



Ohio Administrative Code

Rule 3307:1-7-05 Disability benefits-denials and terminations.

Effective: June 3, 2021

The following procedures are hereby established for the appeal of any denial or termination of disability benefits by the retirement board following an independent medical examination by the state teachers retirement system.

(A) At least seven days before a recommendation is presented to the retirement board, written notification shall be issued to the applicant or recipient. This notice shall include the recommendation to be presented to the retirement board.

(1) No further medical evidence shall be considered once written notification has been issued to an applicant or recipient pursuant to paragraph (A) of this rule.

(2) Should the retirement system receive further medical evidence after written notification has been issued to an applicant or recipient pursuant to paragraph (A) of this rule, the medical evidence shall be held and included as part of the appeal documentation if a right to appeal is exercised as set forth in paragraph (B)(2) of this rule. Should a right to an appeal not be exercised as set forth in paragraph (B)(2) of this rule, the medical evidence will be returned to the person who submitted the information.

(B) Following retirement board action terminating or denying disability benefits:

(1) The applicant or recipient will be informed in writing of the action taken by the retirement board. Notification shall include:

(a) A statement that medical evaluation and retirement board action was conducted in accordance with section 3307.48 or 3307.62 of the Revised Code.

(b) Confirmation that the applicant or recipient has the right to appeal the retirement board action.



(c) A statement explaining that written notice of appeal must be received by the retirement system no later than fifteen calendar days from receipt of notification of denial or termination.

(d) An explanation of future rights and limitations upon the rights to again apply for disability benefits if an appeal is not pursued.

(2) Procedure for exercising right to appeal:

(a) The notice of appeal must be in writing and signed by either the applicant or recipient or the applicant's or recipient's counsel or attending physician. The notice of appeal must include a statement that the appeal will be based on additional medical evidence contrary to the findings of the independent medical examiners and must be received by the retirement system within fifteen calendar days of receipt of notification of retirement board action.

(b) If an applicant or recipient does not appeal the action of the retirement board, a person acting on the member's behalf or the member's employer may exercise the right to appeal in the same manner and subject to the same procedures and requirements as specified for an applicant or recipient.

(3) Following the retirement system's timely receipt of written notice of appeal from an applicant or recipient, the retirement system shall provide the applicant or recipient with the following information confirming the appeal:

(a) Confirmation that the applicant or recipient, counsel for the applicant or the recipient, and/or person acting on the member's behalf, member's employer, or attending physician may present additional medical evidence orally at an appeal hearing that will be scheduled by the retirement system or that additional medical evidence as defined in this rule may be presented in writing. Such additional medical evidence shall not have been previously considered by the independent medical examiner or the medical review board. Additional medical evidence presented in writing must be received by the retirement system on or before the deadline date provided by the retirement system, which shall be at least twelve business days before the date of the scheduled appeal hearing.

(i) "Additional medical evidence" means medical evidence completed up to twelve months preceding the written notice of appeal that has not been previously submitted to the retirement



system. Additional medical evidence outside the twelve months preceding the written notice of appeal may be submitted only if the chair of the medical review board has determined in his or her sole discretion that such additional medical evidence pertains to the diagnosis of the applicant's or recipient's claimed disabling condition. In addition:

(a) For an appeal following a denial of disability benefits, additional medical evidence must be related to the conditions presented and supported as part of the initial application.

(b) For an appeal following a termination of disability benefits, additional medical evidence must be related to the recipient's current medical status.

(ii) The chair of the medical review board may request additional medical evidence from the applicant or recipient.

(iii) The chair of the medical review board shall review all information received on appeal. If information is determined not to be additional medical evidence as defined by this rule, the information will not be considered.

(b) Notice that the applicant or recipient may appear at the appeal hearing in person, be represented by counsel and/or an attending physician, or may choose to not appear in person but have the case reviewed by the retirement board or its designee(s).

(c) Notice that if a personal appearance at the appeal hearing is requested by the deadline date provided by the retirement system, the applicant or recipient shall inform the retirement board of the name, title, and position of each person appearing on his/her behalf.

If a personal appearance is requested and scheduled, the applicant or recipient shall appear at the appeal hearing on the date and at the time specified by the retirement system. If the applicant or recipient fails to appear on the specified date and time for any reason, all rights to a personal appearance at an appeal shall terminate and the appeal shall be decided on the basis of written evidence previously submitted.

(d) Notice that the applicant or recipient may request one delay of the deadline date provided by the



retirement system, as set forth in paragraph (B)(4) of this rule.

(e) An explanation of the procedures and limitations applicable to the appeal hearing, as set forth in paragraph (B) of this rule.

(f) A statement explaining that any costs incurred by the applicant or recipient in the appeal process will not be reimbursed by the retirement system.

(4)

(a) An applicant or recipient may request in writing one delay of the deadline date provided by the retirement system as outlined in this rule, provided that the request for a delay is received on or before the deadline date provided by the retirement system.

(b) One forty-five calendar day delay may be requested for any reason. A new deadline date will be provided by the retirement system to the applicant or recipient that is forty-five calendar days from the original deadline date provided by the retirement system.

(5) Scope and procedure upon appeal:

(a) An appeal hearing will be scheduled and conducted by the retirement board or its designee(s).

(b) The chairman of the retirement board or the designee(s) shall be responsible for conducting the appeal hearing and the executive director, deputy executive director -- member benefits, or the designee(s) and the chair or designated member of the medical review board may be in attendance to act as advisor.

(c) The purpose of the appeal hearing shall be for the applicant or recipient to present information to the retirement board or its designees(s) based on additional medical evidence not previously considered by the independent medical examiner or the medical review board. Additional medical evidence to be presented at the hearing must be provided to the system by the deadline in paragraph (B)(3)(a) of this rule and should substantiate the applicant's or recipient's claim that the eligibility requirements of section 3307.48 or 3307.62 of the Revised Code have been met and that the applicant



or recipient is medically incapacitated from the performance of duty by a previously reported mental or physical condition that is permanent or presumed to be permanent.

(d) Additional medical evidence or other written information may not be submitted at the hearing.

(e) Upon consideration of the record on appeal and the information, positions, contentions and arguments of the applicant or recipient, the retirement board or its designee may request additional medical evidence or direct further examination or testing by independent medical examiners and may return a record for review and recommendation by the medical review board.

(f) When the retirement board is satisfied that the record before it is complete and has completed its deliberations, it may affirm, disaffirm or modify its prior action by a majority vote. Written notice of such action shall be given to the applicant or recipient.

(g) A stenographic record of the appeal hearing will be made only upon request of the applicant or recipient and any and all costs shall be at the applicant's or recipient's expense. Such request must be made in writing and received by the retirement system on or before the deadline date provided by the retirement system as listed in paragraph (B)(3)(a) of this rule.

(h) All communications or notifications during the appeal process shall be sent to the applicant or recipient by certified or priority mail, with copies by regular mail to counsel if the applicant or recipient has notified the retirement system of representation by counsel and signed an appropriate authorization for release of information.

(C) Any subsequent applications for disability benefits received by the retirement system after a denial or termination of benefits shall be submitted with additional medical evidence not previously submitted in connection with prior applications for disability benefits, supporting progression of the former disabling condition or evidence of a new disabling condition. If such evidence is evaluated by the medical review board chair and found to be inadequate to establish the progression of the disabling condition or the existence of a new disabling condition, the application shall be voided and a notice will be sent to the applicant. The decision of the medical review board chair shall be final. If two years have elapsed since the date the member's contributing service terminated, no subsequent application shall be accepted except if the member did not earn service credit before July



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1, 2013, the application must be made within a one-year period from the date contributing service terminated.