**Section 1540.380 Correction of Mistakes in Benefit Payments**

a) If SERS mistakenly sets any benefit at an incorrect amount, it will recalculate the benefit as soon as may be practicable after the mistake is discovered.

b) If the recalculation results in a determination by SERS that it has overpaid a benefit and, if that benefit overpayment either was undiscovered for less than 3 years or resulted from incorrect information supplied by the affected member or beneficiary, then SERS will adjust the benefit to the correct level and notify the benefit recipient in writing. The written notice will indicate the correct amount of the benefit, the amount of the overpayment that must be recovered by the System, and the procedure for appealing the determination. If the affected member or beneficiary does not appeal the determination within 30 days after the postmark date of the written notice or, if, upon appeal, the Executive Committee affirms the System's determination, then SERS will make arrangements for collection of the amount of the overpayment. The overpayment can be repaid by:

1) reductions in any subsequent benefit payment due to the recipient or their survivors and beneficiaries;

2) repayment of the overpayment by the recipient to SERS;

3) other arrangement SERS makes with the recipient; or

4) any other means legally available to the System.

c) If the recalculation results in a determination by SERS that it has overpaid a benefit and, if that benefit overpayment was undiscovered for 3 or more years and did not result from incorrect information supplied by the affected member or beneficiary, then SERS will adjust the benefit to the correct level and notify the benefit recipient in writing. The written notice will indicate the correct amount of the benefit, describe the procedure for appealing the determination, and inform the benefit recipient that they are not required to repay SERS for the excess amounts received in error.

d) If the recalculation results in a determination by SERS that it has underpaid a benefit, then SERS will notify the benefit recipient, adjust the benefit to the correct level, and pay a lump sum amount to the recipient in the amount necessary to make the recipient whole as to the amounts that should have been paid to the recipient by SERS under the Code. The amount payable under this subsection (d) on account of an underpayment of an accelerated pension benefit payment shall be distributed from the State Pension Obligation Acceleration Bond Fund.

e) A benefit underpayment that arises from a back pay award may be acted upon under subsection (d) and is not required to be passed upon by the Board under Section 14-135.04 of the Code. However, if a member believes that the System has incorrectly adjusted the benefit or incorrectly calculated the amount of the underpayment, the member may appeal those calculations in the same manner as the appeal of an initial claim under Section 1540.270.

f) Amounts collected under subsection (b) on account of the overpayment of accelerated pension benefit payments shall be remitted to the State Pension Obligation Acceleration Bond Fund.

g) Nothing in this Section prevents SERS from referring any debt due SERS to the Attorney General, the Debt Collection Board, the Comptroller's Offset System, or private collection agencies at any time it deems appropriate.

h) Definitions

As used in this Section:

"Accelerated Pension Benefit Payment" means any accelerated pension benefit payment provided under Section 14-147.5 or 14-147.6 of the Code.

"Benefit" means any retirement annuity, widow's annuity, survivor's annuity, occupational disability benefit, temporary disability benefit, nonoccupational disability benefit, death benefit, accelerated pension benefit payment, or other benefit payable under Article 14 of the Code or any portion of any proportional annuity or survivor's annuity that is payable by SERS under Article 20 of the Code.

"Code" means the Illinois Pension Code [40 ILCS 5].

"State Pension Obligation Acceleration Bond Fund" means the bond fund created by Section 7.7(d) of the General Obligation Bond Act [30 ILCS 330].

"SERS" means the State Employees' Retirement System of Illinois.

(Source: Amended at 45 Ill. Reg. 6848, effective May 24, 2021)