

FSRA

Financial Services Regulatory
Authority of Ontario

Office of the
Chief Executive Officer



ARSF

Autorité ontarienne de réglementation
des services financiers

Bureau du
directeur général

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act"), in particular sections 63, 65, 67, and 89;

AND IN THE MATTER OF a Notice of Intended Decision of the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the "Chief Executive Officer") respecting the Healthcare of Ontario Pension Plan, Registration Number 0346007 (the "Plan").

TO:

Board of Trustees of the Healthcare of Ontario Pension Plan
1 York Street, Suite 1900
Toronto ON M5J 0B6

Attention: Ivana Zanardo
Vice President, Plan Operations

Plan Administrator

AND TO:

M.C.

Plan Member

NOTICE OF INTENDED DECISION

TAKE NOTICE THAT pursuant to section 87(1) of the Act, the Chief Executive Officer intends to refuse to make an order to require the Plan to pay a portion of a M.C.'s accrued benefit from the Plan.

SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS, veuillez nous envoyer votre demande par courriel immédiatement à: contactcentre@fsrao.ca.

YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE "TRIBUNAL") PURSUANT TO SECTION 89(6) OF THE ACT. A hearing before the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within

thirty (30) days after this Notice of Intended Decision is served on you. A copy of that form is included with this Notice of Intended Decision. Additional copies can be obtained by visiting the Tribunal's website at www.fstontario.ca.

TAKE NOTICE THAT if no written request for a hearing is delivered to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, the Chief Executive Officer will carry out the refusal to make an order pursuant to section 87(1) of the Act.

In order to request a hearing, a completed Request for Hearing Form (Form 1) must be delivered to the Tribunal within thirty (30) days after this Notice of Intended Decision is served. The form must be mailed, delivered, faxed, or emailed to:

Address: Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto ON M2N 6L9

Attention: Registrar

Fax: 416-226-7750

Email: contact@fstontario.ca

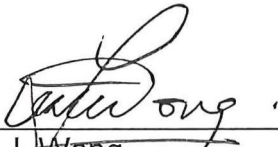
The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22. The Rules are available at the website of the Tribunal: www.fstontario.ca. Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294, or toll free at 1-800-668-0128 extension 7294.

REASONS FOR INTENDED DECISION

1. The Plan is a jointly sponsored pension plan for health care workers in Ontario.
2. The Board of Trustees of the Healthcare of Ontario Pension Plan is the administrator of the Plan.
3. M.C. is a current member of the Plan, and has not terminated her employment related to the Plan.
4. M.C. had requested that the Plan administrator make a payment to her of a portion of her accrued benefit under the Plan. M.C. has outlined her personal financial difficulties underlying the request. The Plan declined to make a payment on the basis that such a payment contravenes the requirements of the Act.

5. Following the Plan administrator's refusal to make a payment from the accrued benefit under the Plan, M.C. has requested that the Chief Executive Officer issue an order requiring that the Plan pay her a portion of her accrued benefit under the Plan, in a lump sum amount equal to \$200,000, to assist her in mitigating her ongoing personal financial difficulties.
6. Sections 63 to 67 of the Act provide that a member's entitlement under a pension plan is "locked in".
7. Section 63 states that no member of a pension plan is entitled to a refund of the contributions made by the member to the plan in respect of the member's employment in Ontario.
8. There are some limited circumstances to the "locking in" requirements in the Act. The exceptions under section 63(5) require the individual to be a former member or retired member of the plan, or to have terminated their employment in relation to the plan. The criteria required for an exemption under section 63(8) have not been satisfied in M.C.'s circumstances. As such, none of the limited exceptions to section 63 of the Act apply to her situation as M.C. remains an active member of the Plan.
9. In addition, section 67 of the Act states a pension benefit to which a person is entitled cannot be commuted, in whole or in part, during the lifetime of the employee.
10. Though there are some exceptions to the rule prohibiting the commutation of a member's benefit, none of the limited exceptions to section 67 of the Act apply to M.C.'s situation. The exceptions in the Act for the commutation of a benefit require the individual to be a former member or retired member of the plan. M.C. continues to be an active member of the Plan.
11. In summary, the provisions of the Act do not permit M.C. to withdraw a portion of her accrued entitlement under the Plan as she has requested. Further, the limited exceptions to the "locking-in" requirements under both sections 63 and section 67 of the Act do not apply in M.C.'s circumstances as she remains an active member of the Plan.
12. In conclusion, the Chief Executive Officer has reviewed M.C.'s complaint and has determined that there has been no contravention of the Act that would provide the Chief Executive Officer with the authority to issue an order under the Act. Therefore, the Chief Executive Officer intends to refuse to issue the requested order under section 87(1).
13. Such further reasons as may come to my attention.

DATED at Toronto, Ontario, *October 18*, 2019.



Lester J. Wong
Head, Pension Plan Operations and Regulatory Effectiveness

By delegated authority from the Chief Executive Officer