



REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA

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### **Statement of Position**

#### **Return to Service for Members of Volunteer Fire Relief Associations**

It is important for the bylaws of a volunteer fire relief association to address how service credit is calculated for members who incur a break in service and then return to active firefighting with the same fire department. State law has been amended in recent years to provide relief associations with flexibility and clarity when determining service pensions for these “return to service” members.

#### **Resumption of Service Requirement**

A relief association can define in its bylaws a minimum period of resumption service requirement. This is a requirement, separate from the vesting requirement, that a member must meet upon a resumption of service. For relief associations that pay lump-sum or monthly service pensions, the bylaws may prohibit a member from receiving benefit increases that occurred during a break in service if the member fails to meet the resumption of service requirement before ceasing firefighting duties again. A relief association that decides to define a resumption of service requirement must do so in its bylaws.

Any member with an approved leave of absence, not exceeding one year, and any member with a break in service made available by federal or state law (*e.g.*, military or FMLA leave) is automatically exempt from the minimum period of resumption service requirement in the relief association’s bylaws.<sup>1</sup> A relief association can define in its bylaws that members with a break in service (*e.g.*, an unapproved leave) not exceeding one year are also exempt from the resumption service requirement.

#### **Returning to Service After Receipt of a Service Pension**

A member who is paid a service pension must have a break in service of at least 60 days before the individual may return to active service and membership. Upon a resumption of active service, the member starts over in accruing service credit and must become vested again based solely on the resumption period of service to become eligible for a second service pension distribution.

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<sup>1</sup> See Minn. Stat. § 424A.01, subd. 6 (return to active firefighting after break in service).

Reviewed: December 2018

Revised: December 2018

2009-2005

This Statement of Position is not legal advice and is subject to revision.

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Relief associations that pay monthly service pensions specify in the bylaws whether the monthly payments continue or cease during the member's resumption period of service.

### **Defined-Benefit Lump-Sum Service Pensions**

For lump-sum service pensions, take for example, a member who met the vesting requirements before the break in service and was paid a lump sum benefit.<sup>2</sup> The member then returned to service after a 60-day separation. The member met the vesting requirements again based on the resumption period of service, as required by the bylaws, before ceasing firefighting duties. The member may then be paid a lump sum benefit calculated as a separate second benefit at the current benefit level. If the vesting requirements for the resumption of service were not met, no additional lump sum benefit can be paid.

If a lump-sum benefit had not been paid, and the member had met the minimum vesting requirement, and the member had served the minimum period for resumption of service, the lump-sum payment would be calculated for all years of service at the current benefit level. If the minimum period for resumption of service was not met, the member would be paid a lump sum benefit calculated for all years of service at the current benefit level or, if provided for in the bylaws, at the original benefit level.

### **Defined-Contribution Service Pensions**

For defined contribution service pensions, take for example, a member who met the vesting requirements before the break in service and was paid a defined contribution lump-sum benefit.<sup>3</sup> The member then returned to service after a 60-day separation. The member met the vesting requirements again based on the resumption period of service, as required by the bylaws, before ceasing firefighting duties again. The member may then be paid a lump-sum benefit calculated as a separate second benefit that includes credits allocated to the member's individual account during the resumption period and deductions for administrative expenses, if applicable. If the vesting requirements for the resumption of service were not met, no additional lump-sum benefit would be paid.

If a defined contribution lump-sum benefit had not been paid, and the member had met the minimum vesting requirement based on the original and resumption years of service, the lump-sum payment would be calculated to include credits allocated to the member's individual account during the original and resumption periods and deductions for administrative expenses, if applicable, less any amounts previously forfeited. Members of defined contribution plans are not subject to a separate resumption period of service requirement.

Amounts forfeited before a resumption of active service and membership remain forfeited and may not be reinstated upon the resumption of active service and membership.

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<sup>2</sup> See Exhibits A and B.

<sup>3</sup> See Exhibits C and D.

## **Defined-Benefit Monthly Service Pensions**

For monthly service pensions, as another example, assume a member met the vesting requirements when first separating from service and a monthly benefit was paid.<sup>4</sup> The member then returned to service after a 60-day break in service. Upon the return to service, the monthly benefit payments may continue if allowed by the bylaws. If the bylaws do not allow for the continuation of monthly benefit payments, the payments must be suspended until the member separates from active service. The member met the vesting requirements again for the resumption period of service, as required by the bylaws, before ceasing firefighting duties again. The member would then be paid the original monthly benefit, plus an additional monthly benefit calculated at the current benefit level. Alternatively, if the vesting requirements for the resumption of service had not been met, the original monthly benefit payments would continue or resume, with no additional service credit.

If the monthly benefit had not been paid, and the member had met the vesting requirements before the break in service, and served the minimum period for resumption of service, the monthly payment would be calculated for all years of service at the current benefit level. If the minimum period for resumption of service had not been met, the member would be paid a monthly benefit calculated for all years of service at the current benefit level or, if provided for in the bylaws, at the original benefit level.

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<sup>4</sup> See Exhibits E and F.



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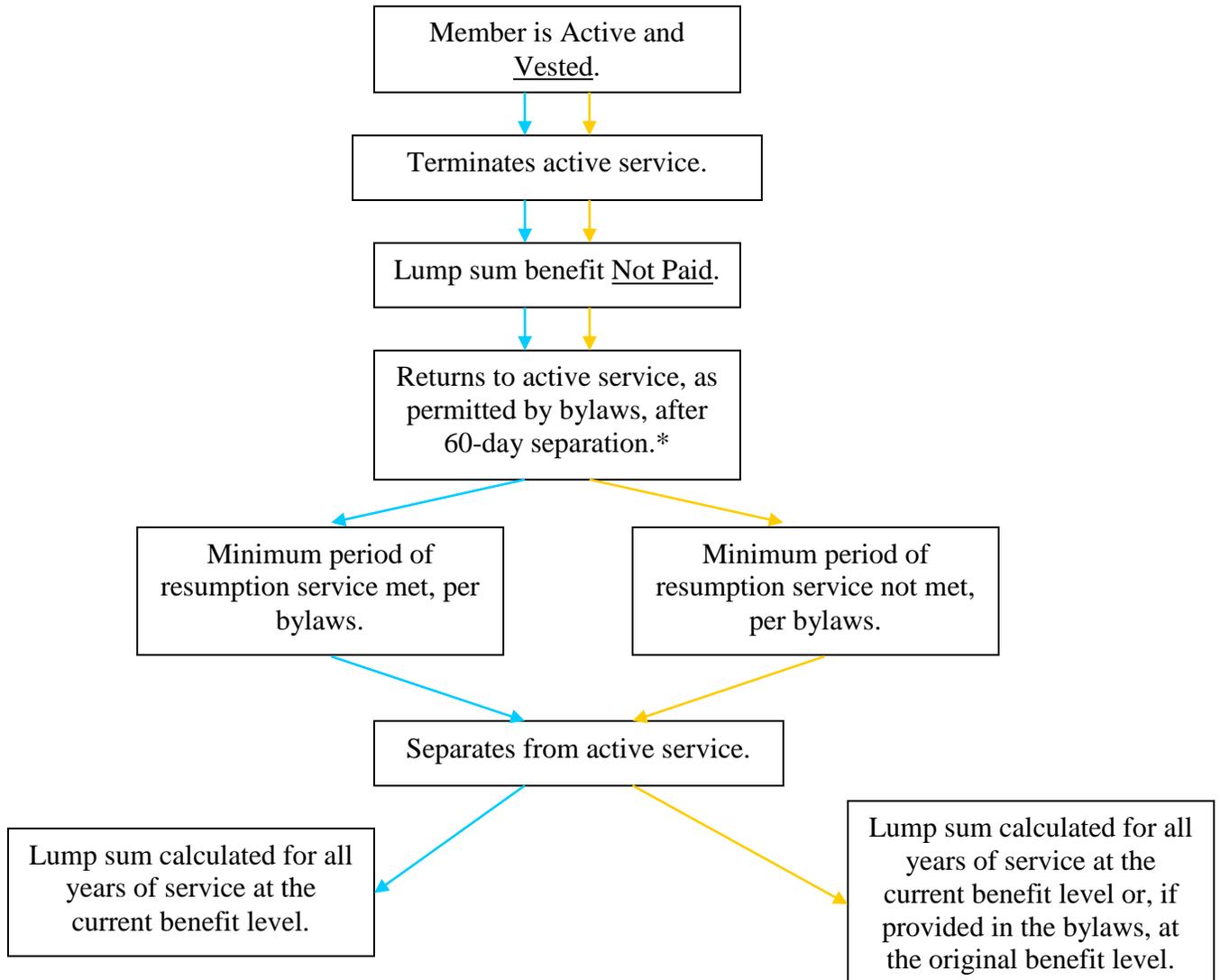
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## Exhibit A Return to Service Flow Chart Lump Sum Benefit Recipient, Benefit Not Yet Paid

### 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.



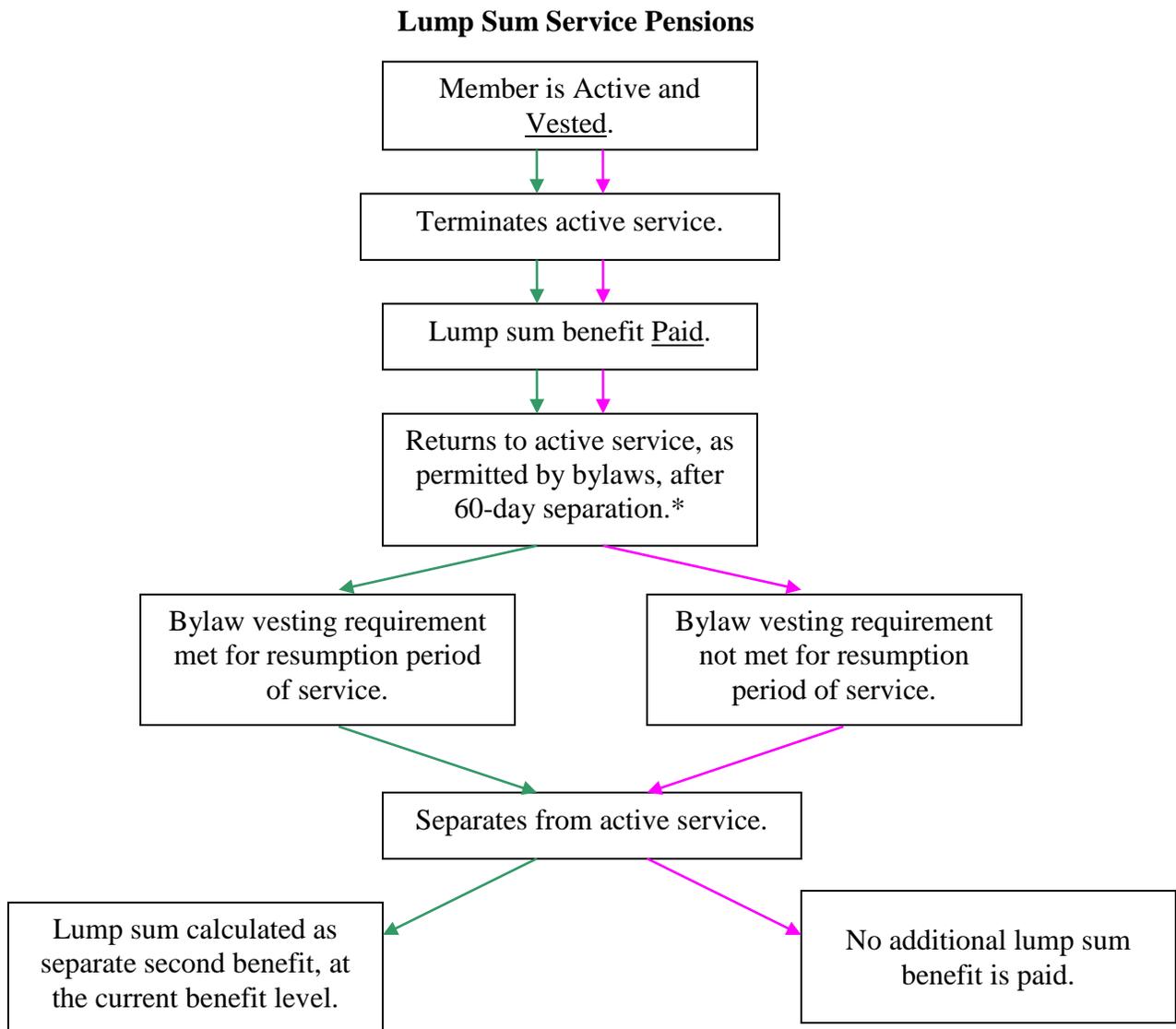
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## Exhibit B Return to Service Flow Chart Lump Sum Benefit Recipient, Benefit Has Been Paid



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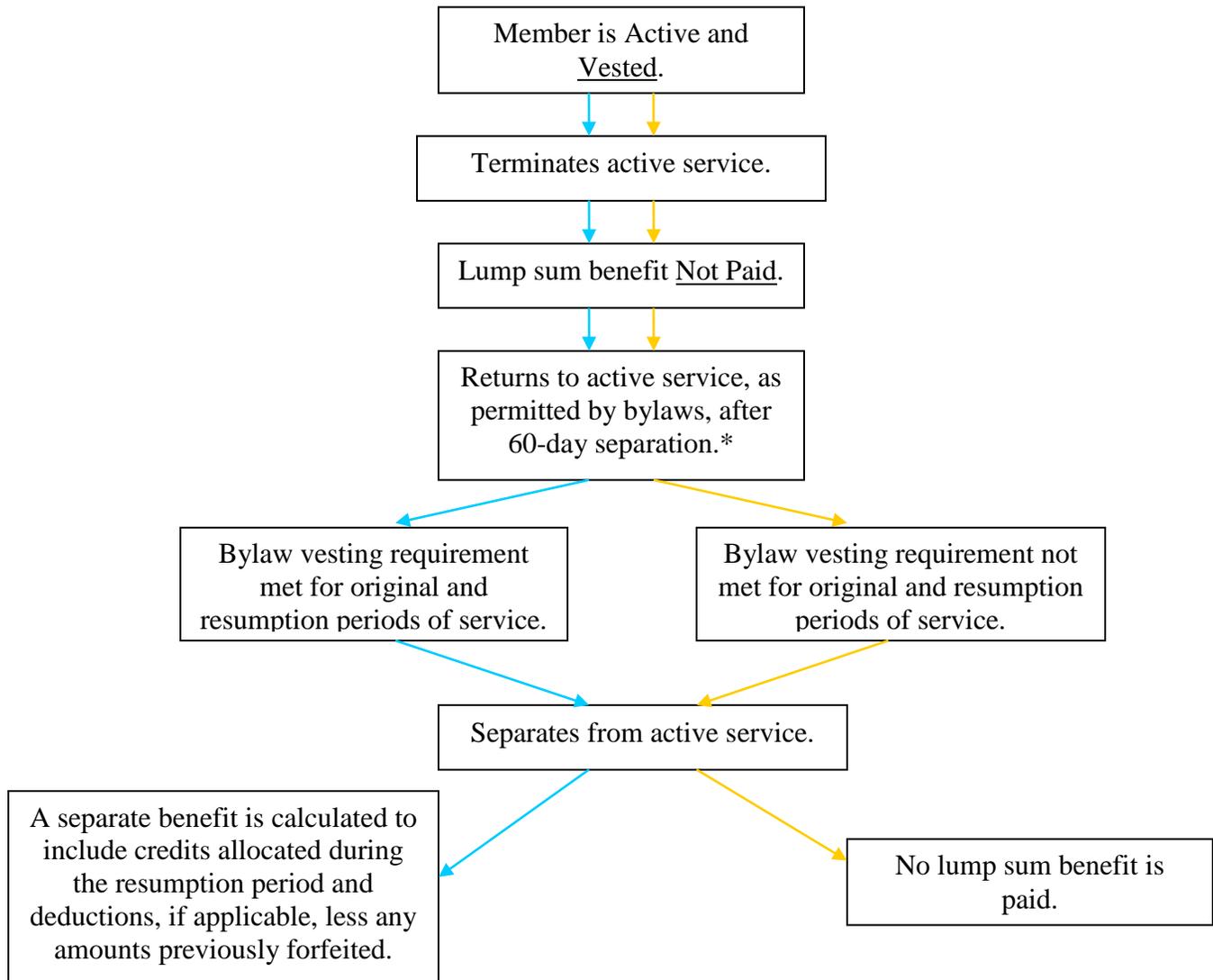
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## Exhibit C Return to Service Flow Chart Defined Contribution Benefit Recipient, Benefit Not Yet Paid

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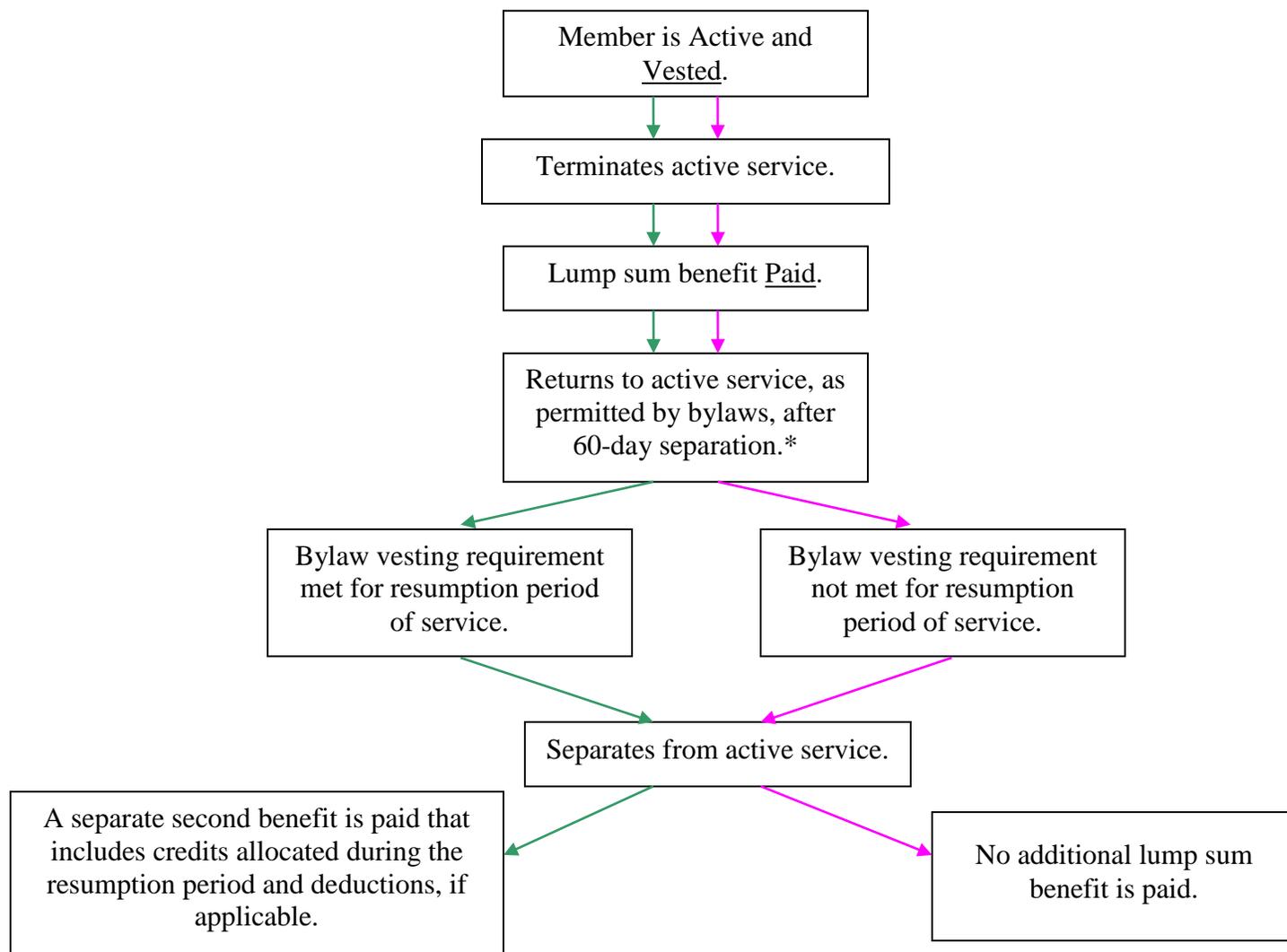
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## Exhibit D Return to Service Flow Chart Defined Contribution Benefit Recipient, Benefit Has Been Paid

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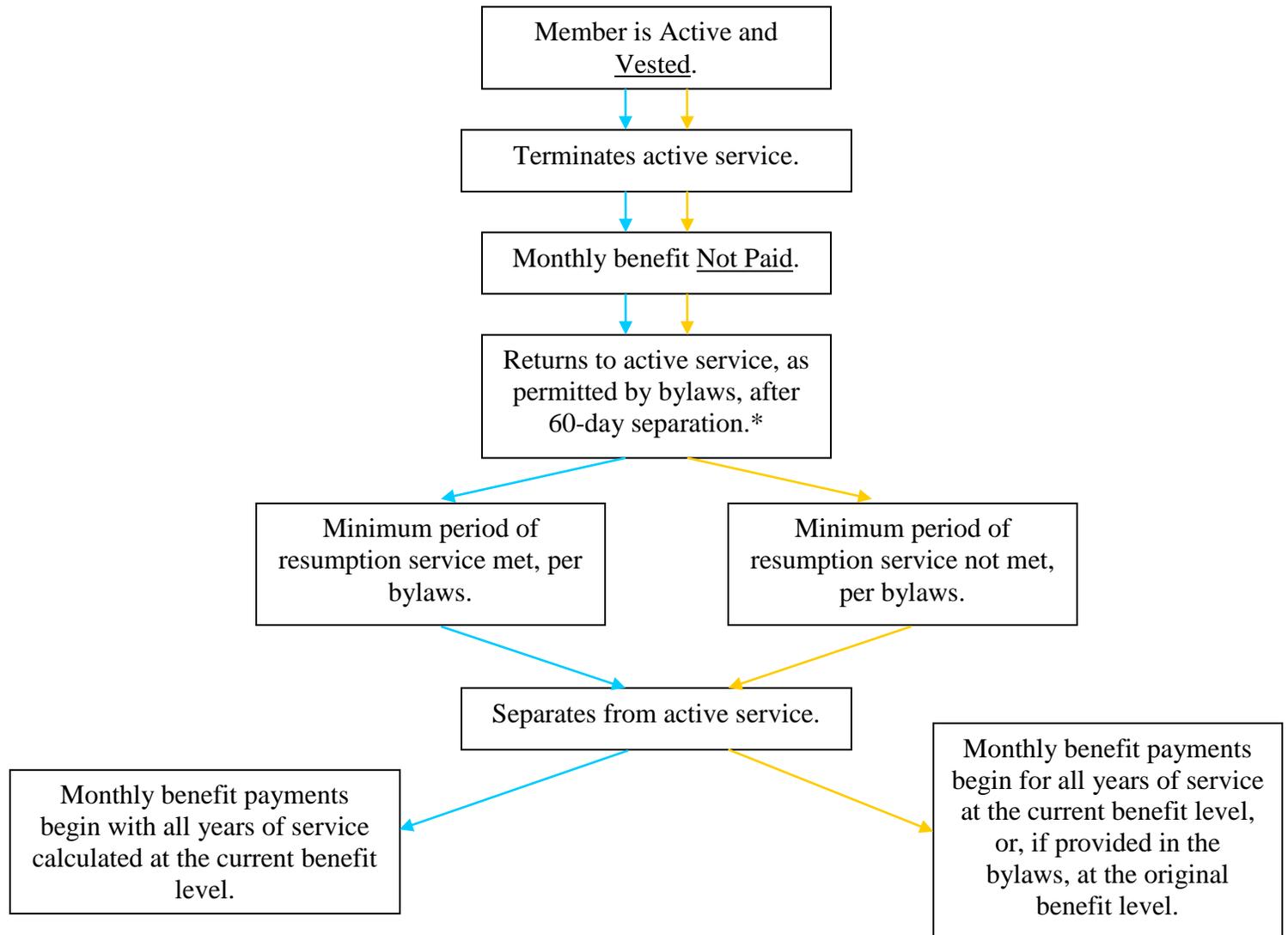
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## Exhibit E Return to Service Flow Chart Monthly Benefit Recipient, Benefit Not Yet Paid

### Monthly Service Pensions



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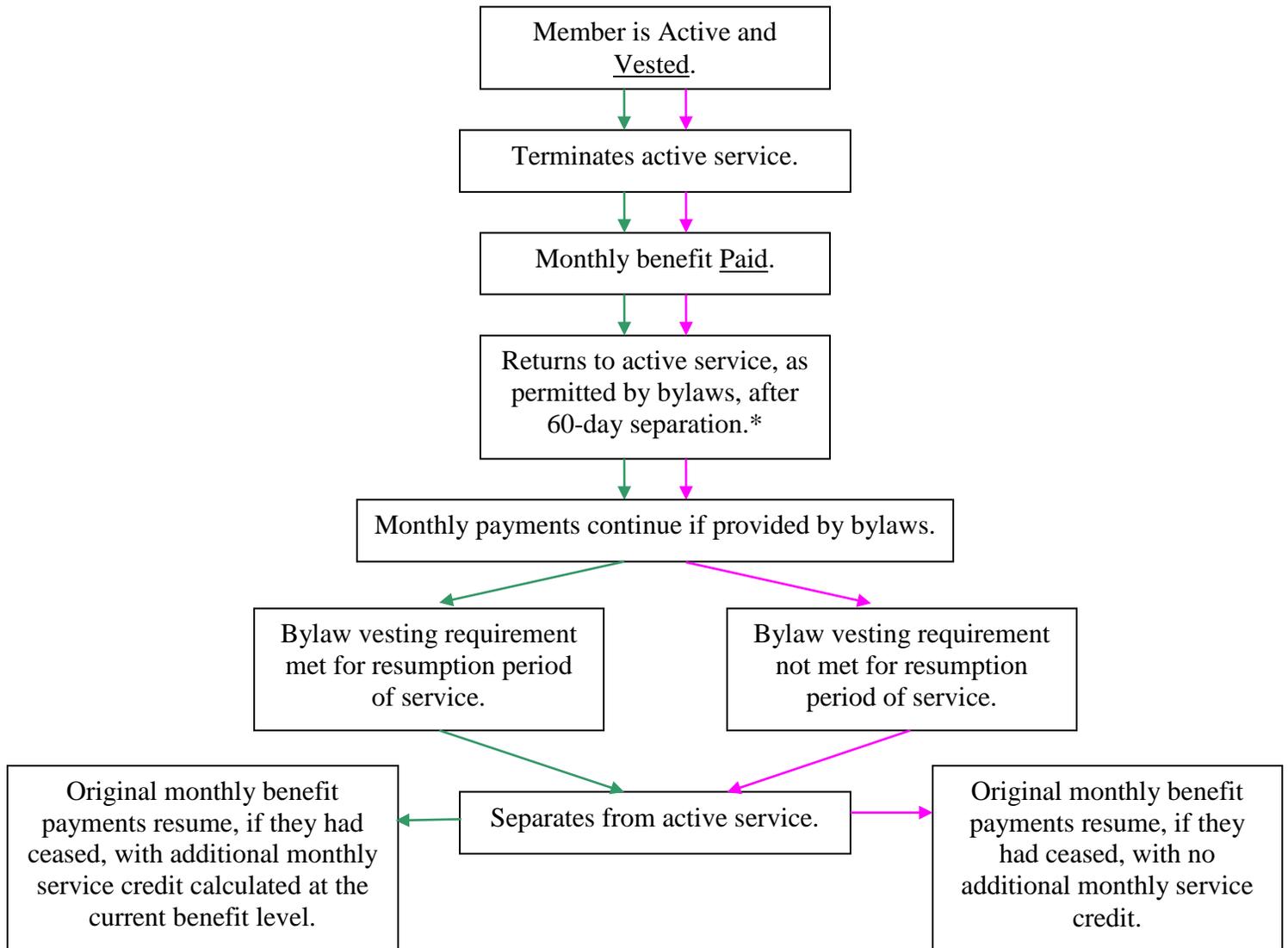
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## Exhibit F Return to Service Flow Chart Monthly Benefit Recipient, Benefits Being Paid

### Monthly 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.