

# MEMORANDUM #21, 2010

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
Five Middlesex Avenue, Suite 304, Somerville, MA 02145  
Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)  
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## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Modification of Disability Retirement Allowances [G.L. c. 32, § 8(3)]

DATE: April 22, 2010

Last year the Commission approved a policy for prospectively modifying the retirement allowances of disability retirees whose earnings have resulted in the recoupment of their full retirement allowance for three consecutive years. This procedure will be implemented with respect to annual statements of earnings filed for 2007, 2008 and 2009.

If a disability retiree's earnings have resulted in the recoupment of his or her entire allowance for those three calendar years or any subsequent three consecutive years, the member and the applicable Retirement Board will be notified. The retiree will be given an opportunity to be heard by the Commission or a designee of the Commission. When the Commission's determination is final, the member and the applicable Retirement Board will be notified. The member may appeal the Commission's determination to the Contributory Retirement Appeal Board.

If a retiree's allowance is modified pursuant to this procedure, the modification shall remain in effect until the retiree establishes that he or she no longer has potential earnings. A retiree can establish his or her loss of potential earnings by way of an examination by a regional medical panel or by such other evidence acceptable to the Commission.

The applicable Retirement Board may pay over to a health insurance carrier that portion of the allowance that will maintain the disability retiree's health insurance coverage. A retiree whose allowance is modified pursuant to this process will continue to be considered a disability retiree for purposes of G.L. c. 32A, § 10. A retiree whose allowance is modified pursuant to this section will continue to be considered a disability retiree for purposes of G.L. c. 41, § 100B.

If you have questions, please contact this office.

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