

Rules

September 8, 2022

OP&F

- 742-3-04 Disability benefit recipient's annual earnings statement
- 742-3-05 Disability benefits procedure
- 742-3-07 Optional plan of payment (No change)
- 742-3-10 Annual medical examinations, termination of benefits and appeal of termination
- 742-3-18 Definition of "total dependency"
- 742-3-19 Pre-1967 survivor benefits (No change)
- 742-3-20 Statutory termination of disability benefits
- 742-5-02 Interest rate for service credit purchases or refunds/purchase of civilian service credit (No change)
- 742-5-06 Definition of "honorably discharged" (No change)
- 742-7-07 Pre-retirement survivor annuity (No change)
- 742-8-13 Special penalty provisions
- 742-19-01 Administration of public safety officers death benefit fund

STRS

- 3307:1-11-05 Health care services – Medicare Part B reimbursement

HPRS

- 5505-3-03 Review of eligibility to continue disability retirement benefits (No change)
- 5505-3-03.1 Disability retiree employment as a law enforcement officer
- 5505-3-07 Deferred retirement option plan
- 5505-5-02 Prior service credit (No change)
- 5505-5-03 Purchase of military service credit
- 5505-7-04 Health care (No change)
- 5505-9-05 Release of records (No change)

742-3-04

Disability benefit recipient's annual earnings statement.

- (A) ~~Unless the board's physician certifies that a disability benefit recipient's disability is ongoing according to the terms of the governing board policy and the board waives the requirement that a recipient file an annual statement of earnings, a~~ disability benefit recipient shall file an annual statement of earnings by September first of each year with the Ohio police and fire pension fund ("OP&F"); unless the disability committee medical advisor has certified that the disability benefit recipient's disability is ongoing and the board waives the requirement that a recipient file an annual earnings statement. The statement must be on the form provided by OP&F; ~~The section of the statement relating to employment, education, and earnings~~ and must be notarized. In addition, the disability benefit recipient must also provide any supporting documentation requested by OP&F.
- (B) OP&F shall send written notice to those recipients who have been granted waivers by the board within sixty days of the board's approval.
- (C) Once a disability benefit recipient has been granted a waiver from the requirement to file annual earnings statement by the board, the disability benefit recipient shall thereafter be relieved from filing an annual earnings statement, unless otherwise notified in writing by OP&F.
- (D) For those earning statements due on September 1, 1998, and every September first thereafter, the refusal of the benefit recipient to comply with paragraph (A) of this rule shall result in the suspension of disability benefits and any health care stipend upon sixty days prior written notice to the disability benefit recipient.
- (1) If the disability benefit recipient fails to file the past due annual earning statement(s) in proper form with OP&F within the aforementioned sixty day notice period, OP&F shall suspend the recipient's health care stipend, if any, effective on the first day of the month immediately following the expiration of such notice period.
- (2) In the event the disability benefit recipient files all of the past due earning statement(s) in proper form with OP&F after the aforementioned sixty day notice period, OP&F will reinstate the recipient's disability benefits and health care stipend on the first day of the month immediately following OP&F's receipt of all past due annual earnings statements in proper form.
- (E) If the disability benefit recipient files the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due (i.e. fifteen months after the original due date), OP&F will reinstate the recipient's disability benefits and the health care stipend, if any.

- (F) If the disability benefit recipient has not filed the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due, then the disability benefits shall be forfeited in accordance with the terms of division (D) of section 742.40 of the Revised Code and the health care stipend, if any, shall be forfeited in accordance with section 742.45 of the Revised Code, with such forfeiture being effective as of the date of the original suspension, as referenced in a writing provided to the recipient from OP&F.
- (G) For purposes of determining whether the recipient has refused to comply with the provisions of division (D) of section 742.40 of the Revised Code and this rule, OP&F may conclusively rely upon OP&F's books and records.
- (H) All notices to the disability benefit recipient provided for under this rule shall be either delivered personally, sent by express delivery service, certified mail or first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the most recent address set forth in such recipient's file with OP&F, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to OP&F shall be addressed at its principal place of business.
- (I) For purposes of this rule, "Disability Benefit Recipient" shall mean the member of OP&F who is receiving a disability benefit pursuant to division (C)(2), (C)(3), (C)(4), or (C)(5) of former section 742.37 of the Revised Code or section 742.38 of the Revised Code.

Effective:

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Certification

Date

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742-3-05

Disability benefits procedure.

(A) For purposes of divisions (C)(2), (C)(3), (C)(4), and (C)(5) of former section 742.37 of the Revised Code and section 742.38 of the Revised Code and this rule, the following terms shall have the meanings set forth herein:

- (1) "Board," shall mean the board of trustees of the Ohio police and fire pension fund ("OP&F").
- (2) "Applicant" shall mean a member of OP&F who has filed any type of application for disability retirement benefits or any person who has filed such application on behalf of an incapacitated member in accordance with division (B) of section 742.38 of the Revised Code and rules 742-3-12 and 742-3-13 of the Administrative Code and who does not have benefits vested under the deferred retirement option plan under section 742.444 of the Revised Code.
- (3) "Disability benefit recipient" shall have the meaning described in division (A) of section 742.40 of the Revised Code.
- (4) "On-duty illness or injury" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of a member's appointing authority.
- (5) "Off-duty illness or injury" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of a member's appointing authority. Unless the illness or injury meets the presumption criteria outlined in division (A) of section 742.38 of the Revised Code or competent and credible evidence is submitted to OP&F, a disability condition is presumed to be the result of an off-duty illness or injury.
- (6) "Permanent disability" means a condition of disability with respect to which the board finds that there is no present indication of recovery or those presumptive conditions set forth in division (D)(3) of section 742.38 of the Revised Code, which shall be determined through the medical reports filed with OP&F, as required by the terms of division (A)(1) of section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (7) "Total disability" shall have the meaning set forth in division (D)(1)(a) of section 742.38 of the Revised Code.
- (8) "Partial disability" shall mean a condition of disability with respect to which the board finds the applicant is prevented from performing the member's official police or fire duties and member's earnings capacity is impaired.

- (9) "Guides" shall mean the American medical association's "Guides to the Evaluation of Permanent Impairment, fifth and sixth editions."
- (10) "Occupational characteristics" shall mean the U.S. department of labor's occupational characteristics for police officer (government service) and fire fighter (any industry) positions as the standards for determining the presence or absence of disability.
- (11) "Medical Advisor," as referred to in this rule, shall mean the expert physician appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (12) "Vocational Expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (13) "Disability evaluation panel (DEP)" shall mean that panel established by the board to make written recommendations to the board on pending disability applications. The DEP shall be comprised of three voting members and at least two non-voting members. The three voting members of the DEP shall be members of the board, who shall be the members of the disability committee, who shall be appointed to such committee by the chairman of the board, and shall be comprised of one active firefighter trustee, one active police officer trustee, and one retiree trustee. The non-voting members of the DEP shall be comprised of expert physicians, including the alternate, all of whom are appointed by the board of trustees and at least one of the non-voting members shall be an expert in vocational evaluations, including the alternate, who shall provide vocational assessments of disability applicants to the DEP. The alternate non-voting member of the DEP shall be a physician appointed by the board of trustees and shall serve in the place of a non-voting member of the DEP in the absence or incapacity of any other non-voting physician member of the DEP.
- (14) "DEP medical advisor," as referred to in this rule, shall mean the expert physician appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-retirement disability reconsiderations, who shall be a different physician than the medical advisor.
- (15) "DEP vocational expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-

retirement disability reconsiderations, who shall be a different evaluator than the vocational expert.

- (16) "Forms" shall mean the forms created, approved, and/or provided by OP&F for the administration of benefits found on the OP&F website at <http://www.op-f.org>.

(B) Impairment and disability evaluation criteria:

- (1) OP&F staff shall work with its advisors and/or physicians who are members of the DEP and shall assign a competent and disinterested physician and expert in vocational evaluations to conduct medical examinations for purposes of determining a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits.
- (2) In evaluating a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits, the DEP and the board will use the official duties provided by the employer, but in the event such information is not provided by the employer or does not clearly define the applicable job duties, the board and the DEP shall use the criteria contained in the "guides", the occupational characteristics adopted by the board and the criteria set forth in division (D) of section 742.38 of the Revised Code.
- (3) In evaluating a member's eligibility for disability retirement benefits, the physicians, the expert in vocational evaluations, the DEP, and the board shall consider the member's potential for retraining and reemployment and the eligibility criteria set forth in division (D) of section 742.38 of the Revised Code so that the person's ability to be retrained and reemployed shall include any positions, not just police or fire positions.
- (4) The consideration of a member's application shall be limited to the disabling condition(s) listed in the application if supporting medical documentation is provided to OP&F or disclosed by the examination of the physician(s) selected by OP&F. The DEP and the board shall consider and base its findings and recommendations on all competent evidence made available to it, including medical testimony, opinions, statements, and medical reports submitted by the member's employer under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (5) One of the physician non-voting members of the DEP and one of the non-voting members of the DEP who is an expert in vocational evaluations shall submit to the board's disability committee or DEP a written recommendation on each application evaluated followed by a report incorporating a summary of findings,

as outlined in the DEP operating guidelines, which is approved by the board of trustees, along with their medical opinion as to whether or not the disabling condition results from an on-duty illness or injury and is waivable under the DEP operating guidelines for the DEP physicians and the vocational evaluation from the DEP vocational expert.

- (6) In reviewing applications for disability benefits, the DEP and the board shall rely upon the medical opinions of the DEP physicians and OP&F's medical advisor, who have given due consideration of medical and other evidence presented to OP&F.

(C) Initial application.

- (1) Applications for disability benefits shall be made on the disability application form approved by the board and must be in proper form in order to be processed. The member shall provide necessary substantiating documentation, including but not limited to pertinent hospital records, statements from attending physicians, departmental injury reports, the results of any special diagnostic tests, notice of allowed workers' compensation claims, and any pre-employment physicals or records required or requested under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (2) OP&F shall notify the member's employer that an application has been filed and will send a courtesy copy of such notice to the member within fourteen days after receiving an application for disability benefits from a member or a person acting on behalf of a member, as required by the terms of division (B) of section 742.38 of the Revised Code. The notice shall state only the position or rank, as required by the terms of division (B) of section 742.38 of the Revised Code.
- (3) For those notices sent under paragraph (C)(2) of this rule, the member's employer shall forward to the board a statement certifying the job description for the position or rank and any other information required by the board to process the application and such report or statement shall be filed with the board not later than twenty-eight days after the employer's receipt of the notice referred to in paragraph (C)(2) of this rule or filing an application on behalf of a member, whichever is the first to occur.
- (4) The member's employer shall forward the physician's report of the member's physical examination taken on entry into the police or fire department, as more fully provided in division (A)(1) of section 742.38 of the Revised Code. If the employer fails to forward such report to OP&F on or before the date that is sixty days after the member becomes an OP&F member, division (A)(2) of section 742.38 of the Revised Code requires OP&F to assess against the

employer a penalty determined under section 742.353 of the Revised Code and rule 742-8-08 of the Administrative Code. Even though a member may not have a disabling condition that is presumed, by law, to have been incurred in the member's performance of his/her official duties, that does not foreclose the member from being awarded a service-incurred disability grant.

- (5) OP&F shall schedule the member covered by the pending disability benefit application for examination by at least one medical examiner and one expert in vocational evaluations designated by OP&F, unless it is medically inadvisable to do so.
 - (a) Payment of any fees connected with the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.
 - (b) Payment of any fees connected with the preparation of report of the examining physicians or vocational evaluators of OP&F shall be the responsibility of OP&F.
- (6) When all the necessary medical reports and records have been received by OP&F, including those reports required or requested under paragraphs (C) (3) and (C)(4) of this rule, OP&F shall schedule such application for review and consideration by the DEP, who shall make a written recommendation to the board based upon the criteria set forth in paragraph (B) of this rule. The board, based on the written recommendation of the DEP, will then consider the application and make an initial determination of disability. The board may:
 - (a) Grant a disability benefit;
 - (b) Deny disability benefits; or
 - (c) Postpone determination, pending an additional examination, or the submission of additional fact.

The member covered by a pending disability retirement application may withdraw the application through a written authorization filed with OP&F at any time prior to the board's award of the initial determination of disability. To the extent that a pending disability application is withdrawn by a member, the withdrawn application shall not be presented to the DEP or the board, depending on when it's received by OP&F.

- (7) Copies of the reports of the independent medical and vocational evaluators will be sent to the member and the member's agent upon their request, unless the release of such reports is otherwise prohibited by law. The DEP recommendations will

not, however, be released until the board has made an initial determination of disability. For purposes of the initial determination hearing, OP&F will not consider any documents from a member or a member's agent that seek to rebut or comment on the reports of the independent medical and vocational evaluators.

- (8) Any disability benefit award determined by the board shall be effective as of the date that the board made its initial determination of disability on such pending disability retirement application.
- (9) The member covered by the pending disability retirement application shall be notified of the board's initial determination of disability within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The member covered by the pending disability retirement application shall be advised of his or her right to:
 - (a) Accept the benefit grant;
 - (b) Waive the benefits and continue working; or
 - (c) Appeal the initial determination of the board.

(D) Acceptance or waiver of benefits.

Not later than ninety days after receipt of the notice of the board provided for in paragraph (C), (E), or (F) of this rule, the disability benefit recipient shall accept or waive the board's determination of disability on the disability benefit election form provided by OP&F. For purposes of making the determination whether the disability applicant has accepted or waived the board's determination of disability, the fund may conclusively rely upon the fund's books and records.

- (1) If no such election is filed with OP&F within the ninety-day time period provided in paragraph (D) of this rule, the award shall be rescinded.
- (2) Subject to the requirement set forth in paragraph (D) of this rule, if a member accepts the award and then fails to establish an effective date of retirement by terminating police or fire employment within ninety days of receipt of notice of the board's determination of disability, as provided under paragraph (C)(9) or (E)(5) of this rule, the disability benefit shall be rescinded.
- (3) A member whose benefits are rescinded pursuant to paragraph (D)(1) or (D)(2) of this rule shall not be foreclosed from later filing another disability benefit application with OP&F and any subsequent applications shall be treated as a new application for disability benefits, except to the extent that such member

does not meet the eligibility requirements set forth in division (D) of section 742.38 of the Revised Code.

(E) Appeal of initial determination.

- (1) Upon a member's appeal of the board's initial determination of disability, the board shall be advised by its medical advisor and vocational expert. The board shall not be under any obligation to adopt the recommendation of its medical advisor or vocational expert if there is some evidence to support a contrary finding.
- (2) A member who wishes to appeal the board's initial determination of disability shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of the board's initial determination of disability referred to in paragraph (C)(6) of this rule. The notice of appeal must contain the member's name, social security number and a brief description of the decision upon which the appeal is based.
- (3) Within sixty days of filing of the notice of appeal, the member shall file with OP&F any new evidence not previously considered by the board on the initial disability application. Failure to submit supporting materials or to request an extension of time within which to do so will be sufficient cause for the director of member services to dismiss the appeal provided OP&F gives the member prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the member fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, the director of member services, for good cause shown, may grant the appellant an extension of sixty days within which to file supporting materials. The director of member services may grant the appellant an additional extension based on a recommendation from the DEP medical advisor that there is solid evidence of a medical reason to grant the extension for a period of time recommended by the DEP medical advisor. In no event shall the hearing be postponed more than three times and in no event shall the extensions, in the aggregate, exceed one year.
- (4) Depending on the basis for the appeal and the new evidence submitted by the member, OP&F may request that the member undergo a new medical examination and/or vocational evaluation by an OP&F-appointed examining physician and/or vocational evaluator. OP&F may also provide the new evidence to the original OP&F-appointed examining physician and/or vocational evaluator and request that they review the new evidence and provide OP&F with an addendum to their original reports. The new evidence submitted by the member and any additional medical and/or vocational reports,

including addendum reports, shall be forwarded to the board's medical advisor and vocational expert for review and consideration. The medical advisor and vocational expert will then provide recommendations to the board regarding the member's disability application.

- (5) Upon receipt of the recommendations from the medical advisor and vocational expert, the board shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time and place thereof in writing. Such hearings shall be scheduled within sixty days of the receipt of the reports of the medical advisor and vocational expert. Any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A recording of the hearing will be made to provide the board and the medical advisor with a record for further review. Such recording of the hearing shall be available to the disability applicant and to those individuals who are authorized by the disability applicant to receive such information on the authorization to release medical records form provided by OP&F.
 - (6) Following the hearing on appeal, the board may choose to:
 - (a) Affirm the original determination of disability;
 - (b) Modify the original determination of disability;
 - (c) Deny the disability application; or
 - (d) Postpone a decision pending additional examinations or documentation.
The board's decision on appeal shall be the final determination of the initial disability application, subject to the foregoing time limitations on extensions that can be granted.
 - (7) The applicant shall be advised of the board's action within thirty days after the board's final determination of disability and such notice shall be sent by certified mail, return receipt requested. The member covered by the disability appeal shall be advised of the member's right to:
 - (a) Accept the benefit granted;
 - (b) Waive the benefit and continue working; or
 - (c) File a mandamus action.
- (F) Post-retirement disability reconsideration.

- (1) A member who is receiving a less than maximum partial disability and who believes that deterioration of the disabling physical or mental condition awarded by the board has increased the amount of disability, may apply for a reconsideration. Such application shall be on the disability reconsideration application form prepared by OP&F, which shall be dealt with on not less favorable terms than the process used by the DEP for recommendation to the board on initial determinations of disability. The member shall supply substantiating documentation including:
 - (a) Recent medical reports and physician's statements;
 - (b) A wage statement including taxable earnings for the last five years of retirement, primary employers and occupations, and rehabilitation and training programs pursued.
 - (2) The DEP shall review such evidence and shall make a written recommendation to the board. The board shall, based on the written recommendation of the DEP, review the evidence submitted, and may decide to:
 - (a) Deny the application for reconsideration;
 - (b) Approve the application and modify the disability benefit effective the first of the month following the decision; or,
 - (c) Postpone a determination of the application pending further physical examination, or further documentation.

The board's decision shall be the final determination of an application for reconsideration.
 - (3) The member shall be advised of the board's final determination within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The letter shall include notice of the member's right to request a new reconsideration, but the board will consider only one application for reconsideration from a member during any twelve-month period.
- (G) Notwithstanding anything herein to the contrary, once a member has deposited, negotiated, or cashed a disability benefit check from OP&F, or failed to withdraw his/her retirement application, as outlined in rule 742-3-17 of the Administrative Code, that member may not apply for any new, increased, or additional benefit for the disabling condition(s) described in such application, except for a member who is granted an off-duty disability less than the maximum amount permitted under division (D)(4) of section 742.38 or former division (C)(5) of section 742.37 of the Revised Code, or a member who had fewer than twenty-five years of service credit

and was granted a partial disability in an amount less than the maximum permitted by division (D)(2) of section 742.38 or former division (C)(3) of section 742.37 of the Revised Code, may apply for an increase in payments to the maximum amount provided by those sections upon evidence of deteriorating earning capacity. Any subsequent request by that member shall be treated as a new application under this rule. In addition, a member may elect to receive interim payments without waiving the member's right to appeal a disability award, as provided for in paragraph (E) of this rule.

(H) Additional medical treatment:

- (1) As a condition to granting an applicant disability benefits or continuing disability benefits under an existing award, as provided in division (B) of section 742.40 of the Revised Code, the member shall agree in writing to obtain any medical treatment recommended by the board's physician(s) and submit the required medical reports over the course of the treatment period.
- (2) 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.

(I) If the member fails to:

- (1) Obtain the recommended treatment required under division (B) of section 742.40 of the Revised Code, as referenced in paragraph (H) of this rule,
- (2) File the required medical report or
- (3) Comply with the required treatment regimen, the board may suspend the awarded disability benefits and any health care stipend upon ninety days prior written notice to the disability benefit recipient.

If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of disability benefits and any health care stipend shall be effective on the first day of the month immediately following the expiration of such notice period until the treatment is obtained, the required report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable.

In the event the disability benefit recipient complies within the aforementioned ninety day notice period or the board's physician certified that the treatment is no longer helpful or advisable, OP&F will not suspend the disability benefit recipient's disability benefits and any health care stipend.

- ~~(a) If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of disability benefits and any health care stipend shall be effective on the first day of the month immediately following the expiration of such notice period until the treatment is obtained, the required report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable.~~
- ~~(b) In the event the disability benefit recipient complies within the aforementioned ninety day notice period or the board's physician certified that the treatment is no longer helpful or advisable, OP&F will not suspend the disability benefit recipient's disability benefits and any health care stipend.~~
- (J) If, after the aforementioned ninety day notice period, referred to in paragraph (I) of the rule, the disability benefit submits to the requested treatment, submits the required reports, or complies with the required treatment regimen or the board's physician certifies that the treatment is no longer helpful or advisable, OP&F will reinstate the disability benefits and any health care stipend of such disability benefit recipient, effective as of the first day of the month immediately following the month in which the past due statement(s) were received in proper form by OP&F.
- (K) If the refusal to submit to the medical examination, as required by the terms of division (C)(2) of section 742.40 of the Revised Code and such failure continues for one year, whether documented by the fund's books or records or as presumed as provided in rule 742-3-10 of the Administrative Code, then the disability benefit recipient's disability benefits and any health care stipend shall be forfeited, as required by the terms of division (C)(2) of section 742.40 of the Revised Code effective as of the date of the original suspension, as referenced in a writing provided to the disability benefit recipient from the fund or the board.
- (L) For purposes of determining whether the recipient has refused to comply with the provisions of this division (C)(2) of section 742.40 of the Revised Code and this rule, the fund may conclusively rely upon the fund's books and records.
- (M) Except as expressly provided in this rule or section 742.40 of the Revised Code, all notices to the disability benefit recipient or applicant shall be either delivered personally, sent by express delivery service, certified mail, or first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the most recent address set forth in such recipient's file with the fund, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to the fund or the board shall be addressed at its

principal place of business. Except as otherwise specifically provided for in this rule, notices will be deemed given as of the earlier of:

- (1) The date of actual receipt;
 - (2) The next business day when notice is sent via express mail or personal delivery; or
 - (3) Three days after mailing in the case of first class or certified U.S. mail.
- (N) If an initial application for disability, an appeal, or a post-retirement application has been filed pursuant to paragraph (C), (E), or (F) of this rule and the supporting documentation has not been filed with OP&F or the applicant has not taken any action to prosecute his/her claims within six months of the filing with OP&F, the director of member services shall have full authority to dismiss the application, appeal, or post-retirement application, as the case may be, for failure to prosecute the claim provided OP&F gives ninety days prior written notice to the member of the need to file certain documentation with OP&F and the member fails to file the necessary documentation with OP&F before the expiration of such ninety day time period.
- (O) In determining whether a member had a physical examination before entry into the department, as required in division (D)(3) of section 742.38 of the Revised Code, OP&F shall use the following criteria:
- (1) For disability benefit applicants who became "members" of OP&F prior to September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if OP&F receives the following:
 - (a) A writing signed by a licensed physician that documents the examination of the member prior to his/her entry into the police or fire department, as the case may be, and the writing is dated prior to the person becoming a "member" of OP&F, as such term is defined in division (E) of section 742.01 of the Revised Code or the person's entry into the department where the person is employed at the time of the filing of the disability application, provided such date is not more than nine months prior to such date; and
 - (b) The writing signed by a licensed physician does not document the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (2) For disability benefit applicants who became "members" of OP&F after September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if the physician's report meets the requirements set forth in paragraph (A) (3) of rule 742-1-02 of the Administrative Code prior to the person becoming a "member" of OP&F or before the person's entry into the department where the person is employed at the time of the filing of the disability application, the physician's report does not diagnose the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (3) In the event the record of a member's pre-employment physical is lost, destroyed or unavailable, the board may waive the requirement that the absence of disease be evidenced by a physical examination prior to employment as described in paragraphs (O)(1) and (O)(2) of this rule if there is competent medical evidence, as determined by the board's physicians and/or medical advisor, that the cardiovascular or respiratory disease was not evident prior to or at the time of entry into the department.
- (4) For members who do not meet the criteria set forth in division (D)(3) of section 742.38 of the Revised Code and this rule, this will not preclude the member from being granted a duty-related disability if the member is able to document that the disability resulted from the performance of the member's official duties as a member of the police or fire department, as the case may be.

(P) Firefighter cancer presumption:

- (1) In order to be eligible for the presumption described in division (D)(3)(b) of section 742.38 of the Revised Code, a member of a fire department who is applying for disability with cancer as an alleged disabling condition shall complete a questionnaire on a form provided by OP&F. The questionnaire shall be submitted to OP&F at the time of the initial application for disability benefits.
- (2) If the member certifies on the questionnaire required by paragraph (P)(1) of this rule that he or she was assigned to at least six years of hazardous duty as a member of a fire department and has had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen, the member shall provide OP&F with all documentation in support of such certification, including exposure reports,

incident reports, shift logs, approved workers compensation claims, or other similar documentation.

- (3) The cancer presumption can be rebutted by evidence that demonstrates that the cancer was not incurred in the line of duty. Such evidence includes, but is not limited to, documentation which shows that the member:
- (a) Incurred the cancer before becoming a member of a fire department;
 - (b) Used cigarettes or other tobacco products, and such usage was a significant factor in the cause or progression of the cancer;
 - (c) Was not assigned to at least six years of hazardous duty as a member of a fire department, or twenty years or more have passed since the member was last assigned to hazardous duty as a member of a fire department;
 - (d) Has not had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen;
 - (e) Incurred the cancer as a result of employment or business that is secondary to his or her employment as a member of a fire department;
 - (f) Is not receiving workers compensation for a cancer diagnosis; and
 - (g) Has undergone genetic testing which indicates a predisposition for contracting certain cancers.
- (4) As part of the information that an employer is required to submit to OP&F under division (B) of section 742.38 of the Revised Code, the employer shall certify the following:
- (a) Whether or not the member was assigned to at least six years of hazardous duty as a member of a fire department, and provide the dates of all hazardous duty assignments, if available; and
 - (b) Whether or not the member has had any exposures to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

Effective:

Five Year Review (FYR) Dates: 4/18/2027

Certification

Date

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10/23/2000, 03/19/2001, 09/07/2001 (Emer.),
11/23/2001, 03/22/2004, 02/16/2006, 07/24/2008,
10/16/2008, 01/22/2009, 08/02/2010 (Emer.),
10/17/2010, 06/07/2013, 12/26/2013, 01/20/2016
(Emer.), 04/07/2016, 04/06/2017 (Emer.), 06/22/2017,
01/01/2019 (Emer.), 03/29/2019

742-3-07

Optional plan of payment.

(A) The selection of an optional plan of payment and nomination of a beneficiary must be on a form approved by the board of trustees of OP&F. Prior to the "Effective Date" (as defined in paragraph (J) of this rule), the selection of an optional plan of payment and nomination of beneficiary may be revoked or changed. A member's selection of an optional plan of payment and nomination of a beneficiary will be processed by OP&F, subject to the limitations set forth in section 742.3711 of the Revised Code.

Upon the "Effective Date", the choice of a plan of payment and a beneficiary are irrevocable, subject to the limitations provided for in section 742.3711 of the Revised Code and may be changed only for the conditions stated in law.

(B) The selection of an optional plan of payment and the nomination of a beneficiary become effective:

(1) In the case of a person filing an application for retirement on the effective date of retirement provided that the first adjusting or final regular benefit payment has been accepted, as outlined in paragraph (D) of rule 742-3-08 of the Administrative Code, and the retirant has not exercised his right with the consent of the beneficiary to cancel the plan within one year of the effective date of retirement as authorized under division (E) of section 742.3711 of the Revised Code;

(2) In the case of a plan reselection following marriage or remarriage, on the date of receipt by OP&F of an application on a form approved by the board.

(C) For purposes of "notice" of the death of a beneficiary nominated under division (A) (1), (A)(2), or (A)(4) of section 742.3711 of the Revised Code, OP&F shall cancel such nomination upon receipt of a phone call provided appropriate documentation is provided to OP&F within ninety days of such phone call. In the event appropriate documentation is not provided within such ninety day time period, OP&F shall reinstate the nomination of the beneficiary until such time as OP&F receives the appropriate supporting documentation on the death of the beneficiary.

(D) Upon the marriage or remarriage of a retirant who had selected any plan of payment other than that set forth under division (A)(3) of section 742.3711 of the Revised Code, the retirant may elect to cancel the plan of payment selected at retirement and to elect an optional plan of payment under division (A)(1) or (A)(2) of section 742.3711 of the Revised Code, provided that the beneficiary nominated be the retirant's spouse. In cases where the member has elected multiple beneficiaries under division (A)(4) of section 742.3711 of the Revised Code, rule 742-3-27 of the Administrative Code (reselection of beneficiaries upon remarriage) shall apply.

- (E) The allowance payable under the optional plan of payment selected or reselected under this rule shall be based on the annuity factors tables in effect and the ages of the retiree and beneficiary at the time of plan selection.
- (F) Except as provided in paragraph (D) of rule 742-7-08 of the Administrative Code, upon the death of a person who selected a joint and survivor annuity plan of payment or a life annuity certain and continuous, the nominated beneficiary is entitled only to the monthly allowance calculated at the time of plan selection. Any increases in the retiree's pension after the effective date of the selection does not serve to increase the annuity payment payable to the beneficiary unless the cost-of-living increase was paid to the retiree under section 742.3711 or section 742.3716 of the Revised Code.
- (G) If a member of the fund who has an application for retirement pending with OP&F dies after severing police or fire employment, but before negotiating his/her first pension or benefit payment, then OP&F shall act on his/her application for retirement, unless section 742.3711 of the Revised Code or any successor provision prohibits otherwise. If OP&F acts favorably on the application for benefits then the surviving beneficiary nominated by the decedent under section 742.3711 of the Revised Code shall be paid a monthly annuity under the optional payment plan selected by the decedent. If the decedent had selected no payment plan, single life annuity plan, or a plan of payment that provided less than fifty per cent to the spouse and no written spousal consent was provided in the form required by section 742.3711 of the Revised Code for the selection of a single life annuity plan or a plan of payment that provided less than fifty per cent to the spouse, then either the spouse, or contingent dependent beneficiary if there be no surviving spouse, shall be paid an annuity if otherwise eligible under section 742.3714 of the Revised Code or the spouse shall be paid an allowance under division (A)(2) of section 742.3711 of the Revised Code continuing one-half of the retiree's lesser retirement allowance.
- (H) If a married member selects a retirement allowance under a single life annuity plan or under division (A)(2) of section 742.3711 of the Revised Code continuing less than one-half of the lesser retirement allowance to the surviving spouse or under division (A)(3) of section 742.3711 of the Revised Code, OP&F shall process the application based on a fifty per cent plan of payment payable to the member's spouse until the member's spouse submits a written statement in the form required in section 742.3711 of the Revised Code consenting to the member's selection of a payment plan which continues, if anything, less than one-half of the lesser retirement allowance to the surviving spouse for life. If the member fails to file the written consent by the "Effective Date", OP&F shall pay the retirement allowance in accordance with division (A)(2) of section 742.3711 of the Revised Code.

As provided by division (D)(3) of section 742.3711 of the Revised Code, the board may waive the spousal acknowledgment required under division (D)(2) of section 742.3711 of the Revised Code upon receipt of any of the following:

- (1) The written statement of the spouse's physician certifying that the spouse is medically incapable of consenting to the plan of payment elected by the applicant; or
 - (2) The affidavits of the applicant and at least two other persons, one of whom must be unrelated to the applicant, attesting that the whereabouts of the spouse is unknown, provided that OP&F receives from the member a signed indemnification agreement in favor of OP&F for any losses or damages suffered by OP&F resulting from its reliance on inaccurate or incorrect statements provided for in such affidavit or written statement that served as a basis for the waiver under division (D)(3) of section 742.3711 of the Revised Code and this paragraph (I) and such indemnification agreement is in a form satisfactory to OP&F.
- (I) For purposes of determining the priority of court orders issued prior to the effective date of the member's retirement under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that require the member to elect a plan of payment set forth in division (A)(4) of section 742.3711 of the Revised Code and designate a former spouse as beneficiary, OP&F shall process such court orders in the order in which they are received by OP&F. In no event shall the member's lesser allowance or portion of the lesser retirement allowance be paid to more than four surviving beneficiaries.
- (J) For purposes of this rule, "Effective Date" or "effective date of retirement" shall mean the later of the date on which the member can no longer withdraw his/her retirement application, as outlined in rule 742-3-17 of the Administrative Code, or the date on which the member is no longer receiving an "interim benefit", as defined in rule 742-3-08 of the Administrative Code.

Five Year Review (FYR) Dates: 6/13/2022 and 06/13/2027

CERTIFIED ELECTRONICALLY

Certification

06/13/2022

Date

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12/30/1990, 04/10/2002 (Emer.), 07/11/2002,
10/20/2006, 10/26/2006 (Emer.), 01/12/2007,
04/05/2012, 07/19/2012

742-3-10

Annual medical examinations, termination of benefits and appeal of terminations.**(A) Waiver of annual medical examination requirement**

- (1) For those members who are subject to the terms of division (C)(2)(a) of section 742.40 of the Revised Code (i.e., a disability benefit recipient who has been a member of Ohio police and fire pension fund ("OP&F") for less than twenty-five years and has not attained age forty-eight, such disability benefit recipient shall submit to an annual medical examination by ~~OP&F's physician~~ a physician designated by OP&F, unless the ~~DEP~~ disability committee medical advisor certifies that a disability benefit recipient's disability is ongoing and the board waives the requirement that the disability benefit recipient undergo an annual medical examination.
- (2) If the requirement that a disability benefit recipient undergo an annual medical examination ~~by an OP&F physician~~ is waived, the recipient shall thereafter be relieved from submitting to an annual medical examination until otherwise notified in writing by OP&F. However, any waiver granted shall not waive any rights the board may have to request a medical examination in accordance with the terms of division (C)(2)(b) of section 742.40 of the Revised Code.

(B) Annual medical examinations

For a disability benefit recipient who has been requested by the board to undergo a medical examination pursuant to the terms of division (C)(2)(a) or division (C)(2)(b) of section 742.40 of the Revised Code:

- (1) ~~OP&F shall notify the~~ The disability benefit recipient shall be notified of the need to schedule the medical examination and ~~provide the disability benefit recipient~~ be provided with at least thirty days prior written notice of the time and place of the scheduled examination.
- (2) Unless for good cause shown, the disability benefit recipient shall be presumed to have refused to submit to the medical examination ~~by an OP&F physician if OP&F has scheduled such examinations if such examination~~ has been scheduled three times and the disability benefit recipient has either canceled, rescheduled, or failed to submit to the scheduled medical ~~examinations~~ examination, as documented by OP&F's books and records.
- (3) The refusal of a disability benefit recipient to submit to the medical examination requested pursuant to the terms of division (C)(2)(a) or division (C)(2)(b) of section 742.40 of the Revised Code, whether documented by OP&F's books and records or as presumed under the terms of paragraph (B)(2) of this rule, shall

result in the suspension of disability benefits upon ninety days prior written notice to the disability benefit recipient and shall continue until compliance.

- (a) If the disability benefit recipient has not submitted to the medical examination ~~by an OP&F physician~~ within the aforementioned ninety day notice period, the suspension of disability benefits shall be effective on the first day of the month immediately following the expiration of the ninety day notice period.
- (b) In the event the disability benefit recipient submits to the required medical examination ~~by physician an OP&F physician~~ after the ninety day notice period, OP&F will reinstate the recipient's disability benefits on the first day of the month immediately following the disability benefit recipient's submission to the required medical examination. The recipient shall be entitled to retroactive coverage of disability benefits during that time in which the benefits were suspended.
- (c) If the refusal of a disability benefit recipient to submit to any medical examination under section 742.40 of the Revised Code continues for one year, whether documented by OP&F's books and records or as presumed under the terms of this rule, then the disability benefits recipient's disability benefits shall be forfeited, as required by division (C)(2)(c) of section 742.40 of the Revised Code, effective as of the date of the original suspension. OP&F shall notify the disability benefit recipient by certified mail, return receipt requested of the termination of benefits and the date that his or her benefits shall be terminated.

(C) Board's concurrence in physician's certification that recipient no longer meets disability standards

- (1) For those disability benefit recipients who undergo the medical examination pursuant to division (C) of section 742.40 of the Revised Code, the board will review the physician's report. If the board concurs with the physician's certification that the recipient no longer meets the disability standards set forth in division (D) of section 742.38 of the Revised Code or division (C)(2), (C)(3), or (C)(5) of former section 742.37 of the Revised Code, the disability benefits shall terminate ninety days after the board concurs with the physician's certification or upon employment by the benefit recipient as a police officer or firefighter, as defined in rule 742-3-20 of the Administrative Code.
- (2) OP&F shall notify the disability benefit recipient by certified mail, return receipt requested of the board's concurrence with the physician's certification, the date that his or her benefit shall be terminated and of his or her right to appeal.

(D) Appeal of the board's concurrence with physician certification

- (1) In order to appeal any determinations of the board under paragraph (C) of this rule, the disability benefit recipient shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of OP&F's notice of termination of benefits.
- (2) Within sixty days of the filing of the notice of appeal, the member shall submit to OP&F all materials in support of the appeal including, but not limited to, medical records, doctors' reports, and documentation substantiating earnings and income. Failure to submit supporting materials will be sufficient cause for ~~the director of member services-OP&F~~ to dismiss the appeal provided OP&F gives the member prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F, and the member fails to file the required documentation with OP&F before the designated deadline.
- (3) OP&F shall schedule the appeal hearing after receipt of the supporting materials and give the member reasonable notice of the date, time, and place thereof in writing. The member shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A recording of the hearing will be made to provide the board and the medical advisor with a record for further review. Such recording of the hearing shall be available to the member and to those individuals who are authorized by the member to receive such information on the authorization to release medical records form provided by OP&F.
- (4) Following the hearing on appeal, the board may choose to:
 - (a) Affirm the original concurrence in the physician's certification;
 - (b) Reverse the original concurrence in the physician's certification; or
 - (c) Postpone a decision pending additional examinations or documentation.

The board's decision on appeal shall be the final determination of the member's disability.
- (5) The applicant shall be advised of the board's action within thirty days after the board's determination and such notice shall be sent by certified mail, return receipt requested.
- (6) Benefits shall be terminated pending appeal if a favorable decision on the appeal is not made within ninety days of the board's concurrence with the physician's certification.

- (E) Unless otherwise provided in this rule, all notices provided to the disability benefit recipient under this rules shall be sent by first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the address on file with OP&F. All notices to OP&F shall be addressed at its principal place of business.

Effective:

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Certification

Date

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01/17/2016, 01/01/2019 (Emer.), 03/29/2019,
05/31/2020

742-3-18

Definition of "total dependency".

For purposes of paying benefits to a surviving child of a member who is "totally dependent" upon the member for support at the time of the death under division (E) of section 742.37 of the Revised Code, the child must meet one of the following criteria:

- (A) The child has a mentally or physically disabling condition and was claimed as an exemption for federal income tax return purposes for the year preceding the member's death;
- (B) The child is determined disabled by a court of competent jurisdiction;
- (C) The child attends an adult workshop or mental retardation and developmental disabilities (MRDD) school; or
- (D) The child has a mental or physical disability and is incapable of earning at least sixteen thousand dollars annually, as determined by ~~the DEP medical advisor and the DEP~~ the disability committee medical advisor and the disability committee vocational expert.

Effective:

Five Year Review (FYR) Dates: 11/15/2026

Certification

Date

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Prior Effective Dates:	11/23/2001, 05/28/2022

742-3-19

Pre-1967 survivor benefits.

(A) The board of trustees of Ohio police and fire pension fund ("OP&F") shall consider the following as evidence acceptable to the board for purposes of determining the eligibility of a surviving spouse for the benefits provided for in division (D)(4) of section 742.37 of the Revised Code:

- (1) The certification provided for in OP&F's application for surviving spouse's pension under division (D)(4) of section 742.37 of the Revised Code or a substantially similar certification, which will be determined by OP&F in its sole and absolute discretion (the "application"); and
- (2) For applications for benefits filed with OP&F under division (D)(4) of section 742.37 of the Revised Code from and after April 1, 2002, public documentation provided by the applicant, including an affidavit signed by an independent third party and notarized before a notary public that identifies or, in the case of the affidavit, certifies that the decedent identified in the surviving spouse's application was a former member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code (the "local fund member"); and
- (3) A copy of the marriage certificate that documents the marriage of the surviving spouse to the local fund member.

Notwithstanding the foregoing, OP&F will also require the applicant to provide such other documents required for the application of statutory survivor benefits under division (D) of section 742.37 of the Revised Code.

(B) OP&F's board of trustees shall consider the following as evidence acceptable to the board for purposes of determining the eligibility of a local fund member's surviving spouse for the surviving spouses benefits provided for in division (F)(1)(b) of section 742.63 of the Revised Code (the "death fund benefits"):

- (1) A certification from the local fund member's surviving spouse that the local fund member was a member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code, which can be the certification provided by the applicant in the application for benefits under division (D)(4) of section 742.37 of the Revised Code; and
- (2) For applications for benefits filed with OP&F under division (F)(1)(b) of section 742.63 of the Revised Code from and after April 1, 2002, public documentation provided by the applicant, including an affidavit signed by an independent third party and notarized before a notary public that identifies or, in the case of the affidavit, certifies that the decedent identified in the surviving spouse's

application was a former member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code (the "local fund member"); and

- (3) The surviving spouse shall also file with OP&F a completed application for Ohio public safety officers death benefits and such other documentation identified in the application, as provided for in section 742.63 of the Revised Code and rule 742-19-01 of the Administrative Code, as such rule may be amended from time to time.
- (4) In addition to the evidence outlined in this paragraph (B), the terms of rule 742-19-01 of the Administrative Code shall also apply to the processing of these benefits.

Five Year Review (FYR) Dates: 6/13/2022 and 06/13/2027

CERTIFIED ELECTRONICALLY

Certification

06/13/2022

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07/19/2012, 01/01/2019 (Emer.), 03/29/2019

742-3-20

Statutory termination of disability benefits.

For purposes of division (C)(3) of section 742.40 of the Revised Code, Ohio police and fire pension fund ("OP&F") shall consider an OP&F member to be "employed as a police officer or firefighter" if one of the following applies:

(A) The person is appointed, commissioned, compensated, designated, employed, engaged, volunteering, or otherwise serving as one of the following:

- (1) A sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force established under division (D) of section 3735.31 of the Revised Code, or township constable or a similar job position outside the state of Ohio;
- (2) A railroad company police officer governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (3) A person engaged in the enforcement of Chapter 5743. of the Revised Code on behalf of the department of taxation and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code or a similar job position outside the state of Ohio;
- (4) An undercover drug agent or a similar job position outside the state of Ohio;
- (5) A department of public safety enforcement agent governed by section 5502.14 of the Revised Code or a similar job position outside the state of Ohio;
- (6) A natural resources law enforcement staff officer in the department of natural resources governed by section 1501.013 or a similar job position outside the state of Ohio;
- (7) A forest-fire investigator in the department of natural resources governed by section 1503.09 of the Revised Code or a similar job position outside the state of Ohio;
- (8) A natural resources officer on the department of natural resources governed by section 1501.64 of the Revised Code or a similar job position outside the state of Ohio;
- (9) A wildlife officer in the department of natural resources governed by section 1531.13 of the Revised Code or a similar job position outside the state of Ohio;

- (10) A park district law enforcement officer governed by section 511.232 or 1545.13 of the Revised Code or a similar job position outside the state of Ohio;
- (11) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- (12) A member of a hospital police or security department governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (13) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- (14) A member of a qualified nonprofit corporation police department established by section 1702.80 of the Revised Code or a similar job position outside the state of Ohio;
- (15) A state university law enforcement officer governed by section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (16) A special police officer in the department of mental health governed by section 5119.08 of the Revised Code or a similar job position outside the state of Ohio;
- (17) A special police officer in the department of mental retardation and developmental disabilities governed by section 5123.13 of the Revised Code or a similar job position outside the state of Ohio;
- (18) A member of a campus police department established under section 1713.50 of the Revised Code or a similar job position outside the state of Ohio;
- (19) A regional transit authority police officer governed by division (Y) of section 306.35 of the Revised Code or a similar job position outside the state of Ohio;
- (20) An investigator of the auditor of state governed by section 117.091 of the Revised Code who is engaged in the enforcement of Chapter 117. of the Revised Code or a similar job position outside the state of Ohio;
- (21) A special police officer serving on state property pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer

pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;

- (22) A port authority special police officer governed by section 4582.04 or 4582.28 of the Revised Code or a person serving as a port authority special police officer on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (23) A municipal corporation special police officer who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is serving at a municipal airport or other municipal air navigation facility that is governed by aviation security rules of the transportation security administration of the United States department of transportation and required by federal laws and regulations to be under a security program or a similar job position outside the state of Ohio;
- (24) A PERS law enforcement officer, as defined in section 145.01 of the Revised Code or a similar job position outside the state of Ohio; or
- (25) A bailiff or deputy bailiff of a court of record in this state who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code or a similar job position outside the state of Ohio;
- (26) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;
- (27) An employee of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section;
- (28) A federal protective service officer or a federal marshal, including, but not limited to, a court security officer hired by the U.S. marshals service;

(29) A gaming agent employed under section 3772.03 of the Revised Code or a similar job position outside the state of Ohio.

(B) The person is a "member of the police department," as such term is defined in division (A)(2) of section 742.01 of the Revised Code or such corresponding statutory provision, whether in Ohio or a similar job position outside the state of Ohio or is serving as a volunteer to a "police department," as such term is defined in division (A)(1) of section 742.01 of the Revised Code or such corresponding statutory provision;
or

(C) The person is classified as a firefighter who is a "member of a fire department," as such term is defined in division (B)(2) of section 742.01 of the Revised Code or such corresponding statutory provision, whether in Ohio or a similar job position outside the state of Ohio or is serving as a volunteer to a "fire department," as such term is defined in division (B)(1) of section 742.01 of the Revised Code or such corresponding statutory provision.

(D)

For any new position added to paragraph (A) of this rule, OP&F shall give ninety days written notice of the change to all disability benefit recipients and allow those recipients to have ninety days to terminate the position not previously covered under this rule or be subject to the statutory requirement relating to the termination of disability benefits, as set forth in division (C)(3) of section 742.40 of the Revised Code.

(E) Process for termination of disability benefits.

For any termination of disability benefits under section 742.40 of the Revised Code, staff shall present the termination for review and consideration by the disability committee, who shall make a written recommendation to the board of trustees based upon the applicable criteria. The applicable disability benefit recipient shall be notified of the board's decision within thirty days after the board's action and such notice shall be sent by certified mail, return receipt requested. The disability benefit recipient shall also be notified of the right to appeal the termination of disability benefits and the right to convert the disability benefits to a service retirement pension if the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code are met and an application for service retirement is filed with OP&F.

(F) Appeal of termination of disability benefits.

- (1) Any disability benefit recipient aggrieved by an action of the board with respect to the termination of the disability benefits in accordance with division (C)(3) of section 742.40 of the Revised Code must file a written notice of appeal with OP&F in the form provided by OP&F within ninety days of the notice of the board's decision to terminate the disability benefits. The notice of appeal must contain the member's name, social security number, and a brief description of the decision upon which the appeal is based.
- (2) Within sixty days of the notice of the board's decision to terminate the disability benefits, the aggrieved disability benefit recipient ("appellant") shall file with OP&F all materials which he or she desires to submit in support of the appeal. Failure to submit supporting materials or to request an extension of time within which to submit the supporting materials will be sufficient cause for ~~the director of member services~~OP&F to dismiss the appeal, provided OP&F gives the appellant prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the appellant fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, ~~the director of member services~~OP&F may, for good cause shown, grant the appellant an extension of sixty days within which to file supporting materials.
- (3) Upon receipt of the supporting materials, OP&F shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time, and place thereof in writing. Such hearings shall be held within sixty days of the receipt of the supporting documentation by OP&F; provided, however, that any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. In no event shall a hearing be postponed more than three times, and in no event shall the postponements, in the aggregate, exceed one year. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A tape recording of the hearing will be made to provide the board with a record for further review. Such tape recording of the hearing shall be available to the appellant and to those individuals who are authorized by the appellant to receive such information, with such authorization in the form required by OP&F.
- (4) Following the hearing on appeal, the board may choose to:
 - (a) Affirm the decision to terminate disability benefits;
 - (b) Reverse the decision to terminate disability benefits;
 - (c) Postpone a decision pending additional documentation.

The board's decision on appeal shall be the final determination on the statutory termination of disability benefits.

- (5) The applicant shall be advised of the board's action under paragraph (F)(4) of this rule within thirty days after the board's decision and such notice shall be sent by certified mail, return receipt requested.
- (G) For purposes of recovering overpaid disability benefits, OP&F shall collect those benefits from the later of April 1, 2004 or the date of the person's acceptance of employment that results in the statutory termination of disability benefits, which will apply to any termination of disability benefits under section 742.40 of the Revised Code and this rule prior to the effective date of this rule.
- (H) For disability benefit recipients who are terminated in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, who cannot convert the benefits to a service retirement pension, and who have not recovered all contributions received by OP&F that are paid by or on behalf of such person, OP&F shall offset the remaining contributions against any overpayment due OP&F in accordance with the provisions of this rule.
- (I) For any overpayments due OP&F as a result of the termination of benefits in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, OP&F shall require the member to sign a promissory note, which provides for equal monthly payments to be paid to OP&F over a period not to exceed five years, with interest paid at the current actuarial rate of interest. For any person who refuses to sign such promissory note, OP&F will seek to recover the amounts due by exercising all rights available by law.
- (J) In the event the payments required under paragraphs (H) and (I) of this rule exceed the limits provided for in the consumer credit protection act, the payments will be modified in order to comply with such limits. Payments may also be modified upon a showing of a financial hardship and in such amount as determined by the executive director.

Effective:

Five Year Review (FYR) Dates: 1/5/2023

Certification

Date

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Rule Amplifies: 742.40
Prior Effective Dates: 04/10/2002 (Emer.), 06/30/2002, 03/22/2004,
04/05/2005 (Emer.), 06/20/2005, 09/21/2007,
05/22/2008, 08/02/2010 (Emer.), 10/17/2010,
02/04/2013, 03/22/2018

742-5-02

Interest rate for service credit purchases or refunds/purchase of civilian service credit.

- (A) The rate of compounded interest for the purchase of service credit under section 742.21 of the Revised Code or for the payment of back contributions shall be calculated separately for each year in accordance with the terms of division (H) of section 742.21 of the Revised Code.
- (B) Prior to January 1, 1987, and for all purchases of civilian service credit and not military service credit, the interest charge for the purchase of service credits or the payment of back contributions shall be six per cent.
- (C) From and after January 1, 1987 through and including September 16, 1998, the interest charge for the purchase of service credits or the payment of back contributions, except military purchases, shall be the actuarial interest assumption rate adopted by the board for the year in which the service credit was purchased, compounded annually.
- (D) Service credit may be purchased in increments of not less than one month except:
- (1) Where the total service available for purchase under a section of the Revised Code is less than a full month; or,
 - (2) Where less than one full month is necessary to accumulate the maximum number of years which may be used in benefit calculations; or
 - (3) Where four purchases of service credit have already been made in any calendar year.
- (E) Where the calculation of the cost of purchase of service credit involves the repayment of withdrawn employee contributions, the monthly contribution for the total period of the withdrawn service credit shall be the base for calculating the cost.
- (F) For any person who becomes a member of the fund on or after the effective date of this rule, such member shall pay the interest charge for the purchase of service credits or the payment of back contributions, in accordance with the terms of division (H) of section 742.21 of the Revised Code.
- (G) From and after the effective date of this rule and unless otherwise provided by law, when a payment is received by the fund which is less than the full payment of the total amount of employer and employee contributions for the entire amount of service credit available, the fund is authorized to prorate the amount purchased in accordance with the following:
- (1) The amount paid will be divided by amount due on that billing;

- (2) The number derived from the computation described in paragraph (G)(1) of this rule will be multiplied by the entire amount of service credit available;
 - (3) The number derived from the computation described in paragraph (G)(2) of this rule will then be divided by twelve, with the number to the left of the decimal representing the number of years purchased;
 - (4) The number to the right of the decimal derived from the computation described in paragraph (G)(3) of this rule will then be multiplied by twelve, with the number to the left of the decimal representing the number of months purchased; and
 - (5) The number to the right of the decimal derived from the computation described in paragraph (G)(4) of this rule will then be multiplied by thirty, with the number to the left of the decimal representing the number of days purchased; provided, however, that the fund shall round the number of days to the next higher number if the number to the right of the decimal is equal to or greater than .50 and the fund shall round the number of days to the next lower number if the number to the right of the decimal is less than .50.
- (H) For any partial purchase of service credit, the cost of the purchase of such service credit shall be based upon the monthly contribution for the total period.
- (I) Except as expressly provided by law and for purposes of qualifying for the fund's benefits, the purchased service credit shall be the equivalent of service credit earned as an active member of the fund provided the fund receives the total amount of the applicable interest and the total amount of the employer and employee contributions due for the amount of service credit being purchased, as if such person was a member of the fund at the time the contributions were made for the service credit being purchased by the member.
- (J) The cost of the service credit available may change if the total amount due is not paid within the stated billing period.
- (K) The amount due for the purchased service credit shall be based upon the applicable interest and the total amount of the employer and employee contributions that would have been due the fund, if such person were a member of the fund at the time the contributions were made for the service credit being purchased by the member.
- (L) For purposes of this rule, "member" shall have that meaning set forth in division (E) of section 742.01 of the Revised Code and shall include those members who elected disability benefits under former section 742.37 of the Revised Code or section 742.38 of the Revised Code, who did not purchase eligible service credit at the time of his/her acceptance of disability benefits and who later has his/her disability benefit

terminated by OP&F in accordance with the provisions of section 742.40 of the Revised Code.

(M) This rule shall only apply to the purchase of civilian service credit and shall not apply to the purchase of military credit.

(N) For purposes of computing the refund according to division (J)(2) of section 742.21 of the Revised Code, OP&F shall calculate the interest based on the actuarial interest assumption rate established by the board of trustees at the time of the refund.

Five Year Review (FYR) Dates: 6/13/2022 and 06/13/2027

CERTIFIED ELECTRONICALLY

Certification

06/13/2022

Date

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(Emer.), 07/19/1999, 01/22/2004, 07/17/2004,
03/03/2005 (Emer.), 05/19/2005, 10/13/2005,
12/10/2009, 09/20/2012

742-5-06

Definition of "honorably discharged".

As used in sections 742.52 and 742.521 of the Revised Code, the phrase "honorably discharged" shall be construed to mean the favorable character of service status given by the department of defense or the national guard, as the case may be, for the member's service in the armed forces of the united states, as defined in sections 742.52 and 742.521 of the Revised Code, whether characterized as honorable or general (under honorable conditions).

Five Year Review (FYR) Dates: 6/13/2022 and 06/13/2027

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Certification

06/13/2022

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Statutory Authority: 742.10
Rule Amplifies: 742.52
Prior Effective Dates: 07/20/1981, 04/19/2001, 07/19/2012

742-7-07

Pre-retirement survivor annuity.

- (A) The board will authorize payment of the benefits created by section 742.3714 of the Revised Code when the board determines that:
- (1) A deceased or former member was, on the date of death, eligible to retire and to receive an immediate pension under division (C)(1) or (C)(3) of section 742.37 of the Revised Code, but had not retired because he/she had not severed employment as a police officer or fire fighter; and
 - (2) The deceased member is survived by a spouse or "contingent dependent beneficiary" eligible to receive the benefit.
- (B) A "contingent dependent beneficiary" is eligible to receive the benefits provided by section 742.3714 of the Revised Code if, on the date of the member's death, the "contingent dependent beneficiary":
- (1) Can show that he/she was dependent upon the member for at least fifty per cent of his or her annual income; and
 - (2) Had been designated as a "contingent dependent beneficiary" on a form provided by the board that was properly executed by the member.
- (C) Annually, the board shall make reasonable efforts to notify all members who are eligible to name a "contingent dependent beneficiary" of their right to do so. A form to designate a "contingent dependent beneficiary" shall be made available to a member upon request, with the understanding that the notice will be sent to the most recent address on file with Ohio police and fire pension fund ("OP&F"). The form is properly executed only when it has been completed and signed by the member, notarized, and received by OP&F at its office. A member may designate only one person to be a "contingent dependent beneficiary." A member may change the designation at any time by completing a new form; only the latest dated designation will be effective. No person is a "contingent dependent beneficiary" eligible to receive benefits, unless OP&F has a properly executed form on file as of the date of the member's death.

Five Year Review (FYR) Dates: 6/13/2022 and 06/13/2027

CERTIFIED ELECTRONICALLY

Certification

06/13/2022

Date

Promulgated Under:	111.15
Statutory Authority:	742.10
Rule Amplifies:	742.3711, 742.3714
Prior Effective Dates:	06/06/1984, 04/29/2002, 05/17/2007, 07/19/2012

742-8-13

Special penalty provisions.

(A) In the event any of the following situations occur, which is documented by the employer to the satisfaction of ~~OP&F's director of member services and director of financial services~~ OP&F and the other requirements of this rule are met, this rule shall govern how OP&F will administer the penalties provided for in section 742.352 of the Revised Code or section 742.353 of the Revised Code, as permitted by the provisions of division (C) of those sections:

- (1) The employer hired a new clerk within the past year and he/she did not undergo OP&F training prior to the filing that is in question;
- (2) The employer is a new filer with OP&F within the past year and the employee responsible for the reports and payments to OP&F did not undergo OP&F training prior to the filing that is in question;
- (3) There is an act of God (i.e. natural disaster, fire, flood.) that adversely impacts the employer's ability to timely file the report or pay the required contributions according to the governing statutory provisions, but this provision is not intended to apply to overall computer problems, a clerk being sick on or around the deadline date, and such other related items. ~~An act of God includes the coronavirus pandemic during the period of the emergency declared by executive order 2020-01D issued on March 9, 2020, for as long as the period of emergency is in effect;~~
- (4) There is a medical leave involved for the person who is responsible for filing the report and contributions with OP&F and the medical leave exceeds ninety days; subject to paragraph (A)(3) of this rule;
- (5) Theft in office has occurred by the person responsible for the filing;
- (6) The penalties arising out of the filing in question will result in the employer being declared in fiscal emergency;
- (7) The employer is a new user of OP&F's online payment/reporting system and as a result of performing the new process, the employer missed the deadline and incurred a penalty.

(B) In order for the provisions of this rule to apply, the employer must be in "good standing." For purposes of this rule, "good standing" shall mean that the employer has paid all prior penalties in the past year in accordance within the governing statutory provisions so that OP&F did not need to take further action to collect such employer's compliance (i.e. the penalties were paid within the grace period once added to the employer's billing statement).

- (C) In the event that any of the events under paragraph (A) of this rule apply and the employer is in good standing with OP&F, with the exception of the report or payment in question, OP&F shall apply the following reduction in penalties:
- (1) If the employer files the proper report of contributions and properly pays the contributions within six months of OP&F's written notice of deficiency, then OP&F will reduce the statutory penalties by seventy-five per cent;
 - (2) If the employer files the proper report of contributions and properly pays the contributions within twelve months of OP&F's written notice of deficiency, then OP&F will reduce the statutory penalties by fifty per cent; and
 - (3) If the employer files the proper report of contributions and properly pays the contributions more than one year after OP&F's written notice of deficiency, then OP&F will reduce the statutory penalties by twenty-five per cent or such lesser amount established by the board of trustees based on the applicable facts and circumstances.
- (D) This rule shall not adversely impact OP&F's remedies in the event an employer files a report and pays contributions to the wrong retirement system.
- (E) For purposes of this rule, "proper report of contributions" shall mean the report of contributions required under section 742.32 of the Revised Code, as more fully outlined in rule 742-9-10 of the Administrative Code, and "properly pay the contributions" shall mean the payment of contributions due under section 742.32 of the Revised Code and consistent with the terms of rule 742-9-10 of the Administrative Code.

Effective:

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Date

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Prior Effective Dates: 12/22/2005 (Emer.), 03/20/2006, 06/24/2010,
09/14/2020

742-19-01

Administration of public safety officers death benefit fund.

- (A) Subject to the terms of division (J) of section 742.63 of the Revised Code, benefits from the public safety officers death benefit fund shall be paid only to eligible surviving spouses and children or dependent parents of persons listed in section 742.63 of the Revised Code provided the member is "killed in the line of duty," as such term is defined in division (A)(12) of section 742.63 of the Revised Code.
- (B) Application and determination of benefits.
- (1) Application for death fund benefits shall be made on a form provided by the Ohio police and fire pension fund ("OP&F"). Such application shall include:
 - (a) An agreement by the applicant to be responsible for reporting any person in the family unit who becomes ineligible for benefits due to marriage or age limitations.
 - (b) A statement agreeing to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45 of the Revised Code, division (D), (E) or (F) of section 742.37 of the Revised Code, or division (A)(3), (A)(4), (A)(5), or (A)(6) of section 5505.17 of the Revised Code.
 - (2) Applications shall be made for the family unit by the surviving spouse. In cases where no eligible spouse exists, and only minor children are eligible, the application shall be filed by the legal guardian.
 - (3) Documentation to be provided by the applicant shall include: a copy of the marriage record, a copy of the death certificate, a birth certificate for each child, and evidence that death was a result of performance of official duties. A guardian who is the applicant shall provide supporting court documentation showing the person's appointment as guardian. Department certification and other documentation may be required by OP&F prior to determination of eligibility.
 - (4) OP&F's board of trustees shall determine a survivor's eligibility for benefits provided for in section 742.63 of the Revised Code and in the event of a denial of benefits, the survivor shall have the right to submit up to two requests for reconsideration provided, however, that new evidence is submitted with such request for reconsideration. OP&F shall review the request for reconsideration in the same manner as an initial application for benefits, subject to the limitations stated in this division.
 - (5) If an initial application for death fund benefits or request for reconsideration has been filed with OP&F, but the required supporting documentation has not been

submitted or the applicant has not taken any action to prosecute his or her claims within six months of the filing with OP&F, ~~the director of member services~~ OP&F shall have the authority to dismiss the initial application or request for reconsideration for failure to prosecute the claim. In order to dismiss a claim for failure to prosecute, OP&F must have given ninety days prior written notice to the applicant of the need to file the required supporting documentation and the applicant failed to file the necessary documentation with OP&F before the expiration of such ninety day time period.

(C) Cause of death of member. For purposes of section 742.63 of the Revised Code, survivors shall be eligible for death fund benefits if the member's death is under the following circumstances:

- (1) Injury or disease sustained in the line of duty.
- (2) Heart disease, with fatal attack while in the line of duty.
- (3) Heart disease or other fatal injury or illness while off duty, if the fatal attack or other fatal injury or illness was caused while in the line of duty.

For purposes of this paragraph, "in the line of duty" shall mean the official duties provided by the employer, including any duties arising out of agreements that the employer may have entered into for the performance of services on behalf of other Ohio villages, cities, or municipalities, or federal agencies or as otherwise imposed by law.

(D) Determination of benefit amount. The term "full monthly salary" as used in division (A) (11) of section 742.63 of the Revised Code shall mean one-twelfth of the base annual ordinance, statute, or contract salary authorized by the employer for the position and salary level attained by the member at the time of death; such position shall be the basis for any future benefit adjustments. Adjustments in benefits shall be made in accordance with the base salary ordinance, statute, or contract of the employer where the decedent was employed.

(E) Method of payment and commencement of payments.

- (1) Where benefits are divided among family members, one payment shall be issued to the spouse and one for each minor child.
- (2) A payment issued for a child under eighteen years of age or for a disabled child shall be made payable to the child's parent or guardian.
- (3) Benefit payments to eligible survivors shall be effective the first day of the month following the month of death.

(4) Payments may not be made prior to board approval.

(F) ~~Termination of death fund benefits:~~

~~(1) All benefits, except those provided for in division (E), (F), (G) or (H)(1) of section 742.63 of the Revised Code, for a surviving family unit shall cease at the close of the calendar month during which the member would have been eligible to receive benefits under his or her retirement plan, had he or she lived.~~

~~(2) When death fund benefits are terminated in accordance with the provisions of division (H) of section 742.63 of the Revised Code, the fund shall reallocate the death fund benefits in accordance with the terms of the ruling issued in *Roseman v. Firemen's and Policemen's Death Benefit Fund*, 613 N.E.2d 574 (1993).~~

(G) ~~Definition of "child" and "children." As used in section 742.63 of the Revised Code, "child" and "children" mean:~~

Definition of "child" and "children." As used in section 742.63 of the Revised Code, "child" and "children" mean:

(1) Any natural child or children born to a marriage of the deceased member, except a child or children adopted by another person prior to the member's death.

(2) Any child or children legally adopted by the member prior to his or her death and any child or children subsequently adopted by the surviving spouse of a member when the member's intention to adopt the child or children was clearly manifested to the satisfaction of the board.

(3) Any natural child or children born outside a marriage of the deceased member when the parenthood of the member can be established to the satisfaction of OP&F's board of trustees.

Effective:

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Certification

Date

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11/23/2001, 02/20/2002 (Emer.), 05/09/2002,
05/17/2007, 12/20/2007, 02/04/2013, 03/22/2018

3307:1-11-05

Health care services - medicare part B reimbursement.

- (A) Pursuant to section 3307.39 of the Revised Code, certain benefit recipients who ~~request reimbursement and verify enrollment in the medicare part B insurance program~~ are enrolled in one of this retirement system's medicare health plans with the retirement system may be eligible for reimbursement for a portion of the cost of the basic medicare part B premium, ~~for months where eligible individuals are enrolled in both a medical plan offered by the retirement system and medicare part B. For approved requests received on or before the fifteenth day of a month, reimbursement begins the first of the month after the date the request is received; otherwise, reimbursement begins the first of the second month after the date the request is received.~~ Reimbursement will be based on service credit in an amount as periodically determined by the retirement board that meets the provisions in division (B) of section 3307.39 of the Revised Code. The retirement board may suspend or discontinue medicare part B reimbursement at any time in its sole discretion.
- (B) A benefit recipient, excluding a recipient enrolled in the health care assistance plan, who continually meets the provisions in paragraph (A) of this rule and who is enrolled in one of this retirement system's medicare health plans, is eligible for reimbursement as specified in this rule.
- (B) ~~The following benefit recipients who continually meet the provisions in paragraph (A) of this rule are eligible for reimbursement as specified in this rule:~~
- (1) ~~A primary recipient.~~
 - (2) ~~A survivor benefit recipient with an effective benefit date that is on or before December 1, 2014 excluding survivor benefit recipients who became a beneficiary prior to January 1, 2008 and were age sixty-five prior to January 1, 2008.~~
- (C) Upon request, a benefit recipient receiving medicare part B premium reimbursement under this rule shall certify the amount paid for medicare part B coverage. The reimbursement amount provided under this rule shall not exceed the amount paid by the benefit recipient.
- (D) For purposes of section 3307.39 of the Revised Code and this rule, basic medicare part B premium means the amount of the standard monthly medicare part B premium determined by the United States secretary of health and human services prior to any premium increases, such as late enrollment penalties or income related monthly adjustment amount being made.

Effective:

Five Year Review (FYR) Dates: 6/3/2026

Certification

Date

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06/22/1992 (Emer.), 09/10/1992, 02/13/1993,
09/01/1996, 07/03/1997, 09/16/1998 (Emer.),
11/27/1998, 05/25/2000, 07/01/2001 (Emer.),
09/17/2001, 01/01/2004 (Emer.), 03/22/2004,
09/30/2004, 11/09/2006, 01/01/2007 (Emer.),
04/01/2007, 03/27/2014, 09/04/2014, 06/10/2016,
01/01/2017, 09/06/2018, 06/03/2021

5505-3-03

Review of eligibility to continue disability retirement benefits.

(A) For the purpose of this rule:

- (1) "Medical advisor" and "examining physician" have the same meaning as rule 5505-3-02 of the Administrative Code.
- (2) "Benefit recipient" means any person who is receiving disability retirement benefits pursuant to section 5505.18 of the Revised Code.

(B) Every benefit recipient under the age of sixty annually shall be subject to a medical examination by HPRS' examining physician, unless the board's medical advisor certifies that a benefit recipient's disability is ongoing and the board waives the requirement that the benefit recipient undergo an annual medical examination.

(C) Every person under the age of sixty who is receiving disability benefits pursuant to section 5505.18 of the Revised Code shall annually submit a statement of earnings, an attending physician's report, and any other medical or employment information as deemed necessary by the executive director or medical advisor to determine whether the benefit recipient is still disabled as defined by section 5505.18 of the Revised Code. The board may waive the requirement to submit an annual statement of earnings or attending physician's report if the board's medical advisor certifies that a disability benefit recipient's disability is ongoing.

- (1) The information required pursuant to paragraph (C) of this rule shall be submitted at a time designated by the executive director, and shall be reported on forms provided by HPRS.
- (2) The information required pursuant to paragraph (C) of this rule shall be reviewed by the medical advisor. If the medical advisor determines the benefit recipient may no longer be disabled or if the benefit recipient has requested termination of benefits, HPRS shall:
 - (a) Schedule a medical examination with an examining physician recommended by the medical advisor.
 - (b) If the examining physician certifies the benefit recipient no longer meets the disability standards set forth in section 5505.18 of the Revised Code, HPRS staff and medical advisor shall present the benefit recipient's file to the board at the next available meeting. No additional information will be accepted from the benefit recipient except as described in paragraph (E)(2) of this rule. Unless requested by the board, the benefit recipient may not appear before the board.

- (3) The board shall review the examining physician's report and if it concurs with the examining physician's certification that the benefit recipient no longer meets the disability standards set forth in section 5505.18 of the Revised Code, the disability benefits shall terminate the earlier of:
- (a) Thirty days after the board concurs with the examining physician's certification,
 - (b) Upon employment with the state highway patrol, or
 - (c) Upon employment in a position as described in rule 5505-3-03.1 of the Administrative Code.
 - (d) Notwithstanding paragraph (C)(3)(a) of this rule, disability benefits will terminate the earlier of sixty days after the board concurs with the examining physician's certification or upon employment with the state highway patrol if HPRS receives confirmation from the state highway patrol that the benefit recipient will be reinstated.
- (D) The benefit recipient will be sent notification of the board's action no more than five days after the board meets and such notice will be sent by regular US mail to the benefit recipient's last known address. The notice will inform the benefit recipient of the date his or her benefits will terminate, if applicable, and his or her right to appeal.
- (E) Within twenty days of the board's decision, the benefit recipient may file a written notice of appeal. The notice of appeal shall reference the decision being appealed and shall include the reason(s) why the decision is being appealed. If the benefit recipient does not file a notice of appeal as described in this rule, the board's determination made under paragraph (C) of this rule is final.
- (1) The notice of appeal will be considered at the next regularly scheduled meeting of the board. Except as provided in this rule, benefits shall not be terminated while an appeal is pending.
 - (2) Within forty days of the board's determination made under paragraph (C) of this rule, the benefit recipient must file any evidence he or she would like considered by the board. New disabling conditions and the related medical evidence will not be considered. Extensions will only be granted if the benefit recipient can show, and the board chair concurs, that additional time is needed to obtain relevant new medical evidence and the process for obtaining that evidence is already in process. HPRS shall void the notice of appeal if new evidence is not received by HPRS in the time described in this paragraph.

- (3) Copies of the reports of the examining physician and medical advisor 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. However, the medical advisor's recommendation will not be released until the board has made an initial decision regarding the member's disability benefits.
 - (4) The applicant has the right to appear at the hearing, with or without counsel, to present new testimony.
 - (5) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
 - (6) The board's decision is final.
- (F) Nothing in this rule or any waiver granted by the board shall waive any rights of HPRS to request the benefit recipient to undergo a medical examination if information is received at any time which indicates the benefit recipient may no longer be eligible for disability benefits.
- (G) Any benefit recipient who desires to be reexamined in conjunction with a request to return to active duty status shall first be required to submit a medical examination report from a physician of his or her choice, which certifies that the benefit recipient is no longer eligible for disability benefits. The benefit recipient shall then be subject to the process described in paragraph (C) of this rule.
- (H) Failure to comply with the provisions identified in this rule may result in the suspension of disability and healthcare benefits.
- (1) Unless for good cause shown, the disability benefit recipient shall be presumed to have refused to submit to the medical examination by an examining physician if HPRS has scheduled such examinations two times and such disability benefit recipient has canceled, rescheduled, or failed to submit to such scheduled medical examinations.
 - (2) The refusal of a benefit recipient to submit to a medical examination or submit employment information requested pursuant paragraphs (B) and (C) of this rule shall result in the suspension of disability benefits and health care or prescription benefits selected by the disability benefit recipient, if any, upon thirty days prior written notice to the benefit recipient and shall continue until compliance.
 - (a) The suspension of disability and health care or prescription drug benefits selected by the disability benefit recipient, if any, shall be effective on

the first day of the month immediately following the expiration of the aforementioned thirty day notice period.

- (b) In the event the benefit recipient submits to the required medical examination or information after the aforementioned thirty day notice period, HPRS will reinstate the benefit recipient's disability and health care or prescription drug benefits selected by the benefit recipient, if any, on the first day of the month immediately following the benefit recipient's compliance.

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5505-3-03.1

Disability retiree employment as a law enforcement officer.

- (A) For the purpose of division (F)(1) of section 5505.18 of the Revised Code, "law enforcement officer" includes any "member of a police department" as defined by section 742.01 of the Revised Code and the associated administrative rules and any person that is appointed, commissioned, compensated, designated, employed, engaged, volunteering, or otherwise serving as one of the following:
- (1) A sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force established under division (D) of section 3735.31 of the Revised Code, or township constable or a similar job position outside the state of Ohio;
 - (2) A railroad company police officer governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
 - (3) A person engaged in the enforcement of Chapter 5743. of the Revised Code on behalf of the department of taxation and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code or a similar job position outside the state of Ohio;
 - (4) An undercover drug agent or a similar job position outside the state of Ohio;
 - (5) A department of public safety enforcement agent governed by section 5502.14 of the Revised Code or a similar job position outside the state of Ohio;
 - (6) A natural resources law enforcement staff officer in the department of natural resources governed by section 1501.013, ~~a wildlife officer governed by section 1531.13, or a natural resource officer governed by section 1501.24~~ of the Revised Code or a similar job position outside the state of Ohio;
 - (7) A forest-fire investigator in the department of natural resources governed by section 1503.09 of the Revised Code or similar job position outside the state of Ohio;
 - (8) A natural resources officer in the department of natural resources governed by section 1501.24 of the Revised Code or a similar job position outside the state of Ohio;
 - (9) A wildlife officer in the department of natural resources governed by section 1531.13 of the Revised Code or a similar job position outside the state of Ohio;

- ~~(7)~~(10) A park district law enforcement officer governed by section 511.232 or 1545.13 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(8)~~(11) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(9)~~(12) A member of a hospital police or security department governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(10)~~(13) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(11)~~(14) A member of a qualified nonprofit corporation police department established by section 1702.80 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(12)~~(15) A state university law enforcement officer governed by section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- ~~(13)~~(16) A special police officer in the department of mental health governed by section 5119.08 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(14)~~(17) A special police officer in the Ohio department of developmental disabilities governed by section 5123.13 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(15)~~(18) A member of a campus police department established under section 1713.50 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(16)~~(19) A regional transit authority police officer governed by division (Y) of section 306.35 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(17)~~(20) An investigator of the auditor of state governed by section 117.091 of the Revised Code who is engaged in the enforcement of Chapter 117. of the Revised Code or a similar job position outside the state of Ohio;

- ~~(18)~~(21) A special police officer serving on state property pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- ~~(19)~~(22) A port authority special police officer governed by section 4582.04 or 4582.28 of the Revised Code or a person serving as a port authority special police officer on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- ~~(20)~~(23) A municipal corporation special police officer who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is serving at a municipal airport or other municipal air navigation facility that is governed by aviation security rules of the transportation security administration of the United States department of transportation and required by federal laws and regulations to be under a security program or a similar job position outside the state of Ohio;
- ~~(21)~~(24) A PERS law enforcement officer, as defined in section 145.01 of the Revised Code or a similar job position outside the state of Ohio; or
- ~~(22)~~(25) A bailiff or deputy bailiff of a court of record in this state who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(23)~~(26) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;
- ~~(24)~~(27) An employee of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section;
- ~~(25)~~(28) A federal protective service officer or a federal marshal, including, but not limited to, a court security officer hired by the U.S. marshals service;

- ~~(26)~~(29) A gaming agent employed under section 3772.03 of the Revised Code or a similar job position outside the state of Ohio.
- (B) For the purpose of this rule, "Benefit Recipient" shall have the same meaning as rule 5505-3-03 of the Administrative Code.
- (C) If the executive director determines that a benefit recipient is employed in a position described in division (A) of this rule, HPRS staff and medical advisor shall present the benefit recipient's file to the board at the next board meeting. If the board concurs with the executive director's determination, disability benefits shall terminate effective the date the benefit recipient accepted employment that resulted in the termination of benefits. Unless requested by the board, the benefit recipient may not appear before the board.
- (D) The benefit recipient will be sent notification of the board's action no more than five days after the board meets and such notice will be sent by regular U.S. mail to the benefit recipient's last known address. The notice will inform the benefit recipient of the date his or her benefits will terminate and his or her right to appeal.
- (E) Within twenty days of the board's decision, the benefit recipient may file a written notice of appeal. The notice of appeal shall reference the decision being appealed and shall include the reason(s) why the decision is being appealed. If the benefit recipient does not file a notice of appeal as described in this rule, the board's determination made under paragraph (C) of this rule is final.
- (1) The notice of appeal will be considered at the next regularly scheduled meeting of the board. Except as provided in this rule, benefits shall not be terminated while an appeal is pending.
 - (2) Within forty days of the board's determination made under paragraph (C) of this rule, the benefit recipient must file any evidence he or she would like considered by the board. No extensions shall be granted. HPRS shall void the notice of appeal if new evidence is not received by HPRS in the time described in this paragraph.
 - (3) The applicant has the right to appear at the hearing, with or without counsel, to present new testimony.
 - (4) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
 - (5) The board's decision is final.

Effective:

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5505-3-07

Deferred retirement option plan.

(A) As provided for in section 5505.50 of the Revised Code, the date of the initial implementation of the deferred retirement option plan (DROP) shall be June 15, 2006.

(B) A member's election to participate in DROP is effective the later of:

- (1) The first day of the employer's payroll immediately following the board's receipt of the notice of election;
- (2) The first day of the employer's payroll designated by the member in the notice of election as long as the designated payroll is within thirty days of the board's receipt of the notice of election; or
- (3) The first day of the employer's payroll immediately following the member's eligibility to participate in DROP.

(C) A DROP participant may rescind his or her election to participate in DROP, only if HPRS receives a written notice from the DROP participant that directs HPRS to rescind such election and this written notice is received by HPRS within 30 days after HPRS received the DROP participant's election, as determined by HPRS.

~~(C)~~(D) A DROP participant may apply for disability retirement pursuant to sections 5505.18 and 5505.58 of the Revised Code and rule 5505-3-02 of the Administrative Code.

- (1) HPRS shall void an application for disability retirement upon an event that terminates the member's DROP participation as defined by section 5505.55 of the Revised Code.
- (2) A DROP participant who qualifies for disability retirement and elects to receive benefits pursuant to division (A)(1) or (B) of section 5505.58 of the Revised Code shall be age and service retired and not subject to the requirements of section 5505.18 of the Revised Code or rule 5505-3-03 of the Administrative Code.
- (3) A DROP participant who qualifies for disability retirement and elects to receive benefits pursuant to division (A)(2) of section 5505.58 of the Revised Code shall be disability retired and subject to the requirements of section 5505.18 of the Revised Code and rule 5505-3-03 of the Administrative Code.
- (4) A member that is receiving disability retirement benefits pursuant to division (A)(2) of section 5505.58 of the Revised Code that returns to active service will be considered an active member and must submit a new application for DROP.

Amounts previously forfeited pursuant to section 5505.58 of the Revised Code shall not be accrued to the members benefit.

- (5) A member whose participation in DROP terminates as a result of qualifying for disability pursuant to section 5505.58 of the Revised Code shall not forfeit the interest credited under division (C) of section 5505.54 of the Revised Code except as provided in division (A)(2) of section 5505.58 of the Revised Code.

~~(D)~~(E) Interest shall continue to accrue pursuant to division (C) of section 5505.54 of the Revised Code after a member's participation in DROP ceases.

~~(E)~~(F)

- (1) As described in division (B)(1) of section 5505.56 of the Revised Code, "on or after the first day of the fourth year" and "earlier than four years" shall mean after three years have elapsed since the DROP effective date as described in paragraph (B) of this rule.
- (2) As described in division (B)(2) of section 5505.56 of the Revised Code, "on or after the first day of the third year" and "earlier than three years" shall mean after two years have elapsed since the DROP effective date as described in paragraph (B) of this rule.

~~(F)~~(G)

- (1) Provided that the other candidacy eligibility criteria are met, a member participating in DROP shall be eligible to be elected as an employee member of the retirement board, but shall not be eligible to be elected as a retirant member of the retirement board.
- (2) A retirement board trustee who ceases participation in DROP shall no longer be eligible to be an employee member of the board of trustees. The trustee's position on the board of trustees shall be vacant upon the effective date of the DROP termination.

~~(G)~~(H) Surviving spouses and beneficiaries

- (1) Pursuant to section 5505.59 of the Revised Code, a member may not name a spouse as a beneficiary.
- (2) A surviving spouse or beneficiary shall select a method of distribution of any amount due to such person pursuant to section 5505.59 of the Revised Code within sixty days of notification from HPRS. If a method of distribution is not

made within sixty days, the amounts due will be distributed as a lump sum payment.

~~(H)~~(I) DROP termination

(1) Active service in the state highway patrol is terminated upon separation pursuant to section 124.32 of the Revised Code.

(2) Subject to paragraph (H)(1) of this rule, a member shall be considered in the active service of the state highway patrol while receiving benefits pursuant to section 124.385 of the Revised Code.

~~(H)~~(J) Pursuant to section 5505.54 of the Revised Code, interest on DROP account balances shall be calculated at the Barclays U.S. government/credit intermediate. The interest rate shall be established at June thirtieth and December thirty-first for the following six-month period. Effective October 1, 2021, the rate of interest shall not exceed five per cent or be lower than two per cent.

~~(H)~~(K) Effective October 1, 2021, the state highway patrol retirement system shall calculate interest on the DROP participant's DROP balance on the last day of each month.

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5505.56
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10/18/2021

5505-5-02

Prior service credit.

- (A) A member of the highway patrol retirement system may purchase retirement credit for full-time service as a member of a state or municipal retirement system as defined in sections 5505.20, 5505.201, and 5505.40 of the Revised Code.
- (B) "Full-time service" is defined as a period of employment during which the employee regularly worked substantially the same number of hours as would a member of the highway patrol retirement system.
- (C) Credit may not be purchased for periods of employment during which the employee was not considered to be full-time, nor can these periods be combined for full-time credit.
- (1) The member shall provide documented proof of full-time employment as required by HPRS.
- (2) In the absence of clear documentation to the contrary, if the record of contributions indicates that the member was not receiving pay equivalent to or greater than the minimum wage in effect at the time on a forty-hour per week basis, it shall be presumed that the employment was not full-time.
- (D) Credit may not be purchased for periods of employment during which credit was purchased from any other state or municipal retirement system.
- (E) Upon application to purchase prior service credit, the appropriate retirement system shall certify, to the satisfaction of HPRS, the service dates and refunded contributions of the member on the application.
- (F)) When prior service credit purchased under sections 5505.20, 5505.201, 5505.40, and division (C) of section 5505.17 of the Revised Code is purchased in increments, the cost for purchasing a portion of this service credit shall be calculated as a proportionate part of the total cost.
- (G) Nothing in this rule shall be construed to permit a member's purchase of credit for purposes of meeting the minimum number of years of service necessary to receive a pension.

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11/01/1993, 01/01/1995, 12/01/1995, 10/21/2005,
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5505-5-03

Purchase of military service credit.

- (A) If a member elects not to purchase interrupted military service in accordance with division (D) of section 5505.16 of the Revised Code, the member may purchase military service credit in accordance with section 5505.25 of the Revised Code.
- (B) The member may only purchase up to the period of time from the entry date to the date of discharge as designated by the member's DD-214 or comparable document, or the period beginning with the date the member's leave of absence began and ending with the date the member returned to active service with the state highway patrol, whichever is less.
- (C) A member may purchase military service credit under section 5505.25 and division (D) of section 5505.16 of the Revised Code in increments. The cost for purchasing a portion of military service credit shall be calculated as a proportionate part of the total cost.
- (D) In no case shall a member receive more than three hundred sixty-five days of service credit for any one year.

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5505-7-04

Health care.

(A) For the purpose of this rule:

- (1) "Age and service retirant" shall mean a former member that applied for and was granted retirement benefits as described in section 5505.16 of the Revised Code.
- (2) "Benefit recipient" shall mean an age and service retirant or disability retirant that is receiving a pension benefit as described in division (A)(1) of section 5505.17 of the Revised Code that qualifies for health care coverage pursuant to paragraph (E) of this rule. Benefit recipient does not include a member participating in the "Deferred Retirement Option Program."
- (3) "Child" shall mean a biological child, lawfully adopted child, child placed for adoption or stepchild of a benefit recipient or member provided that such child has not yet attained age twenty-six. "Child" shall also mean a child for whom a benefit recipient or member has been legally appointed as guardian, provided that such child has not yet attained age eighteen.
- (4) "Dependent" shall mean the spouse or child as defined in this rule.
- (5) "Disability retirant" shall mean a former member that applied for and was granted retirement benefits as described in section 5505.18 of the Revised Code.
- (6) "Eligible dependent" shall mean a dependent that qualifies for health care coverage pursuant to paragraph (F) or (G) of this rule.
- (7) "Medicare health reimbursement arrangement plan" means the HPRS medicare health reimbursement arrangement plan, effective October 1, 2021, from which the reimbursement of qualifying medical expenses may be made. The text of the HPRS medicare health reimbursement arrangement plan shall not be incorporated into this or any other rule of the Administrative Code.
- (8) "Member" shall have the same meaning as division (I) of section 5505.01 of the Revised Code.
- (9) "Retirant" shall mean an age and service retirant or disability retirant.
- (10) "Spouse" shall mean a wife or husband of a retirant or member as set forth in a statutorily-valid certificate.
- (11) "Eligible Plan" shall mean:

- (a) For a benefit recipient or eligible dependent that is enrolled in medicare part A and medicare part B, the medicare health reimbursement arrangement plan.
 - (b) For those benefit recipients or eligible dependents other than those described in paragraphs (A)(11)(a) and (A)(11)(c) of this rule, any medical or prescription drug plan, other than the medicare health reimbursement arrangement plan, offered pursuant to section 5505.28 of the Revised Code.
 - (c) Eligible plan does not include any dental or vision plan.
- (12) "Service Credit" shall include:
- (a) Credit earned as an employee as defined by division (A) of section 5505.01 of the Revised Code;
 - (b) Military service credit purchased pursuant to division (D) of section 5505.16 of the Revised Code; and
 - (c) Credit granted under section 5505.201 of the Revised Code.
- (B) The rights of an individual participating in the medicare health reimbursement arrangement plan to a monthly allowance or to reimbursement, including eligibility and coordination of coverage, shall be governed exclusively by the provisions of the HPRS medicare health reimbursement arrangement plan.
- (C) Benefit recipients and eligible dependents may enroll in an eligible plan offered pursuant to section 5505.28 of the Revised Code.
- (1) Where applicable, the annual premium cost for each category of coverage will be determined by the board prior to the annual open enrollment period.
 - (2) All provisions of this rule are subject to current health care contracts and amendments.
 - (3) The board may implement cost control measures as it deems necessary.
 - (4) Pre-medicare benefit recipients and pre-medicare eligible dependents are eligible for prescription drug coverage only if they are enrolled under the state highway patrol retirement system medical coverage.

(D) Notwithstanding any other provision of this rule, any benefit recipient or eligible dependent that is or becomes employed by the state highway patrol in any capacity shall be ineligible for health care or prescription drug coverage.

(E) The following benefit recipients shall be eligible for health care:

(1) Except as provided in paragraph (E)(3) of this rule, a benefit recipient that began receiving a pension pursuant to division (A)(1) of section 5505.17 of the Revised Code or elects to participate in the deferred retirement option plan pursuant to section 5505.51 of the Revised Code before January 1, 2020;

(2) Except as provided in paragraph (E)(3) for this rule, a benefit recipient that began receiving a pension pursuant to division (A)(1) of section 5505.17 of the Revised Code or elects to participate in the deferred retirement option plan pursuant to section 5505.51 of the Revised Code on or after January 1, 2020 shall be eligible for health care coverage only if he or she has twenty or more years of service credit;

(3) A benefit recipient granted a disability pursuant to section 5505.18 of the Revised Code.

(F) The pre-medicare dependents of a benefit recipient are eligible for health care, subject to the following conditions:

(1) The benefit recipient is enrolled in an HPRS eligible plan.

(2)

(a) Effective January 1, 2018, a child who is eighteen up to twenty-six years of age is not an eligible dependent if he or she has access to any medical and/or prescription coverage through employment, a biological or step-parent, a spouse, military service, or a college or university regardless of cost. For the purpose of this division, access to medical and/or prescription coverage includes receiving a payment, stipend, or other remuneration of any kind.

(b) A child for whom the benefit recipient has been appointed as guardian is eligible for health care if the child is unmarried, chiefly dependent on the benefit recipient, and lives in the same household as the benefit recipient.

(3) The board may require documented proof of marriage, guardianship, or parenthood. The board reserves the right to deny or cancel coverage if the benefit recipient or dependent does not comply with the board's request for documents.

(G) After the death of a retirant or member, dependents are eligible or become eligible for health care coverage, subject to the following conditions:

(1)

(a) The retirant or member was eligible to be a benefit recipient at the time of death;

(b) If the retirant or member was not eligible to be a benefit recipient at the time of death, the date in which the member would have been eligible to enroll pursuant to paragraph (E) of this rule; and

(c) the dependent is eligible to enroll pursuant to paragraph (B) or (F) of this rule.

(2) A child for whom a retirant or member has been legally appointed as guardian, who would have been eligible to enroll pursuant to paragraph (E) of this rule, may obtain or continue coverage, provided the spouse elects to continue coverage if:

(a) The spouse is appointed guardian of the child within ninety days of the retirant or member's death, and the child is chiefly dependent on the spouse and lives in the same household as the spouse; and

(b) The child would be eligible pursuant to paragraph (F) of this rule.

(3) In the event a spouse remarries, health care eligibility shall continue.

Notwithstanding the foregoing, a pre-medicare spouse who has access to medical and/or prescription coverage through his or her new spouse must secure it as primary coverage, regardless of cost; secondary coverage may be maintained.

(4) The service credit requirements included in paragraph (E)(2) of this rule do not apply to the dependent of a member killed in the line of duty.

(H) Open enrollment for all health care options under paragraph (A)(11)(b) of this rule will be November first through November thirtieth each year.

(1) Pre-medicare eligible benefit recipients and dependents may enroll in coverage only during open enrollment, except to the extent of (a) a qualifying event that affects that individual's eligibility for health benefits; (b) a medicare rule; or (c) a newly retired member may enroll up to sixty days after his or her retirement effective date. Coverage may be terminated at any time.

- (2) Qualifying events include -
 - (a) Marriage,
 - (b) Birth, adoption, placement for adoption or legal guardianship of a child,
 - (c) Change in employment status,
 - (d) Divorce, annulment, or dissolution,
 - (e) Legal separation,
 - (f) Involuntary termination of other group coverage, or
 - (g) Death.
- (3) The effective date of pre-medicare coverage will be -
 - (a) January first for an addition during open enrollment.
 - (b) The beginning of the month following the receipt of an enrollment form based on a qualifying event.
 - (c) The date of marriage for the addition of a new spouse or stepchild.
 - (d) The date of birth for the addition of a newborn.
 - (e) The adoption date for the addition of a newly-adopted child or the date the child is placed for adoption.
 - (f) The date the legal guardianship becomes effective.
- (4) Upon request, a pre-medicare benefit recipient or eligible dependent may designate an effective date of coverage that is the beginning of a month no later than two months after the effective date under paragraph (H)(3) of this rule.
- (5) To qualify for coverage, an enrollment form based upon a qualifying event must be received by the retirement system no later than sixty days after the event.
- (I) A termination of coverage will be effective at the end of the month during which an enrollment change form is received.
 - (1) Health care coverage for pre-medicare eligible dependents shall terminate under the following conditions:

- (a) At the end of the month in which the spouse is no longer married to the benefit recipient.
 - (b) At the end of the month in which the child attains the age of twenty-six except in the case of a legal guardianship which shall be when the child is no longer eligible as defined by paragraph (F)(2) of this rule.
 - (c) At the end of the month in which the benefit recipient terminates coverage.
- (2) Health care eligibility of a child of a deceased member or retirant will terminate at age twenty-six except in the case of a legal guardianship which shall be when the child is no longer eligible as defined by paragraph (F)(2) of this rule.

(J)

- (1) Notwithstanding the provisions of paragraphs (H)(1)(b) and (H)(2) of this rule, health care coverage will continue for a disabled child who meets all of the following:
- (a) Is unmarried;
 - (b) Is mentally or physically incapable of earning his or her own living;
 - (c) Became disabled prior to the attainment of the limiting age for coverage of children;
 - (d) The child met the eligibility requirements included in paragraph (F) of this rule at the time the disability occurred;
 - (e) Is chiefly dependent upon the retirant for support and maintenance; and
 - (f) Is not eligible for medicare part A and medicare part B.
 - (g) A pre-medicare disabled child that qualifies for coverage beyond age twenty-six under this rule that has access to other medical and/or prescription coverage must secure the other coverage as primary coverage, regardless of cost.
- (2) To determine whether a disabled dependent child qualifies for coverage under this rule, the retirement board may require -
- (a) A physician's statement;
 - (b) An independent medical examination;

- (c) Two years of federal tax returns from both the parents and the dependent child;
- (d) Proof that the disabled child applied for medicare insurance; and
- (e) Any other information that the board deems relevant.

(K)

- (1) A pre-medicare spouse who has access to medical and/or prescription coverage through employment must secure it as primary coverage, regardless of cost. Notwithstanding this provision, primary dental and vision coverage and secondary medical and prescription coverage may be elected through the state highway patrol retirement system.
- (2) A pre-medicare spouse who has access, as a benefit recipient of another retirement system or pension plan, to medical and/or prescription coverage must secure it as primary coverage, regardless of cost. Further, a spouse that receives a payment, stipend, or other remuneration of any kind from another retirement system or pension plan for the purpose of obtaining medical and/or prescription coverage may not elect state highway patrol retirement system coverage as primary coverage. Notwithstanding this provision, primary dental and vision coverage and secondary medical and prescription coverage may be elected through the state highway patrol retirement system. A dependent who had coverage through the state highway patrol retirement system prior to January 1, 2011 may continue that coverage until it is interrupted.

(L) An individual who receives benefits in accordance with section 5505.16, 5505.17, or 5505.18 of the Revised Code may be reimbursed for medicare part B premiums upon the receipt of evidence of coverage, up to a maximum amount established by the board.

- (1) The reimbursement amount for calendar year 2017 and each year thereafter shall be zero.
- (2) To the extent an individual becomes eligible for medicare part B, from that date forward, the individual must purchase medicare part B. An individual that fails to enroll in medicare part B within thirty days of the eligibility date shall immediately become ineligible for HPRS medical and prescription coverage. A benefit recipient is not required to purchase retroactive medicare part B coverage in order to qualify for full benefits.

(M) If it is available at no cost, a participant is required to enroll in medicare part A. The board reserves the right to terminate medical and prescription coverage of an

individual who does not maintain medicare part A coverage that is available at no cost.

- (N) Anyone who is eligible for a benefit based only on (1) an election in accordance with division (A)(2) of section 5505.162 of the Revised Code, (2) divisions (A)(2) to (A)(7) of section 5505.17 of the Revised Code, or (3) being an alternate payee under section 5505.261 of the Revised Code is not eligible for health care coverage or medicare part B reimbursement.
- (O) An enrolled benefit recipient's coverage shall be rescinded if the benefit recipient performs an act, practice or omission that constitutes fraud or makes an intentional misrepresentation of material fact regarding the health care coverage. The effective date of the termination of coverage shall be the date of the act, practice or omission that constitutes fraud or an intentional misrepresentation of material fact, unless otherwise limited by Ohio law. The retirement system shall notify the benefit recipient of the rescission at least thirty days prior to processing the rescission. The rescission applies to all enrolled dependents and all coverage options.
- (P) The executive director is authorized to deny or cancel coverage if the benefit recipient or dependent does not comply with a request for documents or information the executive director deems necessary to carry-out the requirements of this rule.
- (Q) Any person eligible to receive a monthly allowance or reimbursement under the medicare health reimbursement arrangement plan shall inform the retirement system, in writing, not later than thirty days after the person no longer meets the requirements of the medicare health reimbursement arrangement plan.

Five Year Review (FYR) Dates: 6/29/2022 and 06/29/2027

CERTIFIED ELECTRONICALLY

Certification

06/29/2022

Date

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5505-9-05

Release of records.

- (A) All information contained in the records of the retirement system shall be open to public inspection except the following:
- (1) The personal history record as defined in division (C) of section 5505.04 of the Revised Code.
 - (2) The amount of any pension, benefit, or allowance paid to any benefit recipient.
 - (3) Medical reports or recommendations, except that this information shall be made available to the member or the member's designee, and to any other persons as necessary for the proper administration of the retirement system.
 - (4) Information of which the release is prohibited by the Ohio Revised Code, or if the board determines the information is confidential.
- (B) Any member, former member, or benefit recipient may authorize, in writing, the release of personal history records or medical reports or recommendations.
- (C) Requested documents may be subject to a fee of five cents a copy, plus any packaging and mailing costs.
- (D) There shall be no charge to a member or benefit recipient for a copy of specific data produced by HPRS that is a part of the individual's personal history record.
- (E) Nothing in paragraph (A) or (B) of this rule is intended to prohibit the release of personal history records as provided in divisions (C), (D) and (E) of section 5505.04 of the Revised Code.
- (F) As used in division (F) of section 5505.04 of the Revised Code, the retirement system logo on official letterhead will function as the system's official seal.
- (G) Records of the retirement system may be maintained in digital form. Physical records are subject to immediate destruction; however, records that are deemed to be critical by the retirement board, including member and retirant files, will be retained in printed form for a minimum of six months after imaging.

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