



## Ohio Administrative Code

### Rule 5505-3-02 Disability retirement application and hearing process.

Effective: December 6, 2023

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(A) For the purpose of sections 5505.18 and 5505.181 of the Revised Code and agency 5505 of the Administrative Code:

(1) "Member" shall have the meaning described in division (I) of section 5505.01 of the Revised Code except "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.

(2) A terminated employee, whether the termination from the state highway patrol is voluntary or involuntary, ceases to be a member of the state highway patrol retirement system (HPRS). Except as provided in rule 5505-3-07 of the Administrative Code, a member shall not be considered terminated while receiving benefits pursuant to section 124.385 of the Revised Code.

(3) "Totally and permanently incapacitated" means a disabling condition that physically or mentally totally incapacitates a member from the performance of regular duty for a period of at least twelve months from the date of HPRS's receipt of the completed application packet.

(4) "In the line of duty" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of the state highway patrol.

(5) "Not in the line of duty" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of the state highway patrol. Unless the illness or injury meets the presumption criteria outlined in division (A) of section 5505.18 of the Revised Code or competent and credible evidence is submitted to HPRS, a disability condition is presumed to be not in the line of duty.

To be eligible for retirement on account of a disability incurred not in the line of duty, the member must have accrued five years of service credit since becoming a "member" as defined by this rule and section 5505.18 of the Revised Code.



(6) "Disability committee," as referred to in this rule, shall mean the "health, wellness, and disability" standing committee established pursuant to paragraph (A)(1) of 5505-9-08 of the Administrative Code.

(7) "Medical advisor," as referred to in this rule, shall mean the expert physician appointed by HPRS board who advises the disability committee and board during its deliberations relating to disability applications.

(8) "Examining physician" means a physician recommended by the medical advisor and approved by the HPRS board.

(9) Unless otherwise stated in this rule, all notifications or correspondence shall be sent by regular U.S. mail to the member's address included in disability benefits application unless HPRS receives notice in writing of an alternative address.

(B) A disability benefits application packet, hereafter referred to as application packet, provided by HPRS may be filed by a member, a person acting on behalf of a member, or the superintendent of the state highway patrol. In order for the application packet submission to be considered complete, the applicant will submit the following:

(1) A completed application for disability benefits, on a form approved by the board, listing the disabling condition(s),

(2) Attending physician medical evaluation form and statement, on a form approved by the board, supporting the disabling condition(s) listed in the application,

(3) Employer determination and completed form of applicant's inability to perform his/her job duties and responsibilities, and

(4) All medical reports and documentation that relate to the disabling conditions listed in the application. All medical reports must be received within one week of initial submission of application.



- (5) An incomplete application packet will not be accepted and will not be considered filed.
- (6) Once an application packet has been accepted by HPRS and submitted to the medical advisor, additional medical reports or documentation will not be accepted unless requested by the board, disability committee or the medical advisor. Any documentation that is received by HPRS after submission of the application packet to the medical advisor shall be held and included as part of any reconsideration hearing as described within this rule. Should the right to reconsideration not be exercised, the additional medical evidence will be returned to the applicant.
- (7) An application packet that does not include an attending physician medical evaluation statement that indicates the applicant is totally and permanently incapacitated will not be accepted.
- (C) Upon receipt of a completed application packet, HPRS shall schedule the applicant for an examination by at least one examining physician with expertise in the disabling condition(s) listed in the application as recommended by the medical advisor, unless the medical advisor recommends it is inadvisable to do so.
- (1) Payment of any fees connected to the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.
- (2) Payment of any fees connected with the preparation of reports of the examining physician(s) shall be the responsibility of HPRS.
- (D) After examining the applicant and reviewing the application packet, any medical reports submitted by the applicant, and the results of any additional medical testing, the examining physician will file a written report with HPRS with the following information:
- (1) Whether the member is totally incapacitated for duty in the employ of the patrol,
- (2) Whether the incapacity is expected to be permanent, and
- (3) The cause of the member's incapacity.



(E) After the examining physician(s) report(s) is submitted, the medical advisor shall review the entire record and file a written report with HPRS with the following information:

(1) A recommendation of whether the applicant should be granted disability retirement benefits based on the medical advisor's independent review or the record,

(2) Whether the injury or illness was in the line of duty or not in the line of duty,

(3) Recommended medical treatment and medical reports.

The medical advisors report shall be considered an independent medical opinion.

(F) When all necessary medical reports and records have been received by HPRS, including the completed application packet, examining physicians report described in paragraph (D) of this rule, and the medical advisor's report / recommendation described in paragraph (E) of this rule, HPRS shall schedule a hearing to be held at the next disability committee meeting. If HPRS does not receive the required information described in this paragraph of this rule at least fourteen days before the next disability committee meeting, the application will be heard at the following scheduled meeting of the disability committee.

(G) No less than fourteen days prior to the hearing, the applicant will be sent notification of:

(1) The hearing date and time, and

(2) The right to appear at the hearing, with or without counsel, to present testimony.

(3) If circumstances warrant it, the notice requirement may be waived upon mutual consent of the applicant and HPRS.

(H) The disability committee hearing will be held in executive session. An audio recording of testimony on behalf of the applicant will be made to provide the disability committee and board with a record for further review, notwithstanding rule 5505-9-07 of the Administrative Code. The



disability committee will consider the application packet, the examining physician's report, the recommendation of the medical advisor, and other relevant information.

(1) Consideration of a member's application by the disability committee and board shall be limited to the disabling condition(s) listed in the application and listed in the attending physician's report as described in paragraph (B)(2) of this rule that are supported by medical documentation provided to HPRS.

(2) Acts occurring after the application packet is completed and accepted that create new disabling condition(s) or progress the disabling condition(s) described in paragraph (H)(1) of this rule will not be considered by the disability committee or the board. Nothing in this division shall preclude a member from filing a new application for disability benefits.

(I) The disability committee may recommend one or more of the following to the board:

(1) Approval or denial of the application,

(2) A finding on whether or not the disability occurred in the line of duty,

(3) A finding that disability retirement be contingent on compliance with a treatment plan,

(4) Postpone determination, pending an additional examination, or the submission of additional fact,  
or

(5) No decision, if the disability committee cannot agree on a recommendation or acquire a majority vote.

(J) No more than five days after the hearing, the applicant will be sent notification of:

(1) The disability committee's recommendations,

(2) The right to request reconsideration of the disability committee's decision.



(K) No more than twenty days after the initial hearing, the applicant may file a written request for reconsideration. The written request shall be accompanied by a statement from the applicant, his or her counsel and/or attending physician that the request for reconsideration will be based on evidence contrary to the findings of the examining physician or the committee.

(1) The request for reconsideration will be considered at the next regularly scheduled meeting of the disability committee unless rescheduled for the reasons outlined in paragraph (K)(2) of this rule.

(2) No more than ten days after requesting reconsideration, the member must file new medical evidence relative to the disabling condition(s) considered by the disability committee. The member may request one extension of twenty days to submit new medical information. One additional extension, of no greater than twenty days, will be granted if the member can show, and the medical advisor concurs, that additional time is needed to obtain relevant new medical evidence that is already in progress. If additional extensions are granted, the request for reconsideration will be rescheduled to the next available disability committee meeting. HPRS shall void the request for reconsideration if new medical evidence is not received by HPRS in the time described in this paragraph.

(3) Copies of the reports of the examining physician will be sent to the member and the member's agent upon written authorization of the member, unless the release of such reports is otherwise prohibited by law. The medical advisor's recommendation will not, however, be released until the committee has made a recommendation regarding the member's disability application.

(4) The disability committee will consider only new medical evidence and new relevant information submitted in support of the request for reconsideration.

(5) The applicant has the right to appear at the hearing, with or without counsel, to present new relevant evidence and testimony, and

(6) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.

(L) At the conclusion of the reconsideration hearing, the disability committee may recommend one



or more of the following to the board:

- (1) Approval or denial of the application,
- (2) A finding on whether or not the disability occurred in the line of duty,
- (3) A finding that disability retirement be contingent on compliance with a treatment plan,
- (4) Postpone determination, pending an additional examination, or the submission of additional fact,  
or
- (5) No decision, if the disability committee cannot agree on a recommendation or acquire a majority vote.

(M)

(1) Except as provided in paragraph (M)(2) of this rule, the committee's recommendation will be considered at the next regularly scheduled meeting of the board. The board may adopt or reject the recommendation, in whole or in part, or remand the recommendation to the disability committee for further consideration. Unless requested by the board, an applicant may not appear before the board. The decision of the board is final.

(2) If the disability committee postpones determination pursuant to paragraph (L)(4) of this rule, no more than five days after the hearing, the applicant will be sent notification of the reason for the postponement and the date the committee will make a final recommendation to the board.

(N) The member will be notified of the board's action no more than ten days after the board meets. If benefits are granted, the member shall be advised of the member's right to:

- (1) Accept the benefit granted; or
- (2) Waive the benefit and continue working



(a) No later than thirty days after the board's final action, the member shall elect, on a form provided by the board, either to accept or waive the board's grant of disability benefits.

(b) If no such election is made within the thirty-day period provided in paragraph (N)(2)(a) of this rule, the award shall be rescinded. If benefits are accepted but the member fails to terminate employment with the state highway patrol within the thirty-day period provided in paragraph (N)(2)(a) of this rule, the award shall be rescinded.

(O) As a condition to granting an application for disability benefits, the member shall agree in writing, on a form provided by the board, to obtain any medical treatment recommended by the examining physician or medical advisor and submit the required medical reports as required by the board.

(1) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol and/or drug rehabilitation, or mechanical devices.

(2) The member shall also agree in writing to provide, upon HPRS request, any existing medical report relevant to the member's disability.

(3) 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 HPRS, the member resumes treatment or the physician providing treatment certifies, and the medical advisor concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated.

(P) Any subsequent application for a disability benefit filed after a denial of a disability application or termination of previously granted disability benefits shall be submitted with medical evidence, to the satisfaction of the medical advisor, supporting progression of the disabling condition or evidence of a new disabling condition.

(Q) A member may withdraw an application packet prior to the disability committee's initial recommendation described in paragraph (H) of this rule.