Title 27: Personnel

Part 210: PERS, Regulations for Retirement Plans Administered by the Board of Trustees

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

100 Purpose

This regulation prescribes 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 Establishing the Effective Date of Retirement

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) (1972, as amended) 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 consists of the
   i. Form 9A SRVC, *Pre-Application for Service Retirement Benefits*;
   ii. Form 9S, *Service Retirement Application*;
   iii. Form PLSO, *Partial Lump Sum Option Distribution Election* (if applicable), and
   iv. Acceptable proof of age for the applicant and for the 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 as noted in Section 101.1.b of this Regulation are received in the PERS office no later than 90 days following the effective date of retirement.

d. All forms in the Application must be on file in the PERS office before benefit payments can be initiated.

e. Failure to submit all required forms in the Application within 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 thereby establishing a new effective date. The executive director may, due to extenuating circumstances and at his or her discretion, extend the 90-day period for completing the application by up to an additional 90 days based on information or documentation provided in a written request from the applicant.

f. Where a vested member has withdrawn or terminated from service but is not eligible for retirement benefits at the time of withdrawal or termination from employment and has not returned to covered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, provided that he or she does not subsequently withdraw his or her accumulated member contributions and

interest. The effective date of retirement will be the first of the month following the event that qualifies him or her for retirement, provided PERS has received a properly completed Application as noted in Section 101.1.b of this Regulation. 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 that 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 either 1) receipt of a completed application, or 2) actual termination from covered employment as certified by the employer, whichever is later.
b. The Application consists of the
   i. Form DSBL 1, *Pre-Application for Disability Retirement Benefits*;
   ii. Form DSBL 9, *Disability Retirement Application*;
   iii. Form DSBL 4, *Medical Information and Prior Claim History*;
   iv. Form DSBL 5, *Physician and Treating Facility History*
   v. Form DSBL 7, *Statement of Examining Physician*, for each physician listed on Form DSBL 5;
   vi. Physicians' office records and hospital records for each referenced treatment listed on Form DSBL 5;
   vii. Workers' Compensation Report of Injury if applying for duty-related disability;
   viii. Form DSBL 2, *Employer's Certification of Job Requirements*;
   ix. Form DSBL 3, *Employer's Job Activities Checklist*
   x. Form DSBL 8, *Authorization for Release of Information*;
   xi. Form DSBL 10, *Payroll Authorization*;
   xii. Form DSBL 6, *Family Information*;
   xiii. Form DSBL 11, *Temporary Benefit Application*, if applicable; and
   xiv. Acceptable proof of age for the applicant and for the beneficiary(ies), if selecting a joint and survivor option.
c. Receipt of the Form DSBL 1, *Pre-Application for Disability Retirement Benefits*, will be used in setting the effective date of disability retirement, provided that all other forms in the Application as noted in Section 101.2.b of this Regulation are received in the PERS office no later than 90 days following the effective date of retirement.

   Provided the member files all forms required in Section 101.1.b.ii through iv of this Regulation within 90 days of the effective date established by the filing of the Form DSBL 1, *Pre-Application for Disability Retirement Benefits*, the Form DSBL 1 will also be used in setting the effective date for service retirement in the following situations:
   i. a member who is eligible for service retirement but elects not to receive service retirement benefits while pursuing disability benefits and who

a. is later denied disability benefits, or
b. withdraws the application for disability benefits, or

ii. a member whose application for disability retirement is voided pursuant to Section 101.2.e of this Regulation.

d. All forms in the Application must be on file in the PERS office before the claim is presented to the Medical Board and before disability benefit payments can be initiated. Where a member filing for disability benefits is also eligible for service retirement benefits as provided in Miss. Code Ann. § 25-11-113 (c) (1972, as amended) and Board Regulation 45A, *Administration of Disability Benefits Under PERS*, Section 102.3, Forms DSBL 1 and DSBL 9, along with applicable acceptable proof of age, must be received before service retirement benefits can begin.

e. Failure to submit all required forms in the Application within 90 days following the effective date of retirement as established upon receipt of the Form DSBL 1 will require the completion of a new Application thereby establishing a new effective date. The executive director may, due to extenuating circumstances and at his or her discretion, extend the 90-day period for completing the application by up to an additional 90 days based on information or documentation provided in a written request from the applicant.

f. After 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 non-duty related disability benefits to a claim for duty-related disability benefits).

g. After a member begins to receive a service retirement allowance, he or she may not apply for a disability retirement allowance.

h. Primary proof of an applicant's child as a dependent child for purposes of the dependent child supplement under the Tiered Disability Plan is the birth certificate of the child with the member listed as the mother or father, as applicable. In the absence of a birth certificate listing the member as a parent, proof must be provided that the member is the lawful guardian or primary custodian of the child. Such proof might include a court order granting guardianship or recent tax returns showing that the member claims the child as his or her dependent.

3. Application for Survivor Benefits

a. The effective date of survivor retirement benefits is the first of the month after the 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 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 as noted in Section 101.3.c of this Regulation are received in the PERS office no later than 90 days following receipt of the Form 9A SRVR, *Pre-Application for Survivor Retirement Benefits*. In the case where the application for survivor benefits is received more than one 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 year.

b. All applicable forms noted in Section 101.3.c of this Regulation must be on file in the PERS office before benefit payments can be initiated.
c. The Application consists of:
    i. Form 9A SRVR, *Pre-Application for Survivor Retirement Benefits*;
    ii. Workers' Compensation Injury Report, if applying for duty-related death benefits;
    iii. acceptable proof of age for the member, spouse and dependent children;
    iv. Marriage Certificate;
    v. Death Certificate;
    vi. school attendance records, if dependent children are between the ages of 19 and 23;
    vii. Form 14, *Survivor Retirement Application*; and
    viii. 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.
d. Primary proof of an applicant's status as a dependent child is the birth certificate of the child with the deceased member listed as the mother or father, as applicable. In the absence of a birth certificate listing the deceased member as a parent, proof must be provided that the deceased member was the lawful guardian or primary custodian of the child. Such proof might include a court order granting guardianship or recent tax returns showing that the member claimed the child as his or her dependent.
e. For purposes of dependent child survivor benefits, a natural child of a member is one who is conceived before the death of the member.
f. For purposes of dependent child survivor benefits, a child is considered to be a dependent child until he or she marries or reaches age 19, whichever occurs first; however, the age limitation is extended to age 23 as long as the child is a student regularly pursuing a full-time course of resident study. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age 23 until the July 1 following the attainment of age 23.
g. A full-time course of resident study or training means a day or evening non-correspondence course that includes school attendance at the rate of at least 36 weeks per academic year or other applicable period with a subject workload sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned.
h. A child who is age 19 but not yet age 23 who withdraws from school (for a period sufficient to determine that the child is no longer a student regularly pursing a full-time course of resident study or training) is no longer eligible for dependent child survivor benefits, even if that child reenrolls in a full-time course of resident study or training before age 23.
i. A child under age 23 who marries is no longer eligible for dependent child survivor benefits, even if that child divorces before age 23.

j. A child who is determined to be physically or mentally disabled by the Medical Board will receive dependent child survivor benefits regardless of age for as long as the child is determined to be disabled as determined by the Medical Board.

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 a Form 16, *Advanced Application*, with PERS.

b. The Form 16 allows the member to pre-select an option and designate a beneficiary to receive payment~~s~~ of monthly benefits in the event the member dies prior to retirement.

c. To be effective, the Form 16 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 a Form 16 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 and has 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 has 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.

6. **Effect of Death on Disability Retirement Application**
   a. If a vested member who has filed a claim for disability benefits dies prior to the review and determination of his or her claim by the PERS Medical Board, his or her beneficiary or beneficiaries shall be eligible for death benefits in the form of spouse/survivor benefits or a refund of contributions, unless a Form 16 has been completed by the member prior to death and is on file with PERS.
   b. If a vested member who has filed a claim for disability benefits dies after his or her claim has been approved by the PERS Medical Board but before his or her effective date of disability retirement, his or her beneficiary or beneficiaries shall be eligible for death benefits in the form of spouse/survivor benefits or a refund of contributions, unless a Form 16 has been completed by the member prior to death and is on file with PERS.
   c. If a vested member who has filed a claim for disability benefits dies after his or her claim has been approved by the PERS Medical Board and on or after the effective date of disability retirement but before benefits have begun, his or her beneficiary or beneficiaries shall be entitled to benefits in accordance with the option selected by the member on the disability retirement application.
7. **Acceptable Proof of Age**
   a. The primary proof of age is the applicant's birth certificate.
   b. Any document that requires a birth certificate prior to issuance would also be considered a primary proof of age, such as a copy of the applicant's:
      i. passport;
      ii. valid driver license;
      iii. Social Security records, if the applicant is already receiving Social Security benefits; or
      iv. school census record showing the applicant's age when attending as a student.
   c. If an applicant applied for a copy of his or her birth certificate and was advised by the Office of Vital Statistics that his or her birth certificate is not available, the following, listed in the order of preference, may be acceptable as alternative proof of the applicant's age:
      i. his or her child's birth certificate that shows the applicant's age at the time of the child's birth;
      ii. his or her Department of Defense Form DD214 from the United States Armed Forces;
      iii. a statement from the Social Security Administration showing the applicant's date of birth as established in their records;
      iv. a copy of his or her voter registration form, provided the form is at least five years old and shows the applicant's age at the time of registration;
      v. a statement from the United States Bureau of Census showing the applicant's date of birth as established in their records; or
      vi. a copy of his or her baptismal record notarized by a Notary Public.

102 Withdrawal from Service or Termination from Service

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 with or without pay, 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 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, Option 4, or Option 4-A and whose designated beneficiary predeceases him or her, or whose marriage to a spouse who is his or her designated beneficiary is terminated by divorce or other dissolution may elect to cancel his or 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, Option 4, 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, provided that all other required documents are received in the PERS office no later than 90 days following the receipt of the Form R. However, the election to pop-up to the maximum retirement allowance after the death of a retired member's designated beneficiary may be applied retroactively for not more than three months, but no earlier than the first of the month following the date of the death of the beneficiary.
    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 or her retirement may elect to cancel his or her maximum retirement allowance and receive a reduced retirement allowance under Option 2, Option 4, 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, no 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, provided that all other required documents are received in the PERS office no later than 90 days following the receipt of the Form R.

c. A retired member of PERS or SLRP who is reemployed and becomes a contributing member for a period of time that exceeds six calendar months may have his or her benefit recomputed under the same or a different option as provided in Section 108 of Regulation 34, *Reemployment After Retirement*.

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 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 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.
5. All rights to purchase retroactive service credit or repay a refund as provided in Miss. Code Ann. § 25-11-101 et seq. (1972, as amended) terminate upon retirement. Likewise, the right of a member to make a claim for service credit for prior service, service credit attributable to unused personal (vacation) and major medical (sick) leave days, military service, out-of-state service, service credit for professional leave, and non-covered service as provided in Miss. Code Ann. § 25-11-109 (1972, as amended) ceases with the member's retirement. Any member who wishes to make a claim for service credit attributable to the above types of service must do so before his or her effective date of retirement. The executive director may, due to extenuating circumstances and at his or her discretion, extend the period for claiming service credit attributable to unused personal (vacation), major medical (sick) leave days, or

active duty military service for up to 90 days following the effective date of retirement based on information or documentation provided in a written request from the applicant.

106 Non-payment of Interest

In accordance with Miss. Code Ann. § 25-11-120(4) (1972, as amended), interest shall not be paid on any benefits, including, but not limited to, benefits that are delayed as a result of an administrative determination or an appeal from an administrative determination.

107 Duty-related death benefits for survivors of public safety officers may be excluded from income

Internal Revenue Code Section 101(h) provides that gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty:

(a) if such annuity is provided under a governmental plan that meets the requirements of Section 401(a) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

(b) to the extent such annuity is attributable to such officer's service as a public safety officer.

IRC 101(h) provides that this treatment does not apply if the public safety officer's death was caused by intentional misconduct or by his or her intent to end his or her life; if the officer was voluntarily intoxicated at the time of death; if the officer was performing his duties in a grossly negligent manner at the time of death; or if the recipient of the survivor annuity took actions that were a substantial contributing factor to the officer's death.

(History: Adopted November 17, 1971; amended June 21, 2005, to be effective August 1, 2005; reformatted August 1, 2007; amended July 1, 2008; amended effective July 1, 2009; amended effective August 1, 2011; amended effective August 1, 2012; amended effective December 1, 2012)

Title 27: Personnel

Part 210: PERS, Regulations for Retirement Plans Administered by the Board of Trustees

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

100 Purpose

~~The purpose of the~~This regulation ~~is to~~ prescribes 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 Establishing the Effective Date of Retirement

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) (1972, as amended) 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 consists of the
   i. Form 9A SRVC, *Pre-Application for Service Retirement Benefits*;
   ii. Form 9S, *Service Retirement Application*;
   iii. Form PLSO, *Partial Lump Sum Option Distribution Election* (if applicable), and
   iv. Acceptable proof of age for the applicant and for the 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 as noted in Section 101.1.b of this Regulation are received in the PERS office no later than 90 days following the effective date of retirement.

d. All forms in the Application must be on file in the PERS office before benefit payments can be initiated.

e. Failure to submit all required forms in the Application within 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 thereby establishing a new effective date. The executive director may, due to extenuating circumstances and at his or her discretion, extend the 90-day period for completing the application by up to an additional 90 days based on information or documentation provided in a written request from the applicant.

f. 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, provided that he or she does not subsequently withdraw his or her accumulated member contributions and

interest. The effective date of retirement will be the first of the month following the event that qualifies him or her for retirement, provided PERS has received a properly completed Application as noted in Section 101.1.b of this Regulation. 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 that 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 either 1) receipt of a completed application, or 2) actual termination from covered employment as certified by the employer, whichever is later.

b. The Application consists of the

i. Form ~~9A~~ DSBL 1, *Pre-Application for Disability Retirement Benefits*;

ii. Form ~~6~~ DSBL 9, *Disability Retirement Application*;

iii. Form ~~8~~ DSBL 4, *Medical Information and Prior Claim History ~~Form~~*;

iv. Form DSBL 5, *Physician and Treating Facility History*

~~i~~v. Form DSBL 7, *Statement of Examining Physician*, for each physician listed on ~~the~~ Form ~~8~~ DSBL 5;

vi. Physicians' office records and hospital records for each referenced treatment listed on ~~the~~ Form ~~8~~ DSBL 5;

vii. Workers' Compensation Report of Injury if applying for duty-related disability;

viii. ~~PERS~~ Form ~~6B~~ DSBL 2, *Employer's Certification of Job Requirements*;

ix. Form DSBL 3, *Employer's Job Activities Checklist*

~~viii~~x. ~~PERS~~ Form ~~6C~~ DSBL 8, *Authorization for Release of Information*;

~~i~~xi. Form ~~P~~ DSBL 10, ~~*Retiree*~~ *Payroll Authorization*;

xii. Form ~~9F~~ DSBL 6, *Family Information*;

xiii. Form ~~MPAC (Monthly Payment of Accumulated Contributions)~~ DSBL 11, *Temporary Benefit Application*, if applicable; and

xi~~i~~v. Acceptable proof of age for the applicant and for the beneficiary(ies), if selecting a joint and survivor option.

c. Receipt of the Form ~~9A~~ DSBL 1, *Pre-Application for Disability Retirement Benefits*, will be used in setting the effective date of disability retirement, provided that all other forms in the Application as noted in Section 101.2.b of this Regulation are received in the PERS office no later than 90 days following the effective date of retirement.

Provided the member files all forms required in Section 101.1.b.ii through iv of this Regulation within 90 days of the effective date established by the filing of the Form ~~9A~~ DSBL 1, *Pre-Application for Disability Retirement Benefits*, the Form ~~9A~~ DSBL 1 will also be used in setting the effective date for service retirement in the following situations:

i. a member who is eligible for service retirement but elects not to receive service retirement benefits while pursuing disability benefits and who
   a. is later denied disability benefits, or
   b. withdraws the application for disability benefits, or
ii. a member whose application for disability retirement is voided pursuant to Section 101.2.e of this Regulation.

d. All forms in the Application must be on file in the PERS office before the claim is presented to the Medical Board and before disability benefit payments can be initiated. Where a member filing for disability benefits is also eligible for service retirement benefits as provided in Miss. Code Ann. § 25-11-113 (c) (1972, as amended) and Board Regulation 45A, *Administration of Disability Benefits Under PERS*, Section 102.3, Forms ~~9A~~ DSBL 1 and ~~6~~ DSBL 9, along with applicable acceptable proof of age, must be received before service retirement benefits can begin.

e. Failure to submit all required forms in the Application within 90 days following the effective date of retirement as established upon receipt of the Form ~~9A~~ DSBL 1 will require the completion of a new Application thereby establishing a new effective date. The executive director may, due to extenuating circumstances and at his or her discretion, extend the 90-day period for completing the application by up to an additional 90 days based on information or documentation provided in a written request from the applicant.

f. After 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 non-duty related disability benefits to a claim for duty-related disability benefits).

g. After a member begins to receive a service retirement allowance, he or she may not apply for a disability retirement allowance.

h. Primary proof of an applicant's child as a dependent child for purposes of the dependent child supplement under the Tiered Disability Plan is the birth certificate of the child with the member listed as the mother or father, as applicable. In the absence of a birth certificate listing the member as a parent, proof must be provided that the member is the lawful guardian or primary custodian of the child. Such proof might include a court order granting guardianship or recent tax returns showing that the member claims the child as his or her dependent.

3. Application for Survivor Benefits

a. The effective date of survivor retirement benefits is the first of the month after the 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 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 as noted in Section 101.3.c of this Regulation are received in the PERS office no later than 90 days following receipt of the Form 9A SRVR, *Pre-Application for Survivor Retirement Benefits*. In the case where the application for survivor benefits is received more than one 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 year.

b. All applicable forms noted in Section 101.3.c of this Regulation must be on file in the PERS office before benefit payments can be initiated.

c. The Application consists of:
   - i. Form 9A SRVR, *Pre-Application for Survivor Retirement Benefits*;
   - ii. Workers' Compensation Injury Report, if applying for duty-related death benefits;
   - iii. acceptable proof of age for the member, spouse and dependent children;
   - iv. Marriage Certificate;
   - v. Death Certificate;
   - vi. school attendance records, if dependent children are between the ages of 19 and 23; ~~and~~
   - vii. Form 14, *Survivor Retirement Application*~~.~~; and
   - viii. 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.

d. Primary proof of an applicant's status as a dependent child is the birth certificate of the child with the deceased member listed as the mother or father, as applicable. In the absence of a birth certificate listing the deceased member as a parent, proof must be provided that the deceased member was the lawful guardian or primary custodian of the child. Such proof might include a court order granting guardianship or recent tax returns showing that the member claimed the child as his or her dependent.

e. For purposes of dependent child survivor benefits, a natural child of a member is one who is conceived before the death of the member.

f. For purposes of dependent child survivor benefits, a child is considered to be a dependent child until he or she marries or reaches age 19, whichever occurs first; however, the age limitation is extended to age 23 as long as the child is a student regularly pursuing a full-time course of resident study. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age 23 until the July 1 following the attainment of age 23.

g. A full-time course of resident study or training means a day or evening non-correspondence course that includes school attendance at the rate of at least 36 weeks per academic year or other applicable period with a subject workload sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned.

h. A child who is age 19 but not yet age 23 who withdraws from school (for a period sufficient to determine that the child is no longer a student regularly pursing a full-time course of resident study or training) is no longer eligible for dependent child survivor benefits, even if that child reenrolls in a full-time course of resident study or training before age 23.

i. A child under age 23 who marries is no longer eligible for dependent child survivor benefits, even if that child divorces before age 23.

j. A child who is determined to be physically or mentally disabled by the Medical Board will receive dependent child survivor benefits regardless of age for as long as the child is determined to be disabled as determined by the Medical Board.

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 a Form 16, *Advanced Application*, with PERS.

b. The Form 16 allows the member to pre-select an option and designate a beneficiary to receive payment~~s~~ of monthly benefits in the event the member dies prior to retirement.

c. To be effective, the Form 16 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 a Form 16 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 and has 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 has 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.

6. **Effect of Death on Disability Retirement Application**
   a. If a vested member who has filed a claim for disability benefits dies prior to the review and determination of his or her claim by the PERS Medical Board, his or her beneficiary or beneficiaries shall be eligible for death benefits in the form of spouse/survivor benefits or a refund of contributions, unless a Form 16 has been completed by the member prior to death and is on file with PERS.
   b. If a vested member who has filed a claim for disability benefits dies after his or her claim has been approved by the PERS Medical Board but before his or her effective date of disability retirement, his or her beneficiary or beneficiaries shall be eligible for death benefits in the form of spouse/survivor benefits or a refund of contributions, unless a Form 16 has been completed by the member prior to death and is on file with PERS.
   c. If a vested member who has filed a claim for disability benefits dies after his or her claim has been approved by the PERS Medical Board and on or after the effective date of disability retirement but before benefits have begun, his or her beneficiary or beneficiaries shall be entitled to benefits in accordance with the option selected by the member on the disability retirement application.
7. **Acceptable Proof of Age**
   a. The primary proof of age is the applicant's birth certificate.
   b. Any document that requires a birth certificate prior to issuance would also be considered a primary proof of age, such as a copy of the applicant's:
      i. passport;
      ii. valid driver license;
      iii. Social Security records, if the applicant is already receiving Social Security benefits; or
      iv. school census record showing the applicant's age when attending as a student.
   c. If an applicant applied for a copy of his or her birth certificate and was advised by the Office of Vital Statistics that his or her birth certificate is not available, the following, listed in the order of preference, may be acceptable as alternative proof of the applicant's age:
      i. his or her child's birth certificate that shows the applicant's age at the time of the child's birth;
      ii. his or her Department of Defense Form DD214 from the United States Armed Forces;
      iii. a statement from the Social Security Administration showing the applicant's date of birth as established in their records;
      iv. a copy of his or her voter registration form, provided the form is at least five years old and shows the applicant's age at the time of registration;
      v. a statement from the United States Bureau of Census showing the applicant's date of birth as established in their records; or
      vi. a copy of his or her baptismal record notarized by a Notary Public.

102 Withdrawal from Service or Termination from Service

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 with or without pay, 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 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, Option 4, or Option 4-A and whose designated beneficiary predeceases him or her, or whose marriage to a spouse who is his or her designated beneficiary is terminated by divorce or other dissolution may elect to cancel his or 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, Option 4, 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, provided that all other required documents are received in the PERS office no later than 90 days following the receipt of the Form R. However, the election to pop-up to the maximum retirement allowance after the death of a retired member's designated beneficiary may be applied retroactively for not more than three months, but no earlier than the first of the month following the date of the death of the beneficiary.
    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 or her retirement may elect to cancel his or her maximum retirement allowance and receive a reduced retirement allowance under Option 2, Option 4, 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, no 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, provided that all other required documents are received in the PERS office no later than 90 days following the receipt of the Form R.

c. A retired member of PERS or SLRP who is reemployed and becomes a contributing member for a period of time that exceeds six calendar months may have his or her benefit recomputed under the same or a different option as provided in Section 108 of Regulation 34, *Reemployment After Retirement*.

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 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 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.
5. All rights to purchase retroactive service credit or repay a refund as provided in Miss. Code Ann. § 25-11-101 et seq. (1972, as amended) terminate upon retirement. Likewise, the right of a member to make a claim for service credit for prior service, service credit attributable to unused personal (vacation) and major medical (sick) leave days, military service, out-of-state service, service credit for professional leave, and non-covered service as provided in Miss. Code Ann. § 25-11-109 (1972, as amended) ceases with the member's retirement. Any member who wishes to make a claim for service credit attributable to the above types of service must do so before his or her effective date of retirement. The executive director may, due to extenuating circumstances and at his or her discretion, extend the period for claiming service credit attributable to unused personal (vacation), major medical (sick) leave days, or

active duty military service for up to 90 days following the effective date of retirement based on information or documentation provided in a written request from the applicant.

106 Non-payment of Interest

In accordance with Miss. Code Ann. § 25-11-120(4) (1972, as amended), interest shall not be paid on any benefits, including, but not limited to, benefits that are delayed as a result of an administrative determination or an appeal from an administrative determination.

107 Duty-related death benefits for survivors of public safety officers may be excluded from income

Internal Revenue Code Section 101(h) provides that gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968) killed in the line of duty:

(a) if such annuity is provided under a governmental plan that meets the requirements of Section 401(a) to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and

(b) to the extent such annuity is attributable to such officer's service as a public safety officer.

IRC 101(h) provides that this treatment does not apply if the public safety officer's death was caused by intentional misconduct or by his or her intent to end his or her life; if the officer was voluntarily intoxicated at the time of death; if the officer was performing his duties in a grossly negligent manner at the time of death; or if the recipient of the survivor annuity took actions that were a substantial contributing factor to the officer's death.

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