CONTRA COSTA COUNTY CCCERA
Employees' Retirement Association

Meeting Date 11/06/13 Agenda Item #14

MEMORANDUM

Date: November 6, 2013

To: CCCERA Board of Retirement

From: Kurt Schneider, Deputy Retirement Chief Executive Officer

Subject: On-call pay in final year only

At the September 4, 2013 meeting, staff presented an example based on a member who retired July 1, 2013. In the example the member received approximately $10,000 of on-call pay in the final 12 months of employment after receiving no on-call pay prior to that period. If the on-call pay were included in the retirement calculation, the employer's unfunded liability would increase by approximately $56,000. The Board directed staff to process the retirement without including the on-call pay, notify the member, and gather information from the member and the employer to determine if the on-call pay should properly be including as compensation earnable in the calculation of the retirement benefit.

The retiree was a Charge Nurse at the hospital and was assigned to the "Epic team". Epic is an Electronic Health Record (EHR) system. The retiree was assigned to the team in May 2011 along with several other nurses and employees of various other job classifications. Team members received extensive training on Epic in order to help determine how the system should be built and to help build it and train personnel to use it. The Charge Nurse was not performing nursing duties during this time. The team also was required to provide support after the system was implemented. When the system was implemented in July 2012, on-call duty was required of team members.

The team members had no way of knowing at the time they were assigned to the team in 2011 that on-call duty was going to be required, and this retiree did not volunteer for an inordinate amount of on-call duty. In fact, the retiree left the team three months prior to retirement and had no on-call pay in the final three months of employment. Within the Epic team the retiree was assigned to the "Clinical Documentation" team. One person from the Clinical Documentation team was on call every day from July 30, 2012 through June 30, 2013, 336 days. The team had 7 members to start with, though it was later reduced. The retiree was on call for 48 of the 336 days, exactly 1 out of every 7.

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A number of reasons have been suggested as to why some or all of this type of pay should be excluded in the calculation of the retirement benefit.

1. **Pay for services rendered outside of normal working hours.**

   At the April 10, 2013 meeting, the Board discussed the fact that on-call pay appeared to be completely excluded from compensation earnable by AB 197, however the court ordered stay prevents us from fully excluding on-call pay entirely on this basis pending a decision in the AB 197 lawsuit.

2. **Compensation that was paid to enhance a retirement benefit.**

   Although the same stay order would prevent us from excluding the pay at this time on this basis, we have gathered enough information to conclude that there does not appear to be sufficient evidence to support the notion that any of this on-call pay was paid to enhance a retirement benefit.

3. **Fraud against county retirement systems under Gov. Code §31455.5**

   There is no evidence to suggest the retiree or the employer made false statements to the retirement system.

4. **Excluded as an "improper" increase in compensation by the member under Gov. Code §31539(a)(2)**

   Gov. Code §31539 allows the Board to correct errors. In this context the word "improper" means erroneous. The on-call pay was earned by the member and was paid to the member during the final average period. There has been no error to correct under this section.

5. **A fiduciary obligation to prevent the creation of the $56,000 unfunded liability that will be paid for by employers (and ultimately the taxpayer), along with interest, over an 18 year period.**

   The unfunded liability was created by the employer's pay practices, not by the Board. It is the Board's responsibility to set a funding policy that requires the employer(s) to pay for the unfunded liability that arises. Note that it is the Board's current funding policy that allows the employer to spread the liability over the cost group and to stretch out the payments over 18 years. The Board has the authority to adopt a funding policy that would determine what portion of an experience loss of this sort is excessive and require payment by the employer for that portion of the loss over any period as short as 1 year.

Recommendation: Authorize staff to adjust the retiree's benefit to fully include the on-call pay.

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CONTRA COSTA
HEALTH SERVICES

Memo

To: Kurt Schneider

From: David J. Runt

Cc: Dorette McCollumn

Date: October 28, 2013

Re: [redacted] Retirement

The retiree in question, [redacted] was a Charge Nurse at the hospital and working on the Clinical Documentation team for implementation of the new electronic health record (EHR) system from Epic Systems, Inc, which is known as ccLink at Contra Costa. [redacted] was assigned to the team in May 2011 along with several other nurses and employees in various other job classifications. Team members were asked to volunteer for this assignment. [redacted] was not performing nursing duties during the time of this assignment.

Individuals assigned to the Team received extensive training on the Epic system in order to participate in its build, training, and support activities. Once the system "went live" July 1, 2012, team members were required to provide after-hours support. All On Call support was made as equitable as possible across all the team members to ensure not person did not have an inordinate amount of On Call. One person from the Clinical Documentation team was on call every day from July 30, 2012 through June 30, 2013, 336 days. The team had 7 members to start with, though it was later reduced. The retiree was on call for 48 of the 336 days, exactly 1 out of every 7 days.

[redacted] left the team three months prior to retirement and had no on-call pay in the final three months of employment.

If you have any questions, please contact me.

RECEIVED
SEP 11 2013
BY:

September 11, 2013

Kurt Schneider
Deputy Retirement Chief Executive Officer
CCCERA
1355 Willow Way, Suite 221
Concord, CA 94520

Re: Retirement Calculation – On-Call Pay
Employee [redacted]

Dear Mr. Schneider:

I recently received your letter regarding the exclusion of my On-Call pay in my retirement calculations. I did not receive the On-Call pay as an enhancement, to the contrary it was an expectation in the last year that I worked on the EPIC project that was not negotiable if I stayed on the project. Most of the employees (there were ninety at that time) working on the project were told they would be working On-Call in rotating turns within their teams after the "Go Live" of the electronic charting and last I heard this is still an on-going expectation. On my EPIC team, each member rotated into On-Call duty once a month to be done 5pm to 8am each day for a week. Immediately after "go-live" the On-Call had nightly call backs, resulting in call back pay. This was very arduous work as we were then expected to be at work at 8am and work a full day despite being called back during the night. The call backs did taper off after about 6 months. My supervisors that scheduled the On-Call are [redacted] and [redacted] whom I believe are still in administrative positions on the EPIC project if you wish to contact them regarding the On-Call. The Payroll department received detailed documentation of all On-Call and Call Back time that I worked. These time sheets were reviewed and signed by the above supervisors.

If you have any questions for me regarding this On-Call time you may reach me at [redacted] I am hoping that you will resolve this matter quickly. As I am sure you are aware, the process of getting my retirement has taken more than two years to compile and many meetings. It has already been a difficult process and despite having all my paperwork in place since June, I have only just received my options package and thus have not received any retirement pay.

Thank you for your time in this matter,

[redacted]