



Ohio Administrative Code Rule 145-2-23 Disability appeals.

Effective: January 1, 2022

(A) Except as provided in this paragraph, this rule applies when an application for a disability benefit filed pursuant to section 145.35 of the Revised Code is denied or a disability benefit pursuant to section 145.362 of the Revised Code is terminated due to the recipient no longer being disabled. The termination of a disability benefit due to any of the following are not subject to the discretion of nor appeal to the public employees retirement board:

(1) The disability benefit recipient being restored to service, refusing to undergo medical examination, or noncompliance with the annual statement requirement as provided in section 145.362 of the Revised Code and rule 145-2-22 of the Administrative Code;

(2) The disability benefit recipient's failure to obtain treatment or submit a medical report as provided in division (F) of section 145.35 of the Revised Code and rule 145-2-22 of the Administrative Code.

(B)

(1) After an application is denied or a disability benefit is terminated, the member shall be notified in writing of such action.

(2) The notice shall be sent by regular mail.

(3) The notice shall include the following information:

(a) The denial or termination of the disability benefit.

(b) The member's right to file a written request to appeal. Such written request to appeal must be received by the public employees retirement system no later than thirty days from the date of the notice of denial or termination.



(c) Failure of a member to submit a written request to appeal shall make the action final as to such application or benefit.

(d) In addition to the written request to appeal, the member must also submit additional objective medical evidence. For appeals under the own occupation standard of review, such additional evidence shall be current medical evidence documented by a licensed physician specially trained in the field of medicine covering the illness or injury for which the disability is claimed and such evidence has not been considered previously by the examining physician or medical consultant. For appeals under the any occupation standard of review, such additional medical evidence shall be current medical evidence documented by a licensed physician specially trained in the field of medicine covering the illness or injury that supports the member's inability to perform the duties of any occupation described in division (B) of section 145.362 of the Revised Code and such evidence has not been considered previously by the examining physician or medical consultant. Such additional medical evidence shall be presented on a form provided by the retirement system.

(e) Failure to provide the additional medical evidence within forty-five days of the member's appeal request shall make the action final to such application or benefit unless an extension for submission of such evidence has been requested and granted within the forty-five days. Only one extension, not to exceed forty-five days, may be granted by the retirement system.

(f) All medical costs of physicians selected by the member and incident to the appeal shall be at the expense of the member.

(g) Returning to public employment covered by Chapter 145. of the Revised Code during an appeal process that follows a termination of benefits automatically voids the member's appeal and the termination of disability benefits is final.

(C)

(1) After submission of any additional medical evidence as described in paragraph (B)(3)(d) of this rule, all evidence shall be reviewed by the medical consultant(s) who shall recommend action for concurrence by the board.



(2) If the board concurs with a recommendation for approval of the appeal, disability benefits shall be paid from the date that was established when the original application for a disability benefit was filed. If a recommendation for termination of a disability benefit was appealed and the appeal is approved by the board, the payments shall be resumed from the date of termination. The member shall be notified by regular mail of the board's decision.

(3) If the board concurs with a recommendation for denial of the appeal, the member shall be notified by regular mail of the board's decision and such decision shall be final.

(D) The following apply to disability appeals or applications after the board's decision on an appeal is final:

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

(2) Any subsequent applications for a disability benefit filed after the board's final decision on a denial of an appeal and within the two years following the date the member's contributing service terminated shall be submitted with medical evidence supporting progression of the disabling condition or a new disabling condition. The 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 paragraph (D)(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 on the appeal became final.

(E) If an appeal is pending, the retirement system shall void the appeal of a member who returns to public employment covered by Chapter 145. of the Revised Code or files a new disability application and the board's denial or termination of disability benefits is final.