

2012 Legislative Update

for Volunteer Fire Relief Associations

Inside this issue:

Introduction

Changes in the Investment Statutes 2

Municipal Official Signature Requirements 3

Officer Salaries 4

Authorized Special Fund Expenses 5

Return to Active Service 5

Defined Contribution Survivor Benefits 7

Deferred Service Pensions 8

Membership Dues 9

Pension Division Staff 9

The Omnibus Retirement Bill signed into law on May 10, 2012, contains a number of provisions that affect volunteer fire relief associations. Most of the changes were based on suggestions made by the Volunteer Fire Relief Association Working Group and the Investment Study Group. The proposals of both groups included technical changes that corrected and clarified statutory references and updates to current drafting standards. The technical changes most likely will not require changes to your relief association’s bylaws, unless your bylaws reference specific statutory citations or language. We will update our Selected Relevant Statutes booklet once the 2012 statutes are available.

Several of the changes adopted by the legislature are substantive and are discussed in detail below. Your relief association may need to amend its bylaws to comply with the statutory changes or to take advantage of new statutory authority.

The Office of the State Auditor (OSA)’s Sample Bylaw Guides have been updated to reflect the recent law changes. The bylaw guides are available in both MS Word and PDF formats on our website at: <http://www.auditor.state.mn.us/default.aspx?page=20120208.000>. Your relief association should consult an attorney for answers to specific questions regarding your relief association’s bylaws.

A copy of the 2012 Omnibus Retirement Bill can be found at the link provided below. The Investment Study Group provisions are located in Article 10, and the Working Group provisions are located in Article 12.

<https://www.revisor.mn.gov/laws/?id=286&doctype=chapter&year=2012&type=0>

Changes in the Investment Statutes

Changes in the investment statutes are likely to impact your relief association's investment policy and your investment authorities and restrictions. Review the revised Statement of Position (SOP) on authorized investment securities and share this updated information with your relief association's broker and investment advisor.

Some highlights of the changes include:

- Allowing investments to be made through mutual funds, exchange-traded funds, or the State Board of Investment's Supplemental Fund, as long as the underlying assets conform to the statutory asset-mix limitations;
- Allowing relief association's to invest directly up to five percent of their portfolio in below-investment-grade bonds; and
- Excluding international securities from the "other investments" limitation, while restricting emerging market equity and international debt investments to no more than 15 percent of the relief association's portfolio.

Effective Date: May 11, 2012

Transition Period: If an investment was an authorized investment before the new law went into effect but is not authorized under the new law, the relief association has until June 30, 2013, to liquidate the investment.

Additional Information: See the OSA's SOP on Investment Authority for Fire Relief Associations at:

<http://www.auditor.state.mn.us/default.aspx?page=20110527.006>.

Investment Study Group: Additional information about the Investment Study Group can be found at:

<http://www.auditor.state.mn.us/default.aspx?page=20100826.001>.



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Municipal Official Signature Requirements

Requirements as to which municipal officials must sign the annual reporting forms submitted by relief associations to the OSA have changed to provide greater flexibility and clarity. Under the new law, form signature requirements for municipal officials are as follows:

- The Reporting Form (RF) must be signed by the municipal clerk, municipal clerk-treasurer or, for relief associations not located in or associated with an organized municipality, the chief financial official of the county.

The municipal clerk, municipal clerk-treasurer, or county auditor means the person who was elected or appointed to the specified position or, for cities and towns, the chief financial official or chief administrative official if the city council or town board designates the position to perform the function. If the relief association is not located in or associated with an organized municipality, the chief financial official.

For purposes of signing the Reporting Form, the definitions of “municipal clerk” and “municipal clerk-treasurer” were expanded to accommodate communities that wanted finance directors or other municipal officials with knowledge of the relief association’s activities to sign the form.

- The Schedule Form (SC) for defined-benefit lump-sum relief associations must be certified to the entity that is responsible for paying any required contributions to the association. If the responsible entity is a joint-powers entity, the certification must be made in the manner specified in the joint-powers agreement or, if the agreement is silent on this point, the certification must be made to the chair of the joint-powers board. In all instances, the certification may be satisfied when an authorized representative of the applicable entity signs the Schedule Form.

Municipal Official Signature Requirements (continued)

- The certification of financial requirements and minimum municipal obligation for defined-benefit monthly and defined-benefit monthly/lump-sum relief associations must be made to the entity that is responsible for paying any required contributions to the association. If the responsible entity is a joint-powers entity, the certification must be made in the manner specified in the joint-powers agreement or if the agreement is silent on this point, the certification must be made to the chair of the joint-powers board.

No specific form is required by the OSA to make the certification. Defined-benefit monthly and defined-benefit monthly/lump-sum relief associations may use their own form or notification to satisfy this requirement.

Officer Salaries

Previously, only a relief association’s president, secretary, and treasurer were authorized to receive salaries paid from the association’s Special Fund. The new legislation gives the relief association authority to pay salaries from the Special Fund to all board trustees, if the salary amounts are approved by the governing body of the governmental entity that’s responsible for paying any required contributions. Municipal approval of the salary amounts is only required for salaries paid to trustees other than the relief association’s officers. In addition, itemized expenses of the relief association officers and board trustees that are incurred as a result of fulfilling their trustee duties may be paid from the Special Fund.

Effective Date: July 1, 2012

Additional Information: See the OSA’s SOP on Fire Relief Association Funds: Special and General Funds, and Charitable Gambling Funds, at: <http://www.auditor.state.mn.us/default.aspx?page=20110527.003>.

Sample Bylaw Guide

See Article III, Section 7 for sample language that authorizes Special Fund salary payments to board trustees.

Authorized Special Fund Expenses

The new law now provides specific authority to pay filing and application fees (like IRS fees) from a relief association’s Special Fund. The fees must be payable to federal or other governmental entities. Penalties and fines continue to be excluded from the list of authorized Special Fund expenses.

Effective Date: Retroactive to January 1, 2010

Additional Information: See the OSA’s SOP on Fire Relief Association Funds: Special and General Funds, and Charitable Gambling Funds, at: <http://www.auditor.state.mn.us/default.aspx?page=20110527.003>.

Return to Active Service

Major changes were made during the 2009 legislative session to allow for greater flexibility in how service pensions are handled for firefighters who resume active service with a fire department and active membership in a relief association after a break in service or after retirement and receipt of a service pension. A break in service includes an approved leave of absence. During the 2012 legislative session additional changes were made to the “return to service” law to further improve it and to accommodate the unique needs of defined contribution plans.

Highlights of the updated “return to service” law include:

- Previously, if a firefighter did not meet the minimum period of resumption service specified in a relief association’s bylaws, the firefighter could not receive service credit for any time served after returning from the break in service. Now, firefighters will receive service credit for time served after returning from the break even if they do not meet the minimum period of resumption service requirement.

The minimum period of resumption service is a minimum length of service requirement that a relief association can define in its bylaws. The minimum period of resumption service is separate from the vesting requirement that must be met to be eligible for a service pension.

Sample Bylaw Guide

See Article II, Section 8 for sample language that permits or prohibits a return to active membership upon a resumption of active service.

Return to Active Service (continued)

If a firefighter does not meet the minimum period of resumption service requirement, but is vested, the firefighter is eligible for a service pension. In these instances, the relief association defines in its bylaws whether: 1) the original benefit level will be used to calculate the firefighter's service pension (i.e., the benefit level in effect on the date of the firefighter's previous cessation of duties); or 2) the benefit level in effect on the date of the firefighter's termination of the resumption service (i.e., the date of the firefighter's final cessation of duties).

If a firefighter does meet the minimum period of resumption service requirement and is vested, the firefighter receives a service pension for all years of active service based on the benefit level in effect upon the firefighter's final cessation of duties.

Defining a minimum period of resumption service allows a relief association to protect itself from a deferred member resuming active service for just a few days, for example, to take advantage of a benefit increase.

- A process was added to the statute that clarifies how pensions are handled for members of a defined contribution plan who return to active service and membership. Defined contribution plans do not define a minimum period of resumption service. Instead, firefighters receive credits allocated during the resumption period of service (i.e., state fire aid and municipal contribution credits) and deductions, if applicable. Any amounts forfeited from the firefighter's account are not recoverable. If a firefighter is vested, the firefighter receives a service pension equal to the vested balance of the firefighter's individual account.

Six charts are attached that illustrate the different options and scenarios for calculating pensions of members who return to active service and membership after a leave of absence or break in service, or after receipt of a service pension.

Sample Bylaw Guide

See Article II, Section 8 for sample language that permits or prohibits a return to active membership upon a resumption of active service.

Sample Bylaw Guide

See Article II, Section 8 for sample language that permits or prohibits a return to active membership upon a resumption of active service.

Return to Active Service (continued)

Relief associations may maintain or establish only those conditions on resuming service and membership that are consistent with this new law. If your relief association had previously established conditions on resuming active service and membership in its bylaws, your relief association should promptly review its bylaws to ensure that the conditions comply with the new statutory requirements.

Effective Date: July 1, 2012

Attachments: [Exhibits A and B](#): lump-sum plan charts

[Exhibits C and D](#): defined contribution plan charts

[Exhibits E and F](#): monthly plan charts

Additional Information: See the OSA's SOP on Volunteer Fire Relief Member's Return to Service at:

<http://www.auditor.state.mn.us/default.aspx?page=20110527.010>.

Defined Contribution Survivor Benefits

A change was made to provide recipients of a survivor benefit the option, if the relief association's bylaws allow for it, to receive the survivor benefit in installments. This change was made to give recipients of a defined contribution plan survivor benefit the same payment options as recipients of a defined-benefit plan survivor benefit. In both cases, the relief association's bylaws must allow for the installment payment option to be chosen.

Effective Date: July 1, 2012

Additional Information: See the OSA's SOP on Survivor Benefits at:

<http://www.auditor.state.mn.us/default.aspx?page=20120315.001>.

Deferred Service Pensions

Payment methods are now defined for each deferred-interest option. Relief associations that elect to pay interest to a deferred member must decide on an interest payment method, including the interest payment starting date and ending date. Default payment methods for each deferred interest type are set in statute. A relief association may choose to define a different payment method in its bylaws, but if a method is not defined in the bylaws, or if the bylaw definition doesn't include the payment starting date and ending date, the default established in state statute applies.

For relief associations that choose to set up a separate investment account, allow the board of trustees to set an interest rate up to five percent, or credit full investment gains and losses, the default payment method is to pay interest or additional investment performance beginning on the date that the member separates from active service and membership and ending on the accounting date immediately before the deferred member begins to receive the deferred service pension.

For relief associations that choose to set up a separate investment vehicle, the default method is to pay interest or additional investment performance beginning on the date that the member separates from active service and membership and ending on the date that the separate investment vehicle is valued immediately before the date on which the deferred member begins to receive the deferred service pension.

A relief association may choose to define its own payment method in its bylaws. For example, a relief association could specify that interest is paid to deferred members for each completed calendar month that a member is deferred, or for each completed calendar year that a member is deferred. Any definition must include the payment starting date and ending date for the bylaw definition to become effective.

Effective Date: January 1, 2013

Additional Information: See the OSA's SOP on Interest Earnings for Deferred Members of Volunteer Fire Relief Associations at: <http://www.auditor.state.mn.us/default.aspx?page=20110527.005>.

Sample Bylaw Guide

See Article VII,
Section 2 for sample
language that
defines deferred
interest payment
methods.

Membership Dues

Relief associations now have clear authority to deposit membership dues in their Special Fund. Relief associations are not required to collect dues from their members. Some relief associations have elected to collect membership dues, and wish to deposit the dues in the Special Fund. Dues that are payable as contributions under the bylaws of the relief association may be credited to the association's Special Fund. If a relief association wants to deposit membership dues in the Special Fund, it should update its bylaws to permit it.

Sample Bylaw Guide

See Article II, Section 2 for sample language that authorizes the deposit of membership dues in the Special Fund.

Effective Date: July 1, 2012

Additional Information: See the OSA's SOP on Fire Relief Association Funds: Special and General Funds, and Charitable Gambling Funds, at:

<http://www.auditor.state.mn.us/default.aspx?page=20110527.003>.

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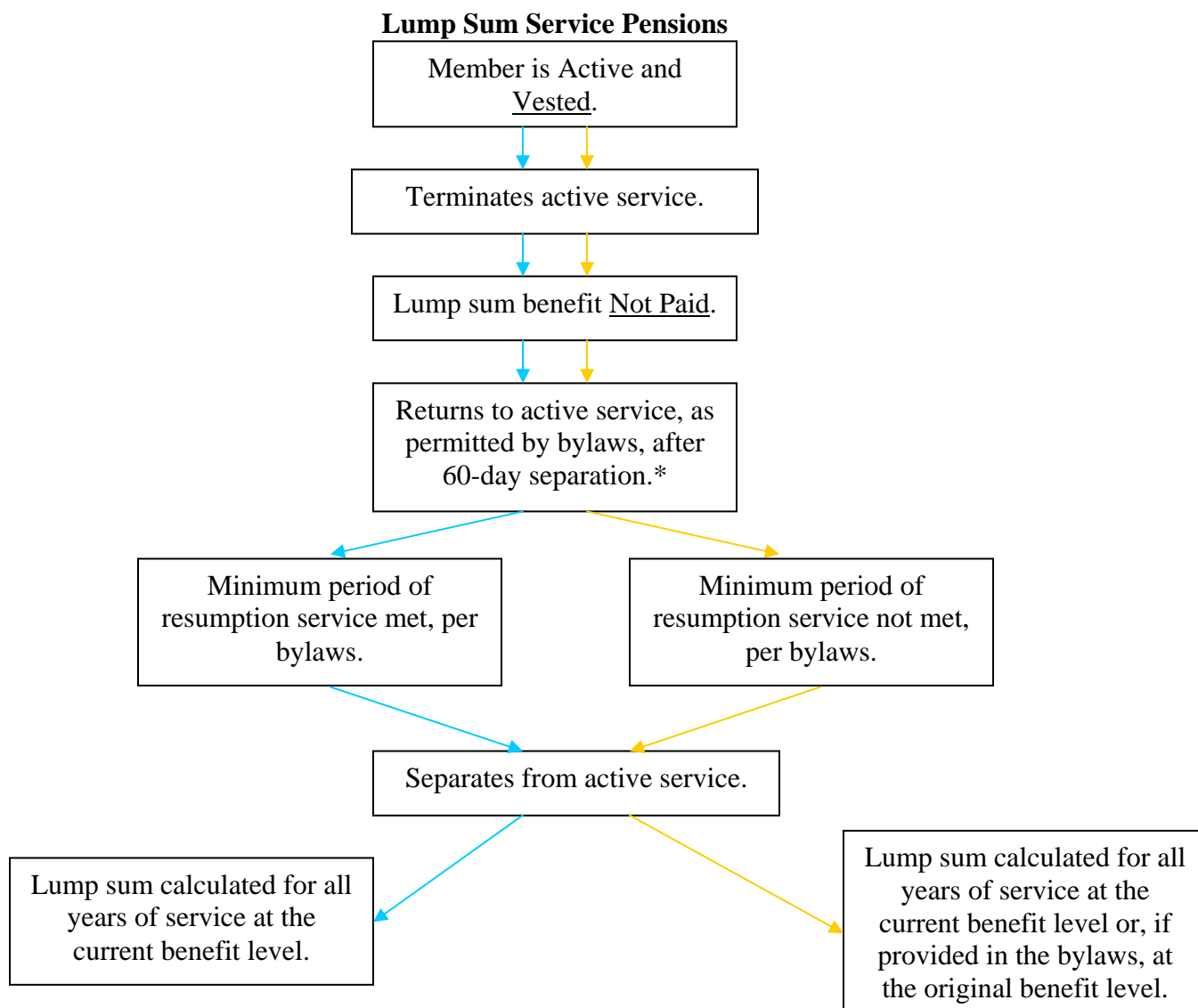
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Exhibit A Return to Service Flow Chart Lump Sum Benefit Recipient, Benefit Not Yet Paid



* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that did not exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



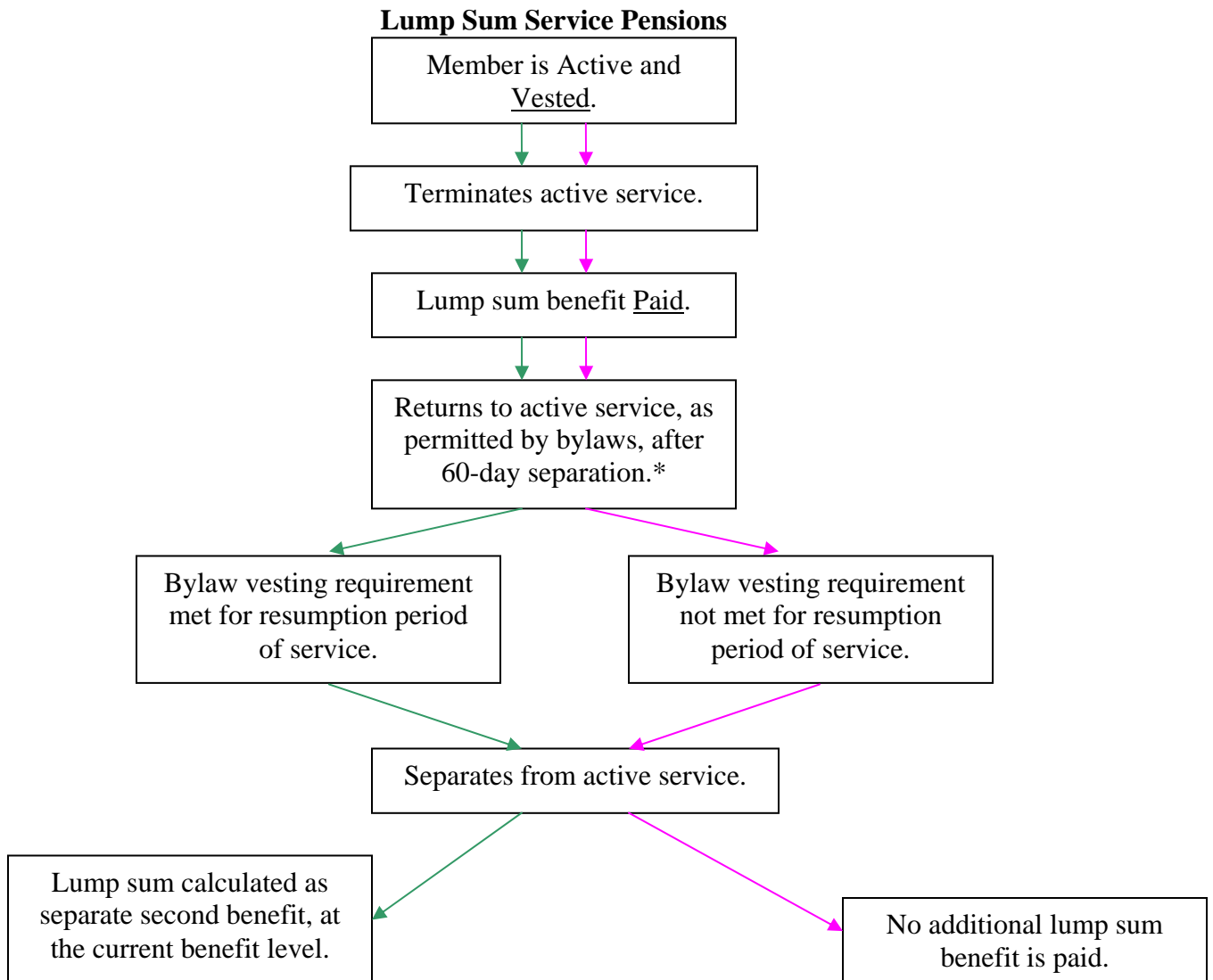
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Exhibit B Return to Service Flow Chart Lump Sum Benefit Recipient, Benefit Has Been Paid



* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that did not exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



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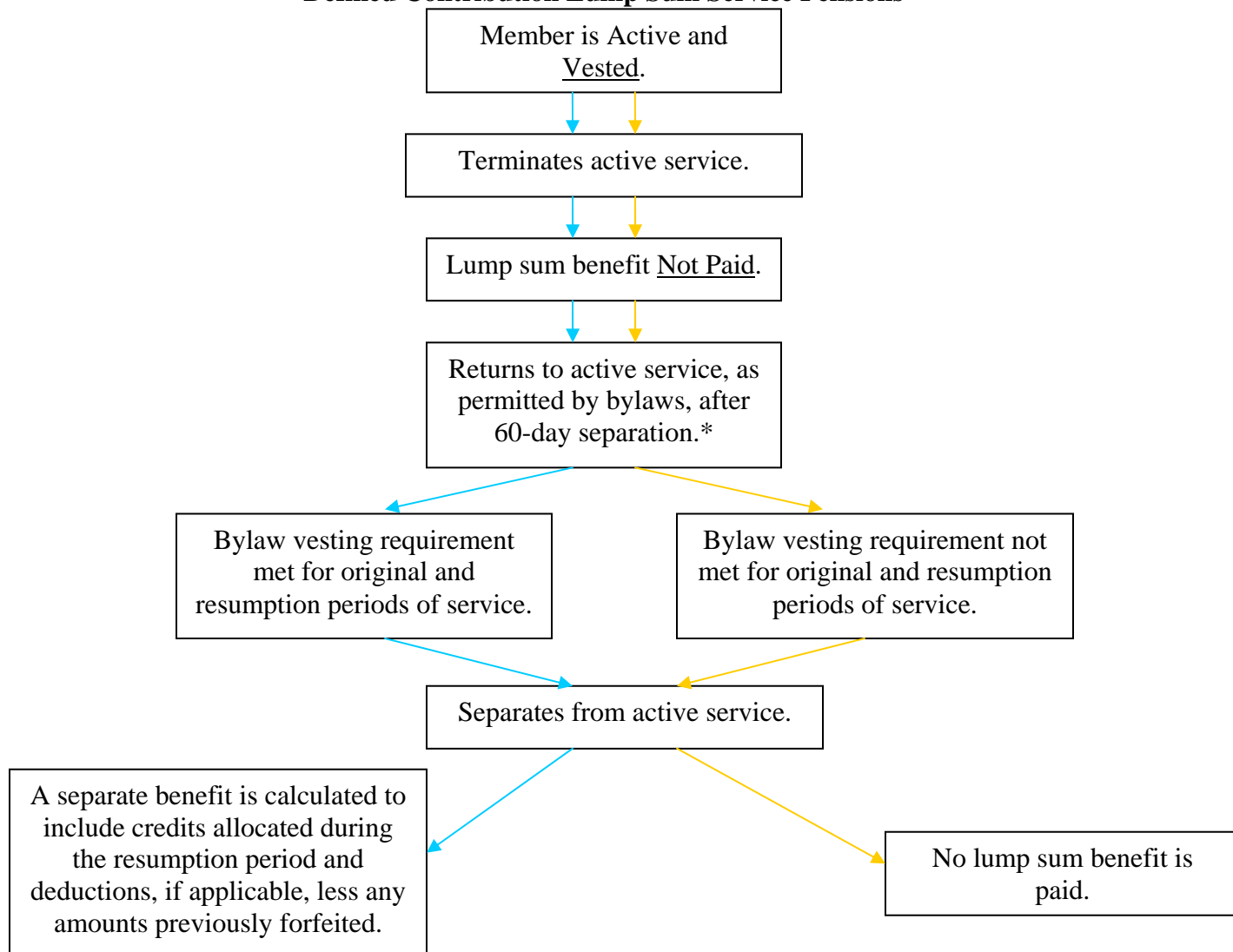
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Exhibit C Return to Service Flow Chart Defined Contribution Benefit Recipient, Benefit Not Yet Paid

Defined Contribution Lump Sum Service Pensions



* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that did not exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



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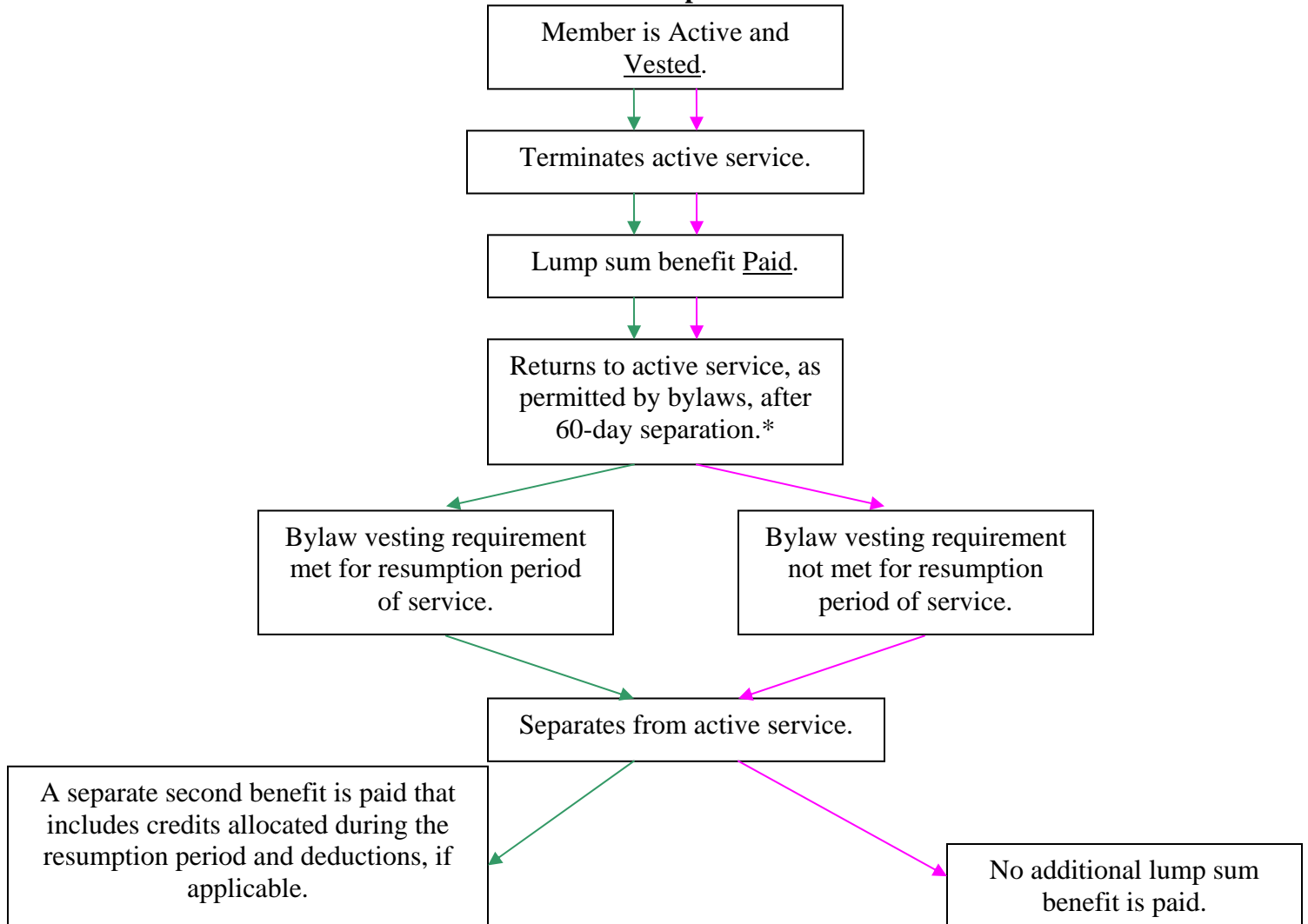
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Exhibit D Return to Service Flow Chart Defined Contribution Benefit Recipient, Benefit Has Been Paid

Defined Contribution Lump Sum Service Pensions



* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that did not exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



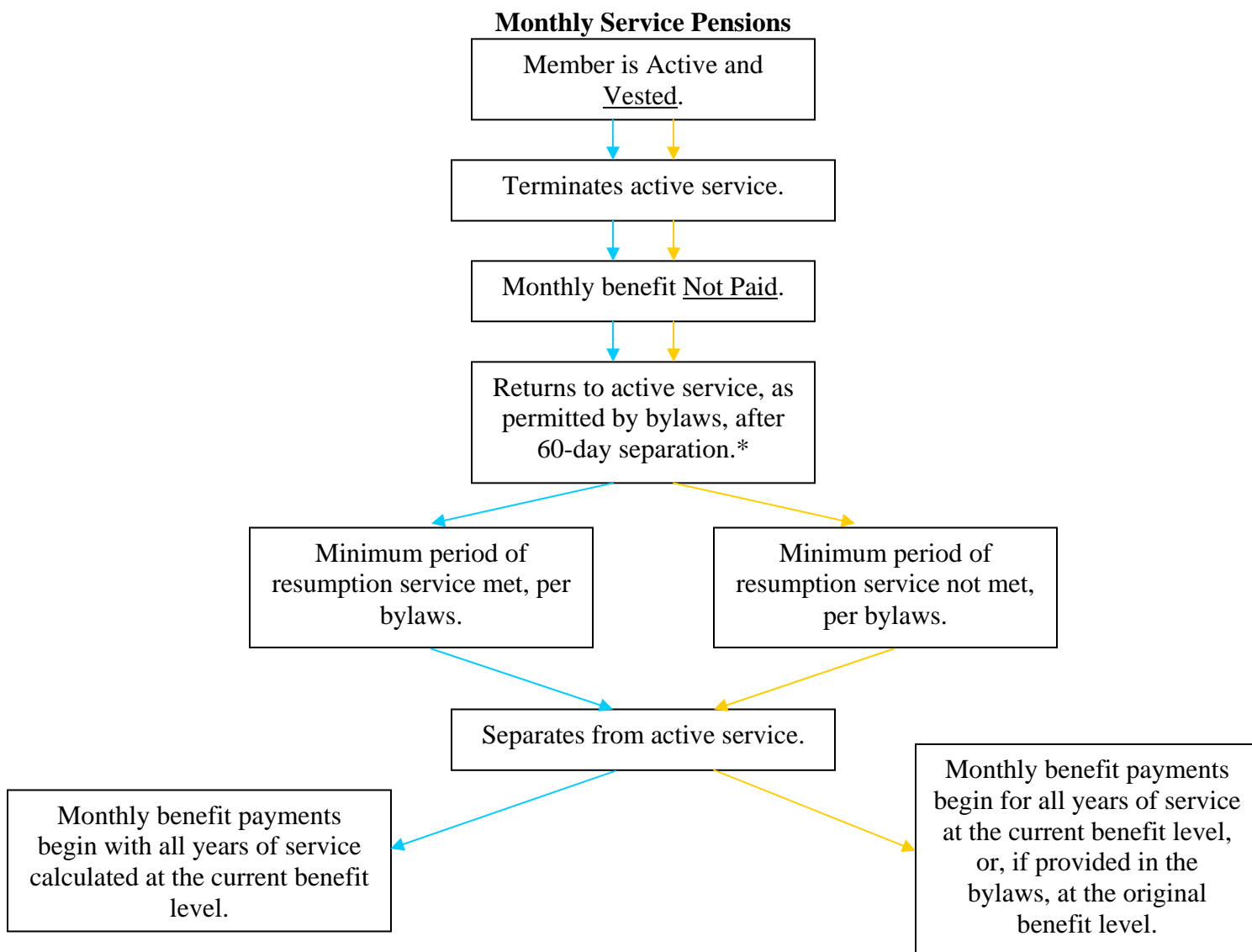
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Exhibit E Return to Service Flow Chart Monthly Benefit Recipient, Benefit Not Yet Paid



* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that did not exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.



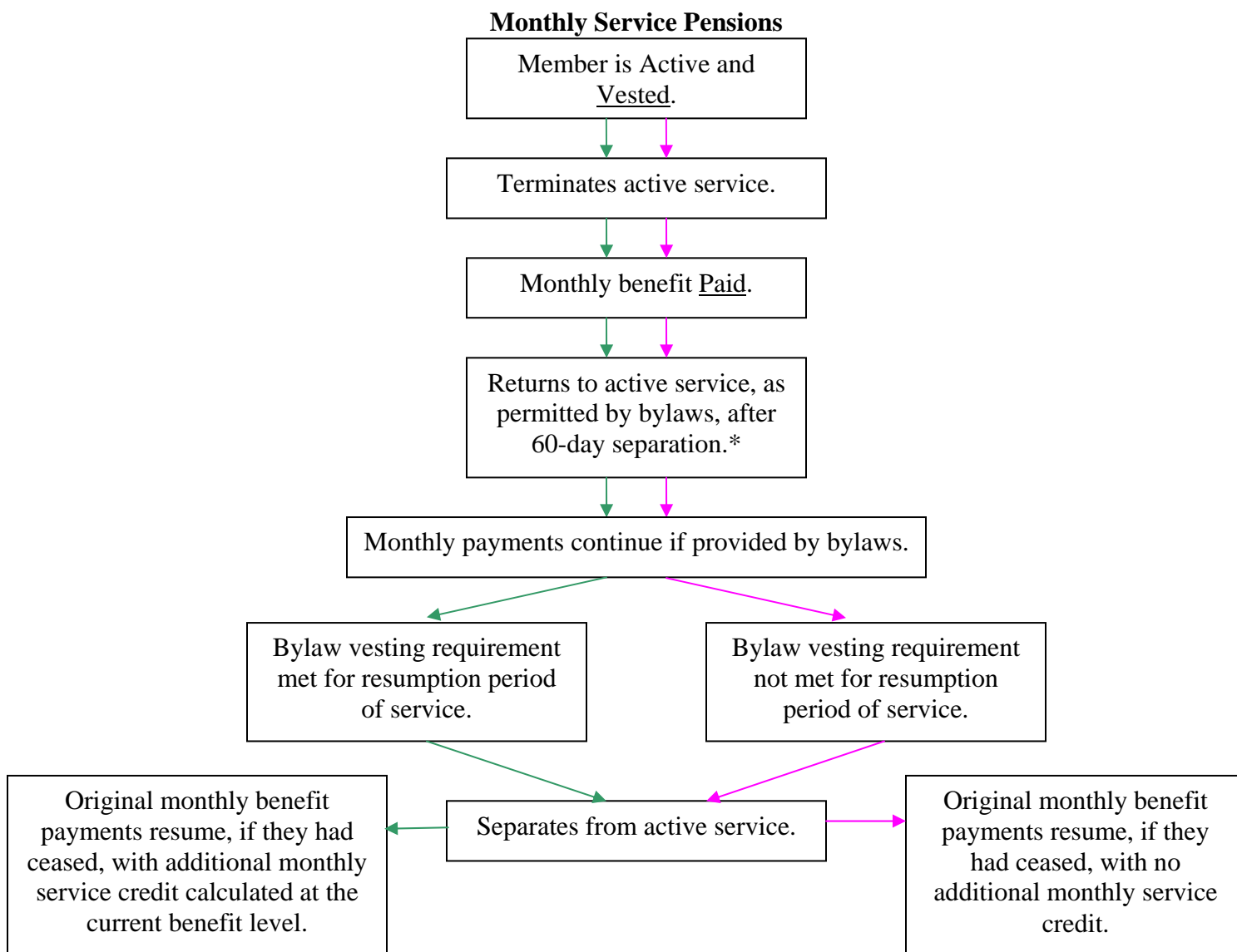
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Exhibit F Return to Service Flow Chart Monthly Benefit Recipient, Benefits Being Paid



* Members with an approved leave of absence not exceeding one year are not subject to a minimum period of resumption service upon their return to service. Members with a break in service, other than an approved leave, that did not exceed one year and who have not been paid a benefit may be exempt from the minimum period of resumption service requirement by the relief association bylaws.