**Section 1540.85 Benefit Suspension and Termination for Gainful Employment or Activity**

a) Suspension of Benefit for Gainful Employment or Activity

If the System becomes aware that a member who is receiving an occupational, nonoccupational, or temporary disability benefit under Article 14 of the Illinois Pension Code has engaged in gainful employment or if the System becomes aware that the unmarried adult disabled child of a deceased member or annuitant is receiving a survivor's annuity or occupational death benefit under Article 14 of the Illinois Pension Code and has engaged in substantial gainful activity, then it shall immediately suspend the respective Article 14 benefit and provide the affected individual with written notice of the benefit suspension and of the individual's right to appeal the benefit suspension under subsection (e).

b) Gainful Employment or Activity

For purposes of this Section and Article 14 of the Illinois Pension Code, an individual engages in gainful employment and substantial gainful activity when the individual:

1) returns to active employment or becomes employed with the State of Illinois in any capacity;

2) violates the Calendar Quarter Remuneration Limit in subsection (c) for the first time and fails within the period specified by the System:

A) to execute an agreement with the System to repay the System all amounts earned in excess of the Calendar Quarter Remuneration Limit; and

B) to repay the System the amount described in the agreement; or

3) violates the Calendar Quarter Remuneration Limit in subsection (c) for a second or subsequent time.

c) Calendar Quarter Remuneration Limit

No member who is receiving an occupational, nonoccupational, or temporary disability benefit under Article 14 of the Illinois Pension Code and no adult disabled child who is receiving a survivor's annuity or occupational death benefit under Article 14 of the Illinois Pension Code may receive more in remuneration than the substantial gainful activity amount that is determined annually by the Commissioner of the Social Security Administration in accordance with 42 C.F.R. 423(d)(4) and found at https://www.ssa.gov/oact/cola/sga.html in any calendar quarter.

d) Remuneration

1) As used in this Section, "remuneration" means any compensation for personal services, including fees, wages, salary, commissions, and similar items, as well as any income derived from active participation in a business activity or through the performance of physical or mental activities generally performed for the production of income, regardless of whether the compensation or income is earned through self-employment or employment by others.

2) "Remuneration" includes the fair market value of non-monetary goods or services received as remuneration.

3) "Remuneration" does not include:

A) income from income-producing opportunities or activities created by the member or individual before the onset of disability except to the extent that the level of income produced by the opportunity or activity has increased through the member or individual's performance of physical or mental activities after the onset of the disability;

B) earnings that are derived from financial instruments, real estate, a limited partnership, or any other enterprise in which any individual is not involved in active participation; or

C) income generated from the sale of the member or individual's personal residence.

4) Remuneration shall be computed based on the date earned (rather than the date received) and on a gross rather than net basis. No deductions of any kind, including, but not limited to, deductions for losses, expenses, taxes, or withholding shall be considered in the computation of remuneration under this Section.

5) Remuneration representing gain from the sale, exchange or other disposition of goods or other property shall be equal to the sum received on the sale, exchange, or disposition, less the amount representing the cost to the seller in acquiring the goods or other property that is sold, exchanged, or disposed of.

e) Administrative Appeal Rights

An adversely affected individual may appeal the suspension of the individual survivor's annuity, occupational death benefit, or disability benefit under this Section to the Executive Committee in the same manner as a member may appeal the disposition of a claim to the Executive Committee under Section 1540.270, except that all Petitions for Hearings and Petitions for Written Appeals must be received by the Executive Secretary of the System within 30 days after the date of the written notice described in subsection (a). If the Executive Committee determines on appeal that an individual has not engaged in gainful employment and substantial gainful activity, as described in subsection (b), while receiving a survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code, then the Executive Committee shall direct the System to reinstate the suspended benefit. If the Executive Committee determines on appeal that an individual has engaged in gainful employment or substantial gainful activity, as described in subsection (b), while receiving a survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code, then the Executive Committee shall issue a recommendation to the Board of Trustees that it terminate payment to the individual of any survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code.

f) Benefit Termination or Reinstatement

If the Board of Trustees ratifies the Executive Committee's recommendation under subsection (e), that decision becomes the final administrative decision and then the System shall terminate the affected individual's survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code retroactively to the date of its initial suspension under this Section. If the Board of Trustees objects to ratification of the Executive Committee's recommendation under subsection (e), then the individual's survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code shall be reinstated retroactively to the date of benefit suspension under this Section.

(Source: Amended at 48 Ill. Reg. 7844, effective May 7, 2024)