

# Title 22

## STATE RETIREMENT AND PENSION SYSTEM

### Subtitle 01 GENERAL REGULATIONS

#### 22.01.06 Payment of [Allowance] *Benefits*

Authority: State Personnel and Pensions Article, §§21-110 and 21-501, Annotated Code of Maryland

##### Notice of Proposed Action

[19-138-P]

The Board of Trustees for the State Retirement and Pension System proposes to amend and recodify existing Regulations .01—.04 to be Regulations .02—.05 and adopt new Regulations .01 and .06 under **COMAR 22.01.06 Payment of Benefits**.

This action was considered by the Board of Trustees for the State Retirement and Pension System at an open meeting held on June 18, 2019, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302, Annotated Code of Maryland.

##### Statement of Purpose

The purpose of this action is to provide clarity with regard to certain procedures addressing the payment of benefits from the State Retirement and Pension System. Amendments to the definitions under COMAR 22.01.06.01 define the participants to whom this regulation shall apply. Specifically, this regulation is designed to cover the payment of monthly retirement allowances, which to a very significant degree are processed as electronic fund transfers (direct deposits). The regulation is not designed to cover other types of payments (e.g., refund of member contributions, lump-sum death benefit payments, etc.) that are paid to individuals who are not receiving and are not eligible to receive a monthly retirement allowance.

COMAR 22.01.06.02, which pertains to electronic fund transfers, is being amended to address a recent audit finding related to multiple payees' monthly retirement allowances being deposited into the same bank account.

Amendments to COMAR 22.01.06.05, which pertains to the suspension of payments, consist primarily of changing the regulation heading to reflect its application to lump-sum payments as well as monthly allowances, and include other minor edits for consistency and clarity. A new reason to suspend a benefit—the State Retirement Agency's belief that it has received false information or fraudulent documentation—also is being added at §A(7). This new subsection is intended to minimize the number and extent of those instances when the Agency, based on false or fraudulent information, pays "a benefit that differs from the benefit the retiree or beneficiary is entitled to receive," and then must pursue recovery under State Personnel and Pensions Article, §21-113, Annotated Code of Maryland.

COMAR 22.01.06.06 is added to address the State Retirement Agency's longstanding practice of withholding payments for certain deductions from payees' retirement allowances. It addresses the Agency's concern with sharing sensitive information with third parties and requires that, upon the Agency's request, third parties enter into a nondisclosure agreement with the Agency.

Additionally there are clarifying and nonsubstantive changes in COMAR 22.01.06.03 and .04.

##### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

##### Estimate of Economic Impact

The proposed action has no economic impact.

##### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

##### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

##### Opportunity for Public Comment

Comments may be sent to Anne Gawthrop, Esq., Director of Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, MD 21202, or call 410-625-5602, or email to [agawthrop@sra.state.md.us](mailto:agawthrop@sra.state.md.us), or fax to 410-468-1710. Comments will be accepted through September 3, 2019. A public hearing has not been scheduled.

##### Open Meeting

Final action on the proposal will be considered by the Board of Trustees for the State Retirement and Pension System during a public meeting to be held on September 17, 2019, at 9 a.m., at 120 East Baltimore Street, 16th Floor, Baltimore, Maryland 21202.

##### **.01 Definitions.**

*A. In this chapter, the following words have the meanings indicated.*

*B. Terms Defined.*

(1) "Alternate payee" means a former spouse named in an eligible domestic relations order that the Retirement Agency has accepted for administration pursuant to a notice of administration issued in accordance with State Personnel and Pensions Article, §21-502, Annotated Code of Maryland, and COMAR 22.01.03.04.

(2) "Participant" has the meaning set forth in COMAR 22.01.01.01B.

(3) "Payee" means a participant or alternate payee.

**[.01].02 Electronic Fund Transfer.**

A. Except as provided in Regulation [.03].04 of this chapter, the Retirement Agency shall pay [a participant's] the allowance of a payee by electronic fund transfer to the institution designated by the [participant] payee as provided in this regulation.

B. [When a participant becomes eligible to receive a monthly allowance, the Retirement Agency shall provide a form to the participant that shall be the electronic fund transfer sign-up form. The participant] A payee shall properly complete the electronic fund transfer sign-up form provided by the Retirement Agency and file it with the Retirement Agency.

C. The Retirement Agency shall accept the electronic fund transfer sign-up form filed by a [participant] payee if:

(1) The [participant properly completes the] form has been properly completed in accordance with the form's instructions; [and]

(2) The institution named by the [participant] payee on the form participates in the [Automatic] Automated Clearing House Network[.];

(3) Not more than five payees share the same account number at the institution; and

(4) The Retirement Agency deems the form acceptable.

D. The Executive Director, or the Executive Director's designee, may waive the requirement of §C(3) of this regulation upon written request by a payee and for good cause shown. Determination of a waiver request is not a contested case under State Government Article, §10-202, Annotated Code of Maryland, for which a hearing is required under COMAR 22.03.04.

[D.] E. At any time while receiving an allowance, a [participant] payee may change the designated institution by properly completing a new electronic fund transfer sign-up form and submitting the form to the Retirement Agency.

[E.] F. The last electronic fund transfer sign-up form filed by a [participant] payee and accepted by the Retirement Agency shall control the electronic fund transfer of the [participant's] payee's monthly allowance.

**[.02].03 [Payment Procedure] Electronic Fund Transfer Procedures.**

A. The Retirement Agency shall transmit a [participant's] payee's monthly allowance to the institution designated by the [participant] payee as set forth in Regulation [.01].02 of this chapter.

B. The Retirement Agency shall give each [participant] payee who receives an allowance through electronic fund transfer an advice statement at least [one time] once per calendar year. The advice [slip] statement shall reflect the following:

(1)—(3) (text unchanged)

**[.03].04 Payment of Allowance by Check.**

A. A [participant] payee may request payment of an allowance by check instead of an electronic fund transfer [of the participant's monthly allowance].

B. The request shall be in writing to the Executive Director and describe the hardship created by the electronic fund transfer of the [participant's] payee's monthly allowance. The [participant shall] payee may submit documentation to support the hardship with the request to the Executive Director.

C. The Executive Director or the Executive Director's designee may grant the request on a temporary or indefinite basis and allow payment of the monthly allowance by check if the [participant] payee:

(1) (text unchanged)

(2) Maintains a bank account with a financial institution that is not a member of the [National] Automated Clearing House Network;

(3) (text unchanged)

(4) Is of an advanced age, has a disability, or both, affecting the [participant's] payee's ability to maintain or access a bank account, or both;

(5)—(6) (text unchanged)

(7) Demonstrates that circumstances exist that would create a hardship if the [participant] payee is required to receive an allowance by electronic funds transfer.

D. If the Executive Director or the Executive Director's designee grants the request for payment by check, the Retirement Agency may require the [participant] payee to periodically submit documentation demonstrating the continued necessity for payment by check. If the Executive Director or Executive Director's designee determines that [an] a hardship no longer exists, the Retirement Agency may [pay the participant's monthly allowance by] require the payee to complete and submit an electronic fund transfer sign-up form, in accordance with Regulation [.01 and .03E].02 of this chapter.

E. If the Executive Director or the Executive Director's designee denies the request for payment by check, and the [participant] payee fails to complete the electronic fund transfer sign-up form, the Retirement Agency may suspend payment of the [participant's] payee's allowance in accordance with Regulation [.04].05 of this chapter.

**[.04].05 Suspension of [Allowance] Payment.**

A. The Retirement Agency may suspend [a participant's monthly allowance] payment of a payee's benefit of any type for reasons including, but not limited to, the following:

- (1) The [participant] *payee* fails to submit a properly completed electronic fund transfer sign-up form *required for a monthly allowance*;
  - (2) The [participant] *payee* fails to provide a current mailing address;
  - (3) The [participant] *payee* fails to return a properly completed verification form required to confirm receipt of a monthly allowance;
  - (4) The Retirement Agency receives conflicting payment instructions [regarding the participant's allowance];
  - (5) The Retirement Agency has reason to believe the [participant] *payee* is a "vulnerable adult" being subject to "exploitation", as those terms are defined by Family Law Article, §14-101, Annotated Code of Maryland; [or]
  - (6) The Retirement Agency has reason to believe the [participant] *payee* is no longer living; *or*
  - (7) *The Retirement Agency has reason to believe that it has received false or fraudulent information.*
- B. The Retirement Agency shall notify the [participant] *payee* at the last address on file of a suspension of [retirement allowance] *payment* and provide instructions on actions required to resume payment. All properly due [monthly] benefits held in suspension are payable to the [participant] *payee* upon reinstatement of the benefits.

**.06 Deductions from Allowance.**

- A. A retiree may elect to have the Retirement Agency deduct from the retiree's allowance and pay for the retiree:
- (1) *Dues for a retiree or employee organization that the Executive Director has approved to receive deductions;*
  - (2) *To the extent approved by the Executive Director, payments to the State Employees' Credit Union of Maryland, Inc.;*
  - (3) *To the extent approved by the Executive Director, all or part of a premium for:*
    - (a) *Insurance offered through an employee organization; or*
    - (b) *State-approved or locally approved insurance for retirees; or*
  - (4) *If approved by the Executive Director, charitable contributions in connection with the Maryland Charity Campaign conducted by the Secretary of State.*
- B. *Information Sharing with Entities Receiving Deductions.*
- (1) *In connection with any deductions authorized under §A of this regulation, the Retirement Agency will exchange with an entity receiving deductions information, which in the Executive Director's sole discretion is reasonably necessary, in order to conduct and reconcile the deductions, including the retiree's name, the retiree's Social Security number or other identification number, and the deduction amounts.*
  - (2) *On request by the Retirement Agency, an entity that receives retiree deductions shall enter into a nondisclosure agreement in the format required by the Retirement Agency requiring the entity to maintain specified security procedures and practices with respect to the information it receives in connection with the deductions.*

R. DEAN KENDERDINE  
Executive Director  
State Retirement Agency