***Memorandum***

**TO:** NDPERS Board

**FROM:** { CreatedBy}

**DATE:** {stdlongdate}

**SUBJECT:** Appeal Case Number{CaseID}

Explanation of Benefit Appeal

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| --- | --- | --- | --- |
| **Step Name** | **Step Comments** | **Step Start Date** | **Step End Date** |
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{x quwhen ApplicableSections has “0”}

**Insurance Underpayment of Benefits**

Section 71-03-05-08 of the NDAC states:

An individual who underpays premiums is liable to pay those premiums upon receiving a request for repayment and an explanation of the amount due from the executive director. If not the result of any wrongdoing, negligence, misrepresentation, or omission by the individual, then the individual must make arrangements within sixty days of receiving written notification to either pay by lump sum or installments. The installment payment schedule is subject to approval by the executive director. If repayment arrangements are not in place within sixty days of the date of the written request for repayment, the executive director shall authorize payment to be made in three equal installments, using the same payment method the individual has authorized for paying current monthly premiums.

{x endblock}

{x quwhen ApplicableSections has “1”}

**Insurance Underpayment of Benefits**

According to Section 71-03-05-09:

1. A person not satisfied with the repayment arrangements made under this policy may appeal the executive director’s decision in writing to the board. The written request must explain the basis of the appeal and must be received in the office within sixty days of the executive director’s written decision.

2. The board may release a person from liability to repay an underpayment, in whole or in part, if it determines:

a. The underpayment is not the fault of the recipient; or

b. It would be contrary to equity and good conscience to collect the underpayment.

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{x quwhen ApplicableSections has “2”}

**Application for Benefits**

**71-02-09-01. Review procedure.** A member who has received notice that the member’s application for benets has been denied in whole or in part may within thirty days of receipt of such notice secure review by written request addressed to the board in care of the executive director of the public employees retirement system. The applicant has the right to all relevant information available to the board and may submit arguments or comments in writing. The board must render a decision within one hundred twenty days after the request for a review is timely led. The decision by the board must be submitted to the applicant in writing and include the specific reason or reasons for the decision and the specific references to the provisions of the plan on which the decision is based

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{x quwhen ApplicableSections has “3”}

**Retirement Overpayment of Benefits**

**71-02-04-10. Erroneous payment of benefits - Overpayments.**

1. An "overpayment" means a payment of money by the public employees retirement system that results in a person receiving a higher payment than the person is entitled to under the provision of the retirement plan of membership.

2. A person who receives an overpayment is liable to refund those payments upon receiving a written explanation and request for the amount to be refunded. All overpayments must be collected using the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like gains. If the cost of recovering the amount of the overpayment is estimated to exceed the overpayment, the repayment is considered to be unrecoverable.

3. If the overpayment of benefits was not the result of any wrongdoing, negligence, misrepresentation, or omission by the recipient, the recipient may make repayment arrangements subject to the executive director’s approval within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month.

If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual’s benefit payment period.

4. If the overpayment of benefits was the result, in whole or in part, of the wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of six percent on the outstanding balance, from the time the erroneous benefit was paid through the time it has been refunded in full, plus applicable interest. The recipient may make repayment arrangements, subject to the executive director’s approval, within sixty days of the written request for refund with the minimum repayment amount no less than fifty dollars per month. If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual’s benefit payment period

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{x quwhen ApplicableSections has “4”}

**Flex Comp Late Claim Appeal.** Claims for the reimbursement of Qualified Health Care Expenses incurred in a Plan Year shall be paid as soon after a claim has been filed as is administratively practicable. If a Participant fails to submit a claim within the three (3) month period immediately following end of the Plan Year, those Health Care Expense claims shall not be considered for reimbursement by the Executive Director; provided however, after three (3) months from the close of the Plan Year and before the end of three hundred sixty (360) days following the close of the Plan Year, a Participant may request the Board to authorize reimbursement of a Qualifying Health Care Expense incurred during the Plan Year by the Participant. The Participant must submit a written request to the Board specifying the request and the reason(s) why the Qualifying Health Care Expense was not submitted on or before the end of the 3rd month following the close of the Plan Year. The Board may authorize payment for any reason constituting good cause not involving fault on the part of the Participant if such payment would be permitted under the Plan. Upon authorization of the Board, the Executive Director shall reimburse the Participant for the amount not to exceed the Qualified Health Care Expense account balance for that Plan Year. The decision of the Board shall be final

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{x quwhen ApplicableSections has “5”}

**Appeal of Denial of Benefit.** If the claimant wishes further consideration of his/her claim, he/she may request a review. The Executive Director shall schedule a review by the Board on the issue within sixty (60) days following receipt of the claimant’s request for such review. The decision following such review shall be communicated in writing to the claimant and, if the claim is denied, shall set forth the specific reasons for such denial, citing the pertinent provisions of the Plan. The decision of the Board as to all claims shall be final.

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**Staff Recommendation**

## Board Action Requested

Approve or deny staff’s recommendation.