

MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania Governor's Office

Subject: Reemployment of Commonwealth Annuitants	Number: 515.20 Amended
Date: February 22, 2016	By Direction of:  Sharon P. Minnich, Secretary of Administration
Contact Agency: Office of Administration, Office for Human Resources and Management, Office of Human Resources, Telephone 717.783-5446	

This directive establishes policy, responsibilities, and procedures for reemployment of persons retired from commonwealth service. Changes have been made consistent with the enactment of Act 93 of 2015 and certain Internal Revenue Service (IRS) qualification requirements. Changes are indicated by marginal dots.

1. **PURPOSE.** This directive establishes policy, responsibilities, and procedures for reemployment of persons retired from commonwealth service.
2. **SCOPE.** This directive applies to all employees who retire from departments, boards, commissions, and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction.
3. **OBJECTIVE.** To outline the procedure for the reemployment of persons who have previously left commonwealth service and elected to receive a State Employees' Retirement System (SERS) retirement benefit. This process will detail the manner in which the retirement benefits of both temporary and permanent commonwealth employees will be impacted.
4. **DEFINITIONS.**
 - a. **Approval of the Governor.** As defined in Section 5.d., approval of the Governor shall be deemed to have been secured if the reemployment is approved by the Office of Administration (OA), Deputy Secretary for Human Resources and Management. **Approved by the Governor**, as used in Section 5.e. of this directive, shall be deemed to have been secured if the contract is executed in accordance with *Manual 215.3, Procurement Handbook*.

- b. **Emergency.** As defined in *Section 5706 (a.1) of the State Employees Retirement Code, 71 Pa.C.S. §5706 (a.1)*, an increase in workload such that there is serious impairment of services to the public.
- c. **Independent Contractor.** Any person compensated on a fee basis pursuant to an approved contract.
- d. **95 Days.** 95 workdays with pay in a calendar year. Any amount of time less than one-half of a day shall be counted as one-half of a day; one-half and over shall be counted as a full day.
- e. **CAR-A Form.** Approval request for reemployment of annuitant.
- f. **E-PAR.** (Enterprise Position/Personnel Action Request) is the process used to assist supervisors in requesting services from HR, as well as to facilitate the processing of SAP transactions within the HR Service Center.
- g. **Normal Retirement Age.** For the purposes of this directive, age 60 or older. This age applies regardless of the number of years of service credited to the annuitant. "Normal Retirement age", as used in this directive, does not change the current SERS definitions of "superannuation age" or the requirements for benefit eligibility or the benefit formula or calculations.

5. POLICY.

- a. An annuitant who is over normal retirement age or who has been an annuitant for more than one year may be returned to commonwealth service for a period not to exceed 95 Days in any calendar year. The approval of the Governor, that an emergency exists, shall be required before an annuitant may be returned to commonwealth service.
- b. "Emergency" shall be interpreted within a narrow, literal context. It is not intended to allow the appointment of annuitants when circumstances clearly do not meet the test set forth in the *State Employees Retirement Code* or to allow the appointment of annuitants to circumvent complement levels and thereby artificially inflate payroll costs. Critical vacancies resulting from retirements should be filled on a permanent basis as quickly as possible.
- c. Reemployment of retired commonwealth employees whose intended employment is merely to take advantage of revisions to the State Employees' Retirement Code or the benefits offered by the State Employees' Retirement System (SERS) will not be approved.
- d. When, in the judgment of the agency, an emergency creates an increase in the workload such that there is serious impairment of service to the public, an annuitant who is over normal retirement age or who has been an annuitant for more than one year may, with the approval of the Governor, be returned to state service as a temporary wage employee for a period not to exceed 95 Days in any calendar year without loss of annuity.

- e. An annuitant may render services to the commonwealth without loss of annuity in the capacity of an independent contractor for a certain sum and for a specific period of time pursuant to a contract approved by the Governor. Contracts with the effect of returning a commonwealth annuitant to serve as an independent contractor performing either the duties the annuitant performed as an employee or services normally provided by other employees will not be approved.
- f. Except for situations defined in Sections 5.d. and 5.e. of this directive, any annuity payable shall cease if an annuitant returns to state service.
- g. It is SERS' policy to review whether the agency properly exercised its discretion in hiring an annuitant under the emergency return to service provisions and adjust the member's retirement benefits accordingly. If SERS determines that the emergency appointment is invalid, the consequences for annuitants will be the cessation of their retirement benefits as of the date of return, retroactive repayment of retirement benefits paid during the period the annuitants rendered service after the return to service, and payment of contributions and interest. SERS will consider various factors, including, but not limited to the following:
 - (1) Whether there was a bona fide break in service between the retirement date and the reemployment start date. There must be a break of at least one pay period, generally 14 calendar days, to establish the termination;
 - (2) Whether the "emergency" asserted by the agency as grounds for the request for approval is created by the employee's retiring;
 - (3) Whether the agency immediately undertook a search for a replacement promptly upon receipt of notice of the employee's retirement;
 - (4) Whether the agency made a genuine effort to fill the emergency vacancy with a non-retiree;
 - (5) Whether the agency is using the same annuitant or position repeatedly over multiple years, thus calling into question the nature of the emergency; and
 - (6) Whether the annuitant left commonwealth service on a disability retirement.
- h. If annuitants work more than the permitted 95 Days in the calendar year, they will be considered as having returned to service as of the first day the 95 Day limitation was exceeded. Their annuity will cease as of that day. The members will be invoiced by SERS for overpaid annuity benefits. Both the members and agency will be billed for contributions and interest due to SERS.

- i. The rate of pay for an annuitant shall be up to and including the rate specified in the pay scale group for the pay scale level held at the time of retirement. If the annuitant is reemployed to a classification with a lower minimum hourly rate, this shall be considered a demotion from the pay scale group and pay scale level held at the time of retirement. If the annuitant is reemployed to a classification with a higher minimum hourly rate, this shall be considered a promotion from the pay scale group and pay scale level held at the time of retirement. If no pay scale level in the pay scale group is equivalent to the pay scale level the annuitant was assigned at the time of retirement, then the annuitant shall be placed at the minimum or maximum rate, as appropriate. General pay increases authorized during the term of the annuitant's reemployment will be granted to the annuitant if the general pay increase is applicable to the pay scale group and pay scale level in which the annuitant was reemployed. Annuitants shall not be eligible for scheduled longevity increments during the term of their employment.

6. RESPONSIBILITIES.

a. Agency Heads shall:

- (1) Determine that a bona fide emergency exists which has the potential to seriously impair services to the public.
- (2) Verify that an annuitant is the only person available to help alleviate the situation.

b. Office of Administration, Deputy Secretary for Human Resources and Management shall:

- (1) **Emergency Employment.** Verify that an emergency condition exists, that hiring an annuitant is essential to the continuation of vital services, and that the appropriate rate of pay is paid. Notify SERS when temporary emergency reemployment is approved.
- (2) **Independent Contractor.** Ensure that services to be performed by an annuitant are not those normally performed by an employee. Provide SERS with a copy of approved contracts.

c. Agency Human Resource Directors shall:

- (1) Advise agency head that when emergency reemployment is requested, temporary reemployment may purge a retiree's previous disqualification for unemployment compensation based on the reason for separation.
- (2) Caution annuitants of possible loss of social security benefits because of increased income.

- (3) Advise annuitants that retirement annuity benefits and Retired Employee Health Program (REHP) coverage are not affected by emergency reemployment of 95 Days or less. Advise annuitants that employment that exceeds the 95 Days requires termination of the employee's annuity and REHP coverage as of the first day the 95 Day limitation was exceeded, repayment of any overpaid annuity benefits, and payment of contributions and interest to the retirement system. Advise annuitants that no active employee benefits or leave entitlements will apply.
- (4) Ensure that temporary employment necessitated by an emergency does not exceed, and that annuitants are informed that such employment will not exceed 95 Days in any calendar year as defined in Section 4.d. of this directive.
- (5) Ensure there is a bona fide break in service of at least one pay period (generally 14 calendar days), between the date of retirement and the reemployment start date.
- (6) Ensure that, as of the reemployment start date, the annuitant is over normal retirement age or has been an annuitant for more than one year.

7. PROCEDURES.

a. Emergency Employment of Commonwealth Annuitant.

(1) Agency.

- (a) Determines that an emergency requires the temporary reemployment of an annuitant.
- (b) Prepares on-line CAR-A form (approval request for reemployment of annuitant), with justification for reemployment that includes data about the emergency condition, duties of the proposed position, and the following information about the annuitant:
 - 1 Name of annuitant;
 - 2 Personnel number;
 - 3 Date of retirement;
 - 4 Age of annuitant as of the anticipated reemployment start date;
 - 5 Pay scale type, pay scale group, hourly rate, and job title at time of retirement;
 - 6 Proposed pay scale type, pay scale group, hourly rate, and job title;
 - 7 Indicates if an existing vacant wage position will be used to appoint the annuitant or a new wage position will be created for the appointment.

- (c) Transmits CAR-A with justification promptly to OA, Deputy Secretary for Human Resources and Management, for approval.
- (2) OA, Deputy Secretary for Human Resources and Management.**
- (a) Reviews justification and either approves reemployment and transmits approval notice to agency via email; or disapproves reemployment and transmits disapproval (with reason for disapproval) to agency via email.
 - (b) Forwards copy of approved CAR-A and justification to SERS.
- (3) Agency HR Office or Office of Administration, Office for Human Resources and Management, HR Service Center.**
- (a) Processes a personnel action to appoint an annuitant into a wage position, using the following procedures:
 - 1** Processes a Rehire personnel action using an annuitant reason code
 - 2** The Contract Elements must reflect CS – Temporary as the contract type for civil service employees or NCS for non-civil service employees.
 - 3** The Complement Control fields on the position house the position expiration date. This date should reflect December 31 of the current calendar year.
 - 4** Issue notification to the annuitant informing them of the conditions of employment, including the 95 work day limitation.
 - (b) Informs annuitant of the conditions of emergency temporary employment and that the annuitant will not be eligible for any benefits including health, life insurance, and paid leave or holidays.
 - (c) Monitors length of employment and days worked. At the conclusion of an annuitant's employment, processes a Separation action using reason Comp Spec Emp Period to terminate the employee.
- (4) OA, Deputy Secretary for Human Resources and Management.** Notifies SERS of the annuitant's name, social security number, and date of termination.
- (5) SERS.**
- (a) Informs annuitant that REHP coverage will continue.
 - (b) Reviews the CAR-A received from OA, Deputy Secretary for Human Resources and Management to ensure the emergency request is properly justified and all related factors of consideration are present and valid.

(c) If the conditions of reemployment are met, SERS will issue notification to the annuitant and the agency's HR representative confirming receipt of the necessary information authorizing the emergency reemployment.

(d) If, during the review, it is determined that the proper conditions were not met, SERS will contact the agency's HR representative to obtain information necessary to render a determination. If there is not a resolution, SERS will proceed with the return to service processing for the annuitant.

b. Independent Contract with Commonwealth Annuitant. In accordance with contracting procedures, the Agency forwards copy of approved contract to SERS.

This directive replaces, in its entirety, *Management Directive 515.20*, dated July 20, 2015.