



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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Acting Director

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

July 14, 2023

Sent via email to: [REDACTED]

ZAZZALI, P.C.
Raymond M. Baldino, Esq.

[REDACTED]

RE: Pamela Samitt
TPAF # [REDACTED]

Dear Mr. Baldino:

I am writing in reference to the decision of the Board of Trustees (Board) of the Teachers' Pension and Annuity Fund (TPAF) regarding the matter of your client, Pamela Samitt, and her request to have her purchase of out-of-state service credit qualify for post-retirement state health benefits.

At its meeting of May 5, 2023, the Board reviewed your written submissions and accompanying documentation and denied Ms. Samitt's request based on the statutes and relevant case law governing TPAF. Finding no genuine issue of material fact in dispute, the Board also denied your request for an administrative hearing. The Board's Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its July 13, 2023 meeting.

FINDINGS OF FACT

The record establishes that on September 9, 2008, Ms. Samitt submitted an *Application to Purchase Service Credit* (purchase application) for out-of-state service with New York City Board of Education for the period covering September 1, 1989 to June 30, 1998 and Great Neck School District for the period covering September 1, 1999 to June 30, 2000. Purchase quotes for both periods were issued on October 24, 2008, to the address Ms. Samitt listed on her purchase

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application.¹ Both purchase quotes included the following language: "If you wish to purchase this service, or any portion thereof, the enclosed Purchase Authorization Form must be completed. The cost of the purchase expires on January 22, 2009."

The Division's records indicate that neither purchase quote was authorized. Consequently, both purchase quotes expired on January 22, 2009.

As stated in Shirlene Scott's administrative determination letter, there is no record of Ms. Samitt contacting the Division regarding the aforementioned application to purchase out-of-state service credit again until July 24, 2014. At that time, she was instructed to complete a new application as the former application was expired (closed).

Purchase quotations are generated based on the submission of a purchase application. The 90-day grace period allows the member to retain the request date of the purchase application until the purchase quote expires. If the member does not authorize the purchase, then a new purchase application must be completed to recalculate the cost based on the member's current age and salary.

After submitting a new purchase application on December 18, 2014, Ms. Samitt contacted the Division on December 29, 2014, and was informed that she could purchase up to 10 years of out-of-state service credit but that it would not count towards post-retirement state health benefits.²

All purchase quotes for out-of-state service credit issued to Ms. Samitt from January 2015 forward included the following statement: "[p]lease note that effective November 1, 2008, under C.89 P.L. 2008, all purchase requests for Out-of-State Service cannot be used for Post-Retirement Medical purposes."

¹ All Purchases Quotes were sent to Pamela Samitt at [REDACTED]

² The Division's Siebel records indicate Ms. Samitt was verbally told that any purchase of out-of-state service credit would not count towards post-retirement state health benefits.

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After Ms. Samitt authorized the purchase of out-of-state service credit, the Division processed her application and issued her receipts acknowledging that the checks were received. The receipts also included the statement: "Please note that effective November 1, 2008, under C.89 P.L. 2008, all purchase requests for Out-of-State Service cannot be used for Post-Retirement Medical purposes."

Although Ms. Samitt's original purchase application for out-of-state service credit was submitted prior to November 1, 2008, she did not authorize the purchases and, as a result, that application expired and a new application was required. Subsequent purchase applications received after November 1, 2008, cannot be used to qualify for post-retirement medical benefits.

By letter dated April 19, 2023, you filed an appeal of the Board's decision. At its meeting of May 4, 2023, the Board considered your appeal and request for a hearing. The Board ultimately found that no genuine issue of material fact was in dispute and therefore directed the Board Secretary to draft detailed Findings of Fact and Conclusions of Law for review at its meeting of July 13, 2023.

CONCLUSIONS OF LAW

The issue is whether Ms. Samitt's purchase of out-of-state service credit qualifies for post-retirement state health benefits. As noted above, Ms. Samitt was informed both verbally and in writing that purchases of out-of-state service credit would not qualify towards post-retirement state health benefits.

The purchase application authorized by Ms. Samitt after November 1, 2008 cannot be used to qualify for post-retirement medical benefits. N.J.S.A. 18A:66-13, states in relevant part:

...

Notwithstanding any other provision of law to the contrary, service credit established in the retirement system by a member through purchase in accordance with this section, which purchase was made by an application submitted on or after the effective date [Nov. 1, 2008] of P.L.2008, c.89, except a purchase for military

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service in the Armed Forces of the United States, shall not be eligible for consideration when service is used to determine the qualification of the member for any health care benefits coverage paid, in whole or in part, by a public employer after the member's retirement.

In addition, N.J.A.C. 17:3-5.5(b)(2)(ii) states:

ii. For purchase applications received November 2, 2008 or later, U.S. government purchases, military purchases, and Out-of-State purchases cannot be used to qualify for post-retirement medical benefits.

You assert that there is "no authority in the relevant statute or TPAF regulations that indicate receiving this benefit depends on when the application is consummated, or suggest that an application is considered to have expired if a purchase is not promptly made." However, N.J.A.C. 17:1-4.2 clearly provides that:

A member who receives a written optional purchase cost quotation is given a 90-day grace period to confirm that he or she wishes to make the purchase of service credit. If the confirmation of the purchase is not received from the member within 90 days, the cost of purchase must be recalculated to determine if any change in the cost is warranted as a result of change in age or salary.

Further, the Division's correspondence at the time of your request clearly stated that the purchase quote would expire on January 22, 2009. An expired purchase quote cannot trump the plain language of N.J.S.A. 18A:66-13, as the actual purchase of service credit occurred nearly six years after November 2, 2008.

You further assert that an application should not be treated as expired if the member fails to authorize the purchase, but that the purchase is simply recalculated. Regardless, the actual purchase of service credit did not occur before the statutory cut-off date. Ms. Samitt knew that her purchase of out-of-state service credit after November 1, 2008, would not qualify for post-retirement health benefits, as all verbal and written communication was explicit.

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As noted above, the Board has reviewed all relevant documentation and written submissions, and 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 without the need for an administrative hearing. Accordingly, this correspondence constitutes the Final Administrative Determination of the Board of Trustees of the Teachers' Pension and Annuity Fund.

You have the right, if you wish, to appeal this final administrative determination 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,



Saretta Dudley, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-1/SD

c: S. Scott (ET)
DAG Jeffrey Padgett (ET)

Pamela Samitt (regular mail)