

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 013 – RETIREMENT BENEFITS**

459-013-0310

Payment of Increased Benefits under ORS 238.372 to 238.384

(1) For purposes of determinations under ORS 238.372 to 238.384:

(a) “Person” includes a member, an alternate payee, or a beneficiary.

(b) The increased benefit percentage to be added to a benefit paid to a beneficiary under ORS 238.390, 238.395, 238.400, 238.405, or under an optional form of retirement allowance under ORS 238.305 or 238.325 will be determined based on:

(A) The increased benefit percentage(s) for which the member is otherwise eligible under ORS 238.364, 238.366 and 238.368; and

(B) The residency of the beneficiary.

(2) PERS will make the following determinations on residency status for the purpose of determining increased benefit eligibility under ORS 238.372 to 238.384, based on the yearly Oregon personal income tax return information provided by the Department of Revenue.

Determinations under this section are effective the first day of the calendar year following receipt of information from the Department of Revenue.

(a) If the Department of Revenue notifies PERS that a person:

(A) Filed Oregon personal income tax as a resident, PERS will treat the person as a resident of Oregon.

(B) Filed Oregon personal income tax as a non-resident, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(C) Did not file Oregon personal income tax, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(D) Filed Oregon personal income tax as a partial-year resident and the prior year the person filed personal income tax as a resident, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(E) Filed Oregon personal income tax as a partial-year resident and the prior year the person filed personal income tax as a non-resident, PERS will treat the person as a resident of Oregon.

(F) Filed Oregon personal income tax as a partial-year resident and the prior year the person did not file personal income tax, PERS will treat the person as a resident of Oregon.

(G) Filed Oregon personal income tax as a partial-year resident, and the person also submitted residency status information on a form provided by PERS and received by PERS in the same calendar year, PERS will determine residency status based on the information provided on the form.

(b) If PERS cannot make a residency status determination based on information provided by the Department of Revenue or the person did not otherwise provide PERS with residency status information, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(3) For purposes of determining increased benefit eligibility under ORS 238.372 to 238.384, residency status information submitted on a form provided by PERS and received by PERS in the current calendar year will supersede any Oregon personal income tax return information provided by the Department of Revenue pursuant to section (2) of this rule.

(4) Residency status forms received by PERS shall be effective as follows:

- (a) The first day of the calendar month following receipt, if received between January 1 and April 15;
 - (b) The first day of the calendar year following receipt, if received on or after April 16.
- (5) Notwithstanding sections (2) and (3) of this rule, PERS will revoke increased benefit eligibility and seek repayment if it finds a person has submitted fraudulent residency status information under section (2) or (3) of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.368 & 238.372 - 238.384