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Correspondence Memorandum

Date: June 4, 2025
To: Employee Trust Funds Board
From: Dan Hayes, Attorney
Office of Legal Services
Subject: Legal Case Update

This memo is for informational purposes only. No Board action is required.

This memorandum is presented quarterly to inform board members about the status of pending or recently concluded legal cases involving the Department of Employee Trust Funds (ETF) and/or the ETF Board (Board).

The purpose of the memorandum is to inform Board members of litigation in which the Board and/or ETF are parties, not to provide legal advice concerning the cases listed. Assistant attorneys general from the Department of Justice represent ETF and/or the Board in any litigation in court pursuant to Wis Stat. § 40.03(3). If there are questions about a case, please contact ETF's Office of Legal Services.

As of May 23, 2025, there are three cases that involve ETF and/or the Board.

Case No. 1:

Issue – Whether a software vendor that ETF hired to design and build a new benefits administration system breached its contract with ETF.

Summary – In April 2018, ETF partially terminated its contract with the vendor. In March 2019, ETF filed a lawsuit in Dane County Circuit Court alleging breach of contract and breach of the duty of good faith and fair dealing against a vendor involved in ETF's modernization effort and new benefits administration system. The vendor filed a counterclaim in June 2019.

Status – The parties provided the circuit court with a status update on January 17, 2025. The case is now in "inactive" status.

Reviewed and approved by Peter Rank, Chief Legal Counsel, Office of Legal Services
Electronically Signed 05/29/2025

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Case No. 2:

Issue – Whether ETF erred in its determination to require a participant in the State of Wisconsin Group Health Insurance Program to pay the full price for Medicare supplemental insurance even though he has opted out of Medicare Part D coverage because he has pharmacy coverage through the U.S. Department of Veterans Affairs due to being disabled from military service.

Summary – A member requested judicial review of a final decision issued by the Group Insurance Board (GIB) on January 13, 2025 (Appeal #2023-011-GIB). The GIB is named as the respondent.

Status – The member filed the Petition to Review in Dane County Circuit Court on February 10, 2025. The DOJ filed a motion to quash the Writ and dismiss the case, alleging that it was improperly commenced due to untimely service. The motion is currently being briefed.

Case No. 3:

Issue - This appeal concerns the denial of a disability retirement application. The sole issue is whether the employer's decision not to certify that the Appellant's termination was the result of a disability was reasonable and correct pursuant to Wis. Stat § 40.63(1)(c) and Wis. Admin. Code § ETF 11.12(1)(d)1.

Summary - The member requested judicial review of a final decision issued by the Wisconsin Retirement Board (WRB) on December 23, 2024 (Appeal #2023-016-WR). The WRB is named as the respondent.

Status – The member filed the Petition to Review in Pierce County Circuit Court on January 21, 2025. The member, then, filed a Motion for Change of Venue to Dane County Circuit, which is the statutorily mandated venue for such actions. The action was moved to Dane County and is currently being briefed.

Case No. 4.:

Issue - This appeal concerns the denial of a disability retirement application. The sole issue is whether the employer's decision not to certify that the Appellant's termination was the result of a disability was reasonable and correct pursuant to Wis. Stat § 40.63(1)(c) and Wis. Admin. Code § ETF 11.12(1)(d)1.

Summary - A member requested judicial review of a final decision issued by the WRB on February 17, 2025 (Appeal #2023-013-WR). The WRB is named as the respondent.

Status – The Petition to Review was filed in Dane County Circuit Court on March 3, 2025. A briefing schedule has not been set.

Case No. 5.:

Issue – This appeal concerns the denial of Appellant's claim for living benefits under his State of Wisconsin Group Life Insurance Policy.

Summary – The member requested judicial review of a final decision issued by the GIB on April 10, 2025 (Appeal #2024-012-GIB). The GIB is named as the respondent.

Status – The Petition to Review was filed in Dane County Circuit Court on May 2, 2025. No further action has been taken at this time.

Staff will be at the Board meeting to answer any questions.