

145-2-21

**Application for a disability benefit.**

(A) For the purpose of sections 145.35, 145.36, 145.361, and 145.37 of the Revised Code and ~~PERS rules~~ Chapter 145 of the Administrative Code:

(1) "Disability" means the following: ~~presumed permanent mental or physical incapacity for the performance of a member's present duty or similar service that is the result of a disabling condition that has occurred or has increased since an individual became a member.~~

(a) At the time of application:

(i) For a disability benefit applicant whose application for disability benefits was received before January 7, 2013, a presumed permanent mental or physical incapacity for the performance of a member's present or most recent public duty that is the result of a disabling condition that has occurred or has increased since an individual became a member.

(ii) For a disability benefit applicant whose application for disability benefits is received on or after January 7, 2013, a disabling condition that renders the member incapacitated for duty as that term is defined in section 145.35 of the Revised Code.

(b) At the time of medical examination pursuant to section 145.362 of the Revised Code:

(i) For a disability benefit recipient whose application for disability benefits was received before January 7, 2013, and for a disability benefit recipient whose application was received on or after January 7, 2013, and who is on leave of absence as defined in section 145.362 of the Revised Code, a disabling condition that renders the member mentally or physically incapable of resuming the service from which the member was found disabled.

(ii) For a disability benefit applicant whose application for disability benefits is received on or after January 7, 2013, and who is not on leave of absence as defined in section 145.362 of the Revised Code, a disabling condition that renders the member mentally or physically incapable of performing the duties of any position described in division (B) of that section.

(2) "Has not attained the applicable age ~~sixty~~" means a member has filed an application for a disability retirement with the public employees retirement system and not become ~~sixty years old~~ the applicable age before the last day public service terminated.

- (3) "On-duty illness or injury" means an illness or injury that: (a) occurred during or resulted from performance of duties under the direct supervision of a member's ~~appointing authority,~~ public employer, and (b) is not an exacerbation of an existing illness or injury medically diagnosed before the first day of employment with the employer reporting to the retirement system.
  - (4) "Original disability plan" means the plan that provides a benefit pursuant to section 145.36 of the Revised Code.
  - (5) "Revised disability plan" means the plan that provides a benefit pursuant to section 145.361 of the Revised Code.
  - (6) "Examining physician" means a physician appointed by the public employees retirement board to conduct a medical examination of the applicant.
  - (7) "Medical consultant" means the physician(s) appointed by the board to review the documentation of the member's disability application or appeal and make a recommendation to the board.
  - (8) "Medical examination" means a physical or psychological examination, as appropriate, or an examination of the entire disability application and medical reports.
  - (9) "Rehabilitative services" includes, but is not limited to, treatment, evaluations, or training, or any combination of them, that is acceptable to the physician(s) selected by the board.
- (B) A member shall make application for a disability benefit on a form provided by the retirement system.
- (1) ~~Consideration of a member's application shall be limited to the disabling condition(s) listed in the application, listed on the report of attending physycian(s) or disclosed by the examination of the physician(s) selected by the retirement system.~~ A complete disability application shall consist of the member's disability benefit application, the report of the employer, and the report of physician that has been completed by the member's physician and affirmatively indicates the existence of the member's disability. The application and supporting reports must be submitted on forms provided by the retirement system.
  - (2) Consideration of a member's application shall be limited to the disabling condition(s) listed in the application, listed on the report of attending

physician(s) that was completed by the member's physician, or disclosed by the examination of the physician(s) selected by the retirement system.

~~(2)~~(3) Upon receipt of a ~~completed~~ complete disability application, ~~report of employer, report of attending physician(s), report of examining physician(s) and, if available, reports of employment physical examinations, as described in paragraph (B)(1) of this rule,~~ the retirement system's medical consultant(s) shall review all such documentation and prepare a recommendation to the ~~public employees retirement~~ board.

(a) Payment of any administrative fees or fees for the preparation of the report of the ~~attending~~ member's physician(s) shall be the responsibility of the member.

(b) Payment of any fees for the preparation of the report of the examining physician(s) selected by the board shall be the responsibility of the retirement system. Fees assessed by the examining physician(s) due to the member's cancellation of an examination are the responsibility of the member.

(C) The board shall review disability applications and the written recommendations of its ~~medical examiners and~~ medical consultant at its regular meetings. The determination by the board on any application is final.

(1) The ~~retirement~~ board may approve a member's application contingent on the following conditions.

(a) The medical consultant determines that:

(i) The member has a disability as defined in section 145.35 of the Revised Code and this rule; and whichever of the following apply:

(ii) ~~Additional~~

(a) For disability benefit applications received before January 7, 2013, and for disability benefit recipients whose applications were received on or after January 7, 2013, and who are on leave of absence as defined in section 145.362 of the Revised Code, additional medical treatment offers an expectation of improvement of the disabling condition to the extent a member may return to the member's previous or similar job duties; or-

- (b) For disability benefit recipients whose application is received on or after January 7, 2013, and who are not on leave of absence as defined in section 145.362 of the Revised Code, additional medical treatment or rehabilitative services offers an expectation of improvement of the disabling condition to the extent a member may return to work in any position described in division (B) of that section.
- (b) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol or drug rehabilitation, or mechanical devices but would exclude surgery or other invasive procedures.
- (c) ~~Such~~ If enrolled in health care coverage sponsored by the retirement system, such additional medical treatment is an allowable medical expense under the retirement system's health care plan.
- (d) The member, prior to receipt of disability benefits, shall agree in writing on a form provided by the ~~retirement~~ board to obtain the recommended treatment and submit required medical reports during the treatment period.
- (e) The member terminates public employment not later than the end of the month following the month in which the board made its decision to approve the disability benefit application. If a member fails to terminate public employment within this time frame, the disability application is void and the disability benefit shall not be paid and is forfeited. If eligible, the member may file a new disability application.
- (2) The member must submit required medical reports on a form provided by the retirement system. If the member fails to submit a required medical report on a form provided by the retirement system or does not continue treatment the member's disability benefit shall be suspended until such report is received by the retirement system, the member resumes treatment or the physician providing the treatment certifies, and the medical consultant concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated
- ~~(a) After receipt of the member's signed agreement, the retirement system shall begin payment of benefits due pursuant to section 145.35, and 145.36 or 145.361 of the Revised Code. The period for recommended treatment shall begin the month following receipt of the member's signed agreement.~~

- ~~(b) If the member fails to submit a required medical report or does not continue treatment the member's disability benefit shall be suspended until such report is received by the retirement system, the member resumes treatment or the physician providing the treatment certifies, and the medical consultant concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated.~~
- (D) The retirement board may require a member to submit to a subsequent medical examination by a physician selected by the retirement board provided the medical consultant recommends such examination in order to evaluate continued eligibility for disability benefits. The board's consideration shall remain limited to the disabling condition named on the original disability application, listed on the original report of attending the member's physician(s), or disclosed by the original ~~examination~~examination of the physician(s) selected by the retirement system.
- (E) After the retirement board has acted on a member's application it shall notify, by regular mail, the member and the member's last employer reporting to the retirement system or other retirement system, as applicable, of its action.
- (F) A member may withdraw an application for a disability benefit prior to receipt of the initial benefit payment in the same method as described in rule 145-1-65 of the Administrative Code.
- (G) The following apply to disability applications filed after the board's decision is final:
- (1) Any subsequent applications for a ~~disability~~disability benefit filed within the two years following the board's final decision of denial shall be submitted with medical evidence supporting progression of the disabling condition or evidence of a new disabling condition.
  - (2) The retirement board shall not consider an application under this paragraph if the medical consultant or examining physician concludes there is no evidence of progression or a new disabling condition and the application shall be voided.
  - (3) Notwithstanding paragraphs (G)(1) and (G)(2) of this rule, a member may file a new disability application ~~without~~without showing progression or a new condition if the member has changed his or her position of public ~~employment~~employment since the board's decision ~~on the appeal~~ became final.
  - (4) If two years have elapsed since the date the member's contributing service

terminated, no subsequent application shall be accepted.

(H) The board may waive the annual medical examination as described in section 145.362 of the Revised Code upon the recommendation of the board's medical advisor.

Effective: 01/07/2013

CERTIFIED ELECTRONICALLY

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Certification

01/04/2013

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Date

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