



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
P. O. BOX 295

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www.nj.gov/treasury/pensions  
June 16, 2022

ELIZABETH MAHER MUOIO  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

Sent via email to: [REDACTED]

Renee Martins  
[REDACTED]

RE: Renee Martins  
PERS #: [REDACTED]

## **FINAL ADMINISTRATIVE DETERMINATION**

Dear Ms. Martins:

I am writing in reference to the denial by the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) of your request to begin receiving your Ordinary Disability retirement benefits as of November 1, 2019, notwithstanding that you did not attain 10 years of service credit prior to that date. The Board originally denied your request at its meeting of April 20, 2022. You filed a timely appeal of that determination on May 6, 2022. At its meeting of May 18, 2022,<sup>1</sup> the Board denied your request for reconsideration and found no genuine issue of material fact in dispute. The Board directed the undersigned to draft Findings of Fact and Conclusions of Law as outlined below, which were presented to and approved by the PERS Board at its June 15, 2022, meeting.

## **FINDINGS OF FACT**

The record before the Board establishes that you were enrolled in the PERS on January 30, 2010, as a result of your employment with Trenton Psychiatric Hospital as a Charge Nurse. On September 13, 2017, you applied for Ordinary Disability retirement benefits to become effective December 1, 2017. On September 14, 2017, the Division's Retirement Bureau informed

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<sup>1</sup> Due to health and safety concerns for the public regarding COVID-19, the meeting was conducted via teleconference.

you by letter that you did not have the required 10 years of New Jersey State service credit necessary to qualify for Ordinary Disability retirement benefits, and that further action on your application would be suspended. The letter stated, in pertinent part:

“According to the provisions of the New Jersey statutes, a PERS member must have 10 or more years of service credit to qualify for Ordinary Disability retirement.

...

“It may be possible for you to purchase additional service credit in the retirement system in order to qualify for Ordinary Disability if you have prior temporary or provisional employment; or additional time while on a leave of absence without pay; or former membership service with a New Jersey State retirement system. Additionally, if you are receiving periodic benefits payable under Workers’ Compensation, your employer may be required to continue remitting normal pension contributions on your behalf during the entire period while you are receiving periodic Workers’ Compensation benefits. Therefore, if you are able to obtain the required 10 years of New Jersey service credit, you may qualify for Ordinary Disability retirement benefits at a later date.” (emphasis added)

On October 4, 2017, you cancelled your application for retirement online through the Member Benefit Online System (MBOS). On that same date, the Division received notice of your cancellation.

On March 4, 2019, you applied for an August 1, 2019, Accidental Disability Retirement Benefit under the Maximum Option. The Board considered your application at its meeting of May 20, 2020, and denied your application for Accidental Disability retirement benefits under N.J.S.A. 43:15A-43. The Board also found that although you were totally and permanently disabled from performing your regular assigned work duties, you lacked the requisite 10 years of PERS service credit to qualify for an Ordinary Disability retirement benefit. In its letter of May 21, 2020, the Board advised that you could potentially qualify for the 10 year requirement if you received a Worker’s Compensation Award or if you were eligible to purchase additional PERS service credit sufficient to obtain 10 years of PERS service credit.

On July 2, 2020, you wrote the Division to inform them that you were in the process of trying to purchase service credit and that you had obtained a new attorney to assist with your Workman's Compensation case. You also requested that this letter serve as your appeal to keep your case open.

Thereafter, you were granted additional service credit as a result of a Workman's Compensation Award(s) you received in 2021, however the service credit from those awards still did not bring your account to 10 years. In December 2021, you submitted a lump sum payment for the purchase of 28 bi-weekly pay periods, which established 10 years of PERS service credit in your account, thus making you eligible for Ordinary Disability retirement benefits effective January 1, 2022. As a result, on February 1, 2022, the Retirement Bureau calculated and processed your Ordinary Disability retirement benefit and your first retirement check was issued on February 7, 2022.

On March 11, 2022, you emailed the Board secretary and requested that your retirement benefit be paid retroactive to November 1, 2019. At its meeting on April 20, 2022, the Board denied your request to receive Ordinary Disability retirement benefits prior to you attaining 10 years of service as required under N.J.S.A. 43:15A-42. The Board found that although you were totally and permanently disabled from performing your regular assigned work duties, you lacked the requisite 10 years of service credit to qualify for an Ordinary Disability retirement benefit until the purchase of your first year of employment in December 2021.

On May 6, 2022, you appealed the Board's April 20, 2022 decision that denied your request to receive Ordinary Disability retirement benefits retroactive to November 1, 2019.

### **CONCLUSIONS OF LAW**

The Board made the following conclusions of law.

This matter is controlled N.J.S.A. 43:15A-42, which states in pertinent part:

A member, under 60 years of age, who has 10 or more years of credit for New Jersey service, shall, upon the application of the head of the department in which he shall have been employed or upon his own application or the application of one acting in his behalf, be retired for ordinary disability by the board of trustees. The physician or physicians designated by the board shall have first made a medical examination of him at his residence or at any other place mutually agreed upon and shall have certified to the board that the member is physically or mentally incapacitated for the performance of duty and should be retired.

There is no dispute that you did not attain the 10 years of PERS service credit until you purchased additional service credit in December 2021, and therefore you were properly considered eligible for Ordinary Disability retirement benefits as of the next month after so qualifying.

The regulations also allow for the purchase of service credit to be used for retirement purposes upon receipt of payment. N.J.A.C. 17:2-5.13 states:

If a purchase is paid in a lump sum, the member shall receive full credit for the amount of service covered by the purchase upon receipt of the lump sum payment. The service may be used for any purchase for which it is authorized under the Public Employees' Retirement System Act (N.J.S.A. 43:15A-1 et seq.) and this chapter. (emphasis supplied).

Thus, you became eligible an Ordinary Disability retirement benefit the first day of the month following your lump sum purchase, or January 1, 2022.

In your appeal, you assert that because you were successful in your Workers' Compensation case and you were granted Ordinary Disability that it should have started November 1, 2019. However, with the additional PERS service credit added to your account by way of a Workers' Compensation Award, you did not reach the requisite 10 years of service. It was not until your purchase of 28 biweekly pay periods that you established the time needed to qualify for Ordinary Disability retirement benefits.

As noted above, the Board has considered your written submission and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's

Renee Martins  
June 16, 2022  
Page 5

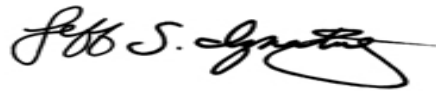
enabling statutes and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You also have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey  
Appellate Division  
Attn: Court Clerk  
PO Box 006  
Trenton, NJ 08625

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Ignatowitz". The signature is fluid and cursive, with a large loop at the end.

Jeff Ignatowitz, Secretary  
Board of Trustees  
Public Employees' Retirement System

G-8/JSI  
c: K. Ozol (ET); D. Lewis (ET)