

3307:1-7-01

Disability benefits - definitions.

Chapter 3307:1-7 of the Administrative Code is adopted to establish the definitions, procedures and guidelines needed to fulfill the requirements of sections 3307.48, 3307.62, 3307.63, and 3307.631 of the Revised Code and to assure fair and impartial evaluation of all applications for disability benefits.

As used in Chapter 3307:1-7 of the Administrative Code:

(A) "Applicant" shall mean the member for whom an application has been completed and received by the retirement system.

(B) "Application" shall be made on forms provided by the retirement system and includes all of the following: ~~an application for disability benefits; an attending physician's report based on an examination that was completed within the last two months and includes medical evidence, an employer report, and a job description provided by the last employer. The application for disability benefits, attending physician's report and employer report shall be made on forms provided by the retirement system. The requirement to submit a job description may be waived by the chair of the medical review board:~~

(1) an application for disability benefits; and

(2) an attending physician's report based on an examination that was completed within the last two months and includes medical evidence; and

(3) an employer report including an official job description provided by the last employer. The requirement to submit a job description may be waived by the chair of the medical review board.

(C) "Attending physician" shall mean one of the following: ~~an applicant's physician of choice, who has established a therapeutic relationship with the applicant and has completed a report and certified on forms provided by the retirement system that in the attending physician's opinion an applicant is incapacitated for the performance of duty by a disabling condition that is presumed to be permanent. The attending physician shall provide standard objective and pertinent medical evidence supporting the opinion:~~

(1) for complete applications received by the retirement system on or after the most recent effective date of this rule, an applicant's medical specialist of choice, as defined in paragraph (J) of this rule, or

(2) for complete applications received by the retirement system prior to the most recent effective date of this rule, an applicant's physician of choice.

The attending physician shall have established a therapeutic relationship with the applicant and completed a report and certified on forms provided by the retirement system that in the attending physician's opinion an applicant is incapacitated for the performance of duty by a disabling condition that is presumed to be permanent. The attending physician shall provide standard objective and pertinent medical evidence supporting the opinion.

- (D) For purposes of section 3307.48 of the Revised Code, to "perform any teaching service" whether or not such services or positions are performed full-time or part-time, in a public or private employment school or non-school setting, on a volunteer basis or for compensation, in or outside the state of Ohio shall be defined to include any of the following:
- (1) All employment, contracted services or volunteer work that if performed in an Ohio public school would be considered employment covered by the retirement system as defined in section 3307.01 of the Revised Code.
 - (2) All teachers, tutors, substitute teachers, electronic classroom instructors, daycare teachers, community school instructors and private-lesson providers whether the service was performed through employment, contracted services, or volunteer work.
 - (3) All employment contracted services, or volunteer work that relates to the work of educators, such as, but not limited to, writing curriculum, leading workshops, providing training, instructing students of any age, or directing teachers, student teachers or students.
 - (4) Any other service determined by the retirement board to be performing teaching services.
- (E) For purposes of division (B)(2) of section 3307.62 of the Revised Code, "The date on which the member's most recent application for a disability benefit was received by the board" shall occur when an application as defined in this rule is received by the retirement system. In all cases of dispute, the retirement system shall determine when an application is received and its decision shall be final.
- (F) For purposes of division (C) of section 3307.62 of the Revised Code, "condition" shall mean a medically determinable physical or mental impairment that results from anatomical, physiological, or psychological abnormalities, which can be shown by standard objective and pertinent medical evidence as defined in this rule. A physical or mental impairment must be established by medical evidence, not only by the applicant's statement of symptoms, but also by symptoms, signs and laboratory findings reported by a physician.

- (G) "Independent medical examiner" shall mean a competent physician neither involved in a treatment relationship with an applicant or recipient nor otherwise employed by the retirement system, who shall be designated by the chair of the medical review board to conduct an impartial examination.
- (H) "Medical evidence" means current physician examinations, clinical findings, laboratory findings, diagnosis, treatment prescribed with response and prognosis, hospital discharge summaries and diagnostic testing relevant to the applicant's claimed disabling condition.
- (I) "Medical review board" shall mean the group of independent physicians designated by the retirement board under the direction of a chair appointed by the retirement board to assist in the evaluation of medical examinations and information. The members of the medical review board may be asked in panels of three or more to review any application and provide their conclusions as to whether an applicant will be mentally or physically incapacitated from the performance of duty for at least twelve months.
- (J) "Medical specialist" shall mean a non-primary care medical doctor or doctor of osteopathic medicine who has completed further education to specialize in the treatment of a condition, and who has established a therapeutic relationship and provided standard medical care to the applicant. The board or its designee shall have the authority to determine that an applicant's physician of choice may be used as attending physician in place of a medical specialist if the applicant shows good cause exists for such a determination. This determination shall be made at the sole discretion of the board or its designee, and shall be final and non-appealable.
- ~~(K)~~(K) A disabling condition shall be "presumed to be permanent," if it physically or mentally incapacitates an applicant from the performance of regular duty for a period of at least twelve months from the date of the retirement system's receipt of the completed application.
- ~~(K)~~(L) "Recipient" shall mean a member granted disability benefits under sections 3307.48, 3307.57, 3307.62, 3307.63, and 3307.631 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 6/10/2021

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.48, 3307.57, 3307.62, 3307.63, 3307.631
Prior Effective Dates: 12/23/1976, 12/26/1977, 02/26/1981, 07/03/1991,
10/29/1998 (Emer.), 01/17/1999, 07/01/2001 (Emer.),
09/17/2001, 09/17/2002, 07/01/2006, 06/06/2011,
09/04/2011, 01/07/2013 (Emer.), 03/24/2013,
01/01/2014 (Emer.), 02/10/2014, 06/05/2015,
06/10/2016