



Ohio Administrative Code

Rule 145-2-21 Application for a disability benefit.

Effective: June 6, 2015

(A) For the purpose of sections 145.35, 145.36, 145.361, 145.362, and 145.37 of the Revised Code and agency 145 of the Administrative Code:

(1) "Disability" means a presumed permanent mental or physical incapacity for the performance of the 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.

(2) "Has not attained the applicable age " means a member has filed an application for a disability retirement with the public employees retirement system and not become 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 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) "Medical examination" means a physical or psychological examination, as appropriate, or an examination of the entire disability application and medical reports.

(7) 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.



- (8) Receiving rehabilitative services means that the recipient has elected to participate in rehabilitative services not less than six months prior to the beginning of the third year following the benefit effective date.
- (9) Regional job market means within a seventy-five mile radius of the members address on file with the retirement system.
- (B) A member shall make application for a disability benefit on a form provided by the retirement system.
- (1) A complete disability application shall consist of the members disability benefit application, the report of the employer, job description, and the report of physician that has been completed by the members physician and affirmatively indicates the existence of the members disability and the date on which the illness or injury occurred. The application and supporting reports must be submitted on forms provided by the retirement system. Medical information submitted in support of a member's application shall not be accepted after the business day immediately prior to the member's first or only medical examination.
- (2) Consideration of a member's application shall be limited to the disabling condition(s) listed in the report of attending physician(s) that was completed by the member's physician(s).
- (3) Upon receipt of a complete disability application, 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 board.
- (a) Payment of any administrative fees or fees for the preparation of the report of the 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) shall be the responsibility of the retirement system. Fees assessed by the examining physician(s) due to the members cancellation of an examination are the responsibility of the member.
- (C) The board shall review disability applications and the written recommendations of its medical



consultant at its regular meetings. The determination by the board on any application is final.

The board may approve a member's application contingent on the following conditions.

(1) The medical consultant determines that:

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

(i) 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

(ii) 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.

(2) 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.

(3) 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.

(4) The member, prior to receipt of disability benefits, shall agree in writing on a form provided by the board to obtain the recommended treatment and submit required medical reports during the treatment period.

(5) 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.

(D) 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.

(E) The following apply to disability applications filed after the board's decision is final:

(1) Any subsequent applications for a 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 (E)(1) and (E)(2) of this rule, a member may file a new disability application without showing progression or a new condition if the member has changed his or her position of public employment since the board's decision became final.

(4) If two years have elapsed since the date the member's contributing service terminated, no subsequent application shall be accepted.