



## Ohio Administrative Code

### Rule 123:1-33-02 Application for disability leave benefits.

Effective: July 30, 2020

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(A) Filing an application. The employee, a member of the employee's family, or a representative of the employee, including the appointing authority on behalf of the employee, may file an application for disability leave benefits with the employee's appointing authority. The application shall be filed on a form designated by the director and shall be filed, completed in its entirety, with the appointing authority within twenty calendar days of the last day the employee worked. An application is not completed in its entirety until the disabling illness, injury, or condition for which the employee is requesting disability leave benefits occurs. Where extenuating circumstances prevent an employee from filing an application for disability leave benefits within the required time frame, a written statement from the party responsible for the delay explaining such extenuating circumstances must be filed within fifteen calendar days after the twenty-day time period has expired. Appropriate extenuating circumstances shall be accepted as an extension of the time limit to file an application for disability benefits. The appointing authority shall, within five days of receipt of the application, forward the application and the recommendation of the appointing authority to the director or designee. If there will be a filing delay due to the completion of the attending physician statement, Employee Statements are to be submitted to the appointing authority within twenty calendar days of the last day worked, and the claim will be considered timely filed. The employee will then be granted an additional ten calendar days to submit the attending physician statement and other supporting medical documentation.

Any employee who is given a disability separation under the provisions of rule 123:1-30-01 or rule 123:1-30-02 of the Administrative Code and who is eligible to receive disability leave benefits under the provisions of Chapter 123:1-33 of the Administrative Code may apply for disability leave benefits within twenty calendar days after the date the employee is given a disability separation. The approval of a claim for disability leave benefits shall be governed by the provisions of Chapter 123:1-33 of the Administrative Code.

(B) Documentation. In addition to the application, it shall be the employee's responsibility to provide written documentation to substantiate the cause, nature, and extent of the disabling illness,



injury, or condition for which the employee is requesting disability leave benefits. A medical examination report shall be required prior to the granting of disability leave benefits and the employee shall be responsible for the cost of obtaining such report. If deemed necessary, the director or designee may order a medical examination conducted by a physician. The employee may request that the physician be mutually agreed to by the state and the employee's attending physician to resolve conflicting issues. The specialty of the physician conducting the examination will be based upon the employee's diagnosed condition, but for an application for disability benefits based on a diagnosis of a mental disorder, including but not limited to, psychosis, mood disorders, and anxiety, must be confirmed by a licensed mental health provider. The cost of such examination shall be paid from the disability fund. If the employee fails to attend the scheduled examination and does not provide at least seventy-two hours advance notice of the employee's inability to attend the scheduled examination, the employee may be responsible for any costs associated with the missed examination.

(C) Notification of initial disability decision by the director or designee. The employee shall be notified in writing of the disability determination within forty-five days of receipt of the application by the director or designee and shall also be advised of the right of appeal pursuant to rule 123:1-33-04 of the Administrative Code.

If a determination cannot be made within forty-five days of receipt of the application, then the director or designee shall notify the employee of the delay.

(D) Notification of requirement to file for disability retirement benefits. An employee eligible to apply for disability retirement benefits shall be notified by the director or designee in writing of the requirement to file for disability retirement benefits in order to receive continued disability leave benefits. This applies to disability retirement eligible employees who are nearing six months of continuous disability leave payments, whose physicians have deemed them permanently disabled, or whose total disability will exceed twelve months. Upon notification, the employee shall submit an application to a state employees' retirement system, comply with all retirement system requirements, and submit all information required by the retirement system for disability retirement benefits. Eligible employees who fail to comply with this requirement may result in the denial of additional disability leave benefits.



(E) Submission of additional information. If the employee disagrees with the determination regarding the employee's request for disability leave benefits, the employee may submit additional information to the appointing authority.

Such information must be submitted within twenty days from the date of notification of the determination or within twenty days from the ending date of approved disability benefits, whichever is later. The appointing authority shall, within five days of receipt of such additional information, forward it to the director. Where extenuating circumstances prevent an employee from providing additional information within the required time frame, a written statement from the party responsible for the delay explaining such extenuating circumstances must be filed within fifteen calendar days after the twenty-day time period has expired. Appropriate extenuating circumstances shall be accepted as an extension of the time limit to provide additional information. If there will be a filing delay due to the completion of the attending physician statement, employee statements are to be submitted to the appointing authority within twenty calendar days of the last day worked, and the claim will be considered timely filed. The employee will then be granted an additional ten calendar days to submit the attending physician statement and other supporting medical documentation. By exercising the right to submit additional information, the employee does not waive his or her right to appeal the determination pursuant to rule 123:1-33-04 of the Administrative Code. The appeal must still be filed within thirty days of the original notification of the denial.

(F) Address change. An employee receiving disability leave benefits shall be responsible for keeping a current address on file with the appointing authority.