from employment, with or without cause. While a member may not be performing the duties of the job, if the member has not resigned or been terminated from employment by the employer, the member is still considered employed. Where the member is on authorized leave without pay or administrative leave or is receiving Workers' Compensation benefits, such member is considered an employee and thus not terminated from employment for purposes of setting the benefit effective date.

103 Changing the Optional Benefit Payment Plan before Receipt of a Retirement Benefit

No change in the option selected shall be permitted after the member's death or after the member has received a retirement benefit except as provided in **Section 104**. For purposes of this regulation, "receipt of a retirement benefit" means negotiating or cashing a benefit payment. Except as specifically provided by law, a member may not change an option after ninety (90) days from the date the first benefit payment is issued even if such payment is not negotiated or cashed.

104 Changing the Optional Benefit Payment Plan after Receipt of a Benefit Payment

- 1.** The option selected on the Service Retirement, Disability or Survivor Application may not be changed after receipt of a benefit payment except as provided below or otherwise provided by law.
 - a.** A retired member who is receiving a reduced retirement allowance under Option 2 or Option 4-A and whose designated beneficiary predeceases him or her, or whose marriage to a spouse who is his/her designated beneficiary is terminated by divorce or other dissolution may elect to cancel his/her reduced retirement allowance and receive the maximum retirement allowance for life in an amount equal to the amount that would have been payable if the member had not elected Option 2 or Option 4-A. That election must be made in writing and filed in the PERS office on **Form R, Application for Recalculation of Benefits**. Any such election shall be effective the first of the month following the date the election is received by PERS.
 - b.** A retired member who is receiving the maximum retirement allowance for life or a retirement allowance under Option 1 and who marries after his/her retirement may elect to cancel his/her maximum retirement allowance and receive a reduced retirement allowance under Option 2 or Option 4-A to provide continuing lifetime benefits to his or her spouse. That election must be made

in writing and filed in the PERS office on **Form R, Application for Recalculation of Benefits**, not earlier than the date of the marriage. Any such election shall be effective the first of the month following the date the election is received by PERS.

- c. A retired member of PERS or SLRP who is reemployed and becomes a contributing member for a period of time that exceeds six (6) months may have his or her benefit recomputed under the same or a different option as provided in **Section 109 of Regulation 34**.

105 Effect of Pending Service Credit Transactions on Qualification for a Benefit and on the Effective Date of Benefits

- 1.** The right of a member to repay a refund, to purchase service credit, or to pay an adjustment for unreported wages or service credit belongs only to the member and ceases with the member's death or retirement.
- 2.** A member who wishes to repay a refund to establish previously forfeited service credit must do so before his or her death or before his or her effective date of retirement. Where a member is in the process of repaying any part of a refund, the effective date of retirement cannot be established until the payment is received by PERS.
- 3.** The payment of an adjustment for unreported income and/or service credit based on unreported wages and/or service or for the purchase of optional service credit must be completed prior to the death or the effective date of retirement of the member. If a member is in the process of purchasing service credit based on a reporting error adjustment or purchasing optional service credit at the time of retirement, the effective date of retirement cannot be established until the purchase is completed.
- 4.** The payment for any adjustment for underreported income which is required to award or retain service credit must be completed prior to the death or effective date of retirement of the member. If a member is in the process of paying contributions and interest at the time of retirement due to an underreporting of earnings, the effective date of retirement cannot be established until the purchase is completed. However, in the case of elected fee officials, benefits can be initiated prior to the complete reporting of the final year's wages and contributions. If, however, full contributions are not remitted to PERS within ninety (90) days following the due date of the fee official's final annual financial report as prescribed by law, PERS may suspend benefits until such time as all contributions and interest, if any, due are made.