

Court of Appeals, State of Michigan

ORDER

Estate of James Vollmar v Public School Employees Retirement Sys

Docket No. 297326

LC No. 10-001131-AA

Kurtis T. Wilder
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the March 12, 2010, order of the Wayne Circuit Court reversing the decision of the Public School Employees' Retirement Board hereby is REVERSED to the extent that it granted the request to change the computation of final average compensation to include payments made in lieu of health insurance benefits. The Public School Employees Retirement Act excludes from compensation any "[p]ayments for hospitalization insurance and life insurance premiums." MCL 38.1303a(3)(c). The record evidence demonstrates that the payments at issue were received in lieu of health insurance. Therefore, the circuit court misapprehended and misapplied the substantial evidence test relative to the Board's factual findings and did not apply the correct legal principles. Competent, material, and substantial evidence on the record supported the Board's decision, which was not contrary to law. *Dignan v Michigan Public School Employees Retirement Bd*, 253 Mich App 571; 659 NW2d 629 (2002).

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 30 2010

Date

Sandra Schultz Mengel
Chief Clerk