



## Milwaukee County Retirement Plan Services

901 N. 9th Street, Courthouse, Room 210-C  
Milwaukee, WI 53233  
(414) 278-4207 (877) 652-6377  
[www.County.Milwaukee.Gov/Retirement](http://www.County.Milwaukee.Gov/Retirement)

Date: December 3, 2019  
To: Theodore Lipscomb, Sr., Chairman, Milwaukee County Board of Supervisors  
From: Erika Bronikowski, Interim Director, Retirement Plan Services

**Subject: Summary of 2014 Supplementary Voluntary Correction Program (VCP)**

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This report outlines information about the 2014 IRS Voluntary Correction Plan (“VCP”), including overall financial and Employees’ Retirement System (“ERS”) member impact.

### Summary of VCP Corrections

The following is a summary of the corrections presented to the IRS in the 2014 VCP, as well as the steps taken to correct the errors and the number of individuals affected. Please note, there are 26 total failures that were originally reported to the IRS.

#### **Failure A – Compliance with Domestic Relations Support Orders**

The ERS allows for a member’s benefit to be paid to a former spouse through a Domestic Relations Order. Occasionally, Income Withholding Support Orders were received that were not Domestic Relations Orders that requested RPS withhold spousal support from pension payments. To ensure RPS could comply with the Income Withholding Support Orders, the Rule regarding Domestic Relations Orders was revised in 2013. The time span to which this correction applies is 2000 through 2013.

Correction: A retroactive Pension Board Rule Amendment that authorizes the acceptance of Income Withholding Support Orders for the time prior to the 2013 adoption of the current Rule.

Number Affected: 80

#### **Failure B – BackDROP Errors**

There are three subcategories of BackDROP corrections: Lump Sum BackDROP Payments Failed to Include Applicable Interest; BackDROP Limitation Date; and BackDROP Election by Beneficiary. Each is described in detail below.

- 1) *Lump Sum BackDROP Payments Failed to Include Applicable Interest*

From 2001 to 2012, interest applied to BackDROP benefits was applied inconsistently. For some pension benefit calculations, interest was not applied to the final partial month of ERS service prior to retirement.

Correction: The benefits of affected members will be recalculated using the correct interest application. Because these are all underpayments, compound interest consistent with the assumed rate of return will be applied to the correction through the payment date.

Number Affected: 1,724

2) *BackDROP Limitation Date*

The BackDROP freeze effective April 1, 2013 was not applied to some benefits that were initiated in 2014 and 2015. This resulted in excess earnings and service credit being included in their benefit calculations.

Correction: Recalculate benefits to apply the freeze. These individuals' benefits were recalculated and the overpayments processed pursuant to MCGO 201.24 (8.24) in September 2019.

Number Affected: 13

3) *BackDROP Election by Beneficiary*

Between 2002 and 2004, some survivors were allowed to elect a BackDROP benefit which is not permissible.

Correction: Adopt a retroactive Ordinance amendment that makes this election permissible between 2002 and 2004.

Number Affected: 5

### **Failure C – Cost of Living Adjustments**

There are two subcategories of Cost of Living Adjustments corrections that affected 350 total individuals: Failure to Apply COLAs to Benefits and Paid Excess Colas. Each is described in detail below.

1) *Failure to Apply COLAs to Benefits*

ERS pension payments include an annual Post Retirement Increase (“COLA”) and some members have not received them. This applied to benefits paid in 1985, 1993, 1996, 2001, 2004, and 2008 through 2013.

Correction: Recalculate benefit to determine correct COLA amount, perform underpayment calculation to determine total underpayment amount with interest applied, and complete underpayment process in accordance with MCGO 201.24 (8.24).

2) *Paid Excess Colas*

Between 2008 and 2016, some retirees received excess COLAs – either in the form of a COLA paid early or in the wrong amount.

Correction: Recalculate benefit to determine correct COLA amount, perform overpayment calculation to determine total overpayment amount with interest applied, and complete overpayment process in accordance with MCGO 201.24 (8.24).

**Failure D – Administration of 10-Year Certain Benefit**

The 10 Year Certain and Life Annuity is an optional form of payment that is available at retirement and provides for a payment stream to a retiree for their lifetime. If that individual passes away before 120 payments are made, the remainder of those 120 initial monthly benefit payments will be paid to their beneficiary, and then stopped. This correction is needed because some of those payments to beneficiaries that should have been stopped, weren't between 2003 and 2009.

Correction: Review payment stream and calculate overpayment. Complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 3

**Failure E – Incorrect Retirement Option**

The ERS offers a menu of payment options at retirement. Between 2003 and 2017, some retirees' benefits were paid at the rate of a payment option inconsistent with what they elected at retirement. Some of these result in underpayments and some result in overpayments.

Correction: Recalculate benefits to comply with the election made at retirement. Proceed with the overpayment or underpayment as outlined in MCGO 201.24 (8.24).

Number Affected: 6

**Failure F – Allowing Optional Employees to Remain in OBRA After Electing into ERS**

Some employees are in positions that do not automatically participate in the ERS. For those that are in the OBRA system, there was an opportunity to elect to participate in the ERS if they made additional contributions to the ERS. Between 1992 and 2013, some OBRA eligible employees elected to move in and out of ERS though the ordinance at the time only allowed for one election. This correction ends in 2013 when Ordinance was updated to eliminate the opportunity to elect into ERS as an OBRA eligible employee.

Correction: Adopt a retroactive Ordinance amendment that allows for multiple voluntary elections in or out of ERS for employees who were in OBRA positions through 2013.

Number Affected: 144

### **Failure G – Annuity Paid to Multiple Beneficiaries**

A member of ERS passed away in active service and the incorrect survivor benefit was paid to multiple beneficiaries. Incorrect payments were issued between 2003 and 2014.

Correction: Process as an overpayment in accordance with MCGO 201.24 (8.24).

Number Affected: 4

### **Failure H – Incorrect Benefit Calculations**

In 1996, 2009, and 2001 through 2016, some pension benefits were calculated using incorrect service credit, multipliers, or final average salary which resulted in overpayments.

Correction: Recalculate benefit to determine correct payment amount, perform overpayment calculation to determine total overpayment amount with interest applied, and complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 12

### **Failure I – Benefits Paid to Wrong Members**

From 2008 to 2011 and in 2017, some member benefits were deposited into the incorrect bank accounts. This resulted in overpayments for those members who received the incorrect payments and underpayments for those whose payments were incorrectly routed to another account.

Correction: Collect overpayment from members who received extra pension payments in accordance with MCGO 201.24 (8.24); and issue payments to those who were underpaid in accordance with MCGO 201.24 (8.24).

Number Affected: 4

### **Failure J – Definition of Employee**

A department of Milwaukee County was transitioned to the State of Wisconsin and as part of the agreement they were allowed to remain in Milwaukee County ERS. However, the Ordinances did not allow State employees to participate in the Milwaukee County ERS because they did not meet the definition of an "Employee" in ERS at the time. The transition of employees began in 2009 and the clarifying Ordinance was adopted in December 2011.

Correction: Adopt an Ordinance amendment that allows this group of employees to remain in the Milwaukee County ERS. This was completed in 2011.

Number Affected: 40

### **Failure K – IRS and Wisconsin Department of Revenue Levies**

Milwaukee County ERS Ordinances did not allow for an individual's benefit to be levied. In order for RPS to apply a levy from the IRS or Department of Revenue ("DOR") to an individual's benefit, the Ordinance needed to be updated. The levies that were processed prior to the adoption of the amendment to MCGO 201.24 11.7 spanned 2000 through 2013.

Correction: Adopt an Ordinance amendment that permits the application of IRS/DOR to ERS pension payments. This has been completed.

Number Affected: 11

### **Failure L – Payment of Deferred Vested Benefits to Non-Vested Members**

Members of ERS can become vested in their pension benefit by earning five service credits. Some members of ERS are also allowed to become vested by reaching retirement age in active service; however, this is contingent upon completing an active retirement. An active retirement happens when an individual submits their retirement application prior to terminating their employment. Some members were considered vested prior to reaching five service credits because they reached retirement age but didn't complete an active retirement. Therefore, they received pension benefits but were not considered vested. This happened between 2011 and 2013.

Correction: Adopt a retroactive Ordinance amendment to allow individuals who do not complete an active retirement to retain their vested status after terminating employment.

Number Affected: 6

### **Failure M – Error Category Removed since Original Submission**

This error was resolved with the 2008 VCP.

### **Failure N – Use of Incorrect Mortality Tables**

Benefits for some members electing an optional form of benefit that is actuarially equivalent to the Plan's normal form of benefit (straight life annuity) were calculated using an incorrect mortality table which resulted in benefit underpayments to some retirees and their beneficiaries. These calculation errors continued from 2009 through 2012.

Correction: Recalculate the benefits of affected members to include the correct mortality table, perform underpayment calculation to determine total underpayment amount with interest applied, and complete underpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 376

## **Failure O – Offset of Benefits**

There are two subcategories of Offset of Benefits corrections: Offset of Survivor Annuity and Offset of Disability Benefits. Each is described in detail below.

### *1) Offset of Survivor Annuity*

The benefit payable to the survivor of a member who passed away in active service was not offset for a worker's compensation payment that was received. The missing offset continued from 2005 to 2016 and resulted in an overpayment.

Correction: This issue has been resolved through a mediated settlement. The benefit is "correct".

Number Affected: 1

### *2) Offset of Disability Benefits*

From 2005 through 2016, some retirees receiving disability pension benefits did not have the appropriate offset applied for worker's compensation benefits received.

Correction: Perform overpayment calculation to determine total overpayment amount with interest applied and complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 5

## **Failure P – Death Benefits**

There are four subcategories of Death Benefits corrections that affected 65 total individuals between 1981 and 2014: No Death Benefit Paid; Overpayment of Survivor Annuities; Eligibility Questions; and Survivor Benefits Paid to Ineligible Members. Each is described in detail below.

### *1) No Death Benefit Paid*

The survivors of some ERS members who passed away in active service were not paid benefits they were due under MCGO 201.24 (6.3).

Correction: Calculate underpayment including applicable interest and proceed with processing underpayment in accordance with MCGO 201.24 (8.24).

### *2) Overpayment of Survivor Annuities*

The survivors of some ERS members who passed away in active service received more payments than they were due under 201.24 (6.4). In these cases, eligibility for a benefit was contingent upon the status of dependent children who, when they were no longer dependent children, could age out of the benefit.

Correction: Perform overpayment calculation to determine total overpayment amount with interest applied and complete overpayment process in accordance with MCGO 201.24 (8.24).

### 3) *Eligibility Questions*

Some benefits payable to the survivors of ERS members who passed away in active service are entitles to a future benefit that is contingent upon not remarrying. There are a number of survivors who have reached the IRS's Required Start Date; however RPS cannot confirm their eligibility for a pension benefit because no confirmation of marital status has been made. A separate benefit is payable if this benefit under MCGO 201.24 (6.4) is not paid.

Correction: To ensure these survivors are paid a benefit and their Required Start Dates are not missed, RPS will proceed by paying these survivors the alternative benefit under 201.24 (6.3) when their eligibility cannot be determined.

### 4) *Survivor Benefits Paid to Ineligible Members*

The benefit payable to the survivor of an ERS member who passes away in active service was paid to the survivor of an employee who was not earning ERS service at the time of their death.

Correction: Perform overpayment calculation to determine total overpayment amount with interest applied and complete overpayment process in accordance with MCGO 201.24 (8.24).

## **Failure Q – Error Category Removed since Original Submission**

This item was determined to not be an error.

## **Failure R – Optional Employees – Required Contributions**

Some employees are in positions that do not automatically participate in the ERS. For those that are in the OBRA system, there was an opportunity to elect to participate in the ERS if those employees made additional contributions to the ERS. Some employees elected to participate in the ERS and additional contributions were not withheld from their paychecks between 2013 and 2017.

Correction: To comply with member elections, RPS will calculate the amount of contributions owed and request that the members make those contributions.

Number Affected: 25

## **Failure S – Refunds of Membership Accounts Upon Death**

For some active or deferred vested members of ERS, a death benefit is available that refunds to a survivor the contributions the employee made while in service. The Ordinance specifies that when those death payments are issued, interest should only be applied through the date of death, not through the date of payment. In practice, from 2011 through 2017, payments were issued that included interest through the date of payment to survivors.

Correction: Retroactively amend Ordinance to apply interest through date of payment for distributions of membership accounts to survivors.

Number Affected: 21

#### **Failure T – Error Category Removed since Original Submission**

This was determined not to be an error.

#### **Failure U – Re-Retirements**

Some members who were retired, returned to active service, and subsequently re-retired were allowed to elect a new benefit option at their second retirement. This occurred in 2011, 2013, 2014, and 2017, and is inconsistent with MCGO 201.24 (11.2).

Correction: recalculate benefit using correct payment option and process over/underpayment as needed.

Number Affected: 4

#### **Failure V – Benefit Administration**

In 2005, 2011, 2015, 2017, and 2018, some members received extra retroactive payments when their payment streams were initiated.

Correction: Perform overpayment calculation to determine total overpayment amount with interest applied and complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 5

#### **Failure W – Corrections to 2007 VCP**

Some corrections completed in 2016 to resolve errors found on the 2007 VCP were completed using an incorrect interest rate.

Correction: Perform overpayment calculation to determine total overpayment amount with interest applied and complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 12

#### **Failure X – Error Category Removed since Original Submission**

This was determined not to be an error.



### **Failure Y – Minimum Distribution Incidental Benefit**

While applying IRS limits to certain death benefits, some survivors were paid benefits not offered by the ERS plan in 2007, 2009, and 2015.

Correction: Determine correct benefit payment allowable under the ERS Plan, perform overpayment calculation to determine total overpayment amount with interest applied, and complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 3

### **Failure Z – Transfer Errors**

From 2014 to 2016, multiplier enhancements in MCGP 201.24 (5.15) were applied to the benefits of members who were not eligible for them. These members were in unions that did not participate in the multiplier enhancement.

Correction: Determine correct benefit payment, perform overpayment calculation to determine total overpayment amount with interest applied, and complete overpayment process in accordance with MCGO 201.24 (8.24).

Number Affected: 9

Thank you.

Cc:

Supervisor James Schmitt, Chairman, Finance and Audit Committee  
Supervisor Eddie Cullen, Chairman, Personnel Committee  
Chris Abele, County Executive  
Julie Landry, Chief Human Resources Officer  
Finance and Audit Committee  
Personnel Committee  
Raisa Koltun, Chief of Staff, Office of the County Executive  
Teig Whaley-Smith, Director, Department of Administrative Services  
Scott Manske, Comptroller  
Jennifer Folliard Director of Audit, Office of the Comptroller  
Steve Cady, Research and Policy Director, Office of the Comptroller  
Margaret Daun, Corporation Counsel