

1973 WL 27753 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 2, 1973

\*1 Major General Robert L. McCrady  
The Adjutant General  
State of South Carolina  
National Guard Armory  
1225 Bluff Road  
Columbia, South Carolina 29201

Dear General McCrady:

You have inquired as to whether under § 44-230, of the South Carolina Code of Laws, a fully qualified person who attains the age of 60 prior to July 1975 becomes entitled to his first pension payment on July 1 or July 31, 1975. Though there are no cases directly on point, it is generally accepted that an item of income accrues when all events have occurred which fix its amount and determine the liability of the party from whom it is forthcoming to pay. Thus a fully qualified person's right to payment would accrue as of July 1, 1975, since all the events have occurred and all the requirements have been met which entitle him to payment of the pension.

You have further inquired as to the method of payment for a person attaining the age of 60 in the middle of a month subsequent to July 1, 1975. Once again, there was no legal authority in this area; therefore, a method was determined by considering the method used in a system analogous to the one set up under § 44-230. Officials of the State Retirement System informed us that in such a situation the amount due is prorated from the time the person reaches the age of eligibility and is included in the next month's payment. Under § 44-230 the age of eligibility is 60; therefore, assuming a person is otherwise fully qualified under the Act, he would become entitled to a pro-rata payment for the days of the month in which he is 60 years of age.

Yours very truly,

Randall T. Bell  
Assistant Attorney General

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