

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) "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 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 who specializes in occupational medicine 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.
- (13) "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 disability applications, who shall be a different physician than the medical advisor.
- (14) "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 the medical advisor 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 742-3-01 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.

(1) 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.

(a) If no such election is filed with OP&F within the time period provided in paragraph (D)(1) of this rule, the award shall be rescinded, effective immediately upon the expiration of the ninety-day time period provided for in this paragraph.

(b) Subject to the requirement set forth in paragraph (D)(1)(a) 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)(8) or (E)(5) of this rule, the disability benefit shall be rescinded, effective immediately upon the expiration of such notice period.

(c) Notwithstanding the foregoing rescission of disability benefits, such member 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) Any member aggrieved by an action of the board with respect to an application for disability retirement must 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.
- (2) Within sixty days of filing of the notice of appeal, the aggrieved member shall file with OP&F all materials which he or she desires to submit in support of the appeal, including doctors' reports, statements, memoranda, etc. 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.
- (3) Upon receipt of the supporting materials, OP&F shall schedule the member for an appointment with an expert in vocational evaluations if a vocational evaluation was not done as part of the initial determination of disability. For all appeals of the board's initial determination of disability, OP&F shall provide the supporting materials submitted by the member to the expert in vocational evaluations and the physician for consideration and both the vocational evaluator and physical shall submit to the board an addendum to their original reports.

Upon receipt of such updated report(s), 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 held within sixty days of the receipt of the vocational assessment specialist's report by the board; provided, however, that 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 tape recording of the hearing will be made to provide the board and the medical advisor with a record for further review. Such tape 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.

(4) Following the hearing on appeal, the board may choose to:

- (a) Affirm the original determination of disability;
- (b) Modify the original determination of disability; or
- (c) 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.

(5) 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 or off-duty 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 in any calendar year.
- (G) Notwithstanding anything herein to the contrary, once a member has deposited, negotiated, or cashed a disability benefit check from OP&F, accepted health care benefits from OP&F from and after the date of the board's initial determination of disability, 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.
- (3) Such additional medical treatment must be an allowable medical expense under OP&F's medical expense benefits program.

(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 medical expense benefits upon ninety days prior written notice to the disability benefit recipient.
 - (a) If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of medical expense benefits and disability benefits 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, the fund will not suspend the disability benefit recipient's medical expense benefits and disability benefits.

- (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, the fund will reinstate the disability and medical expense benefits 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 the fund, subject to the terms of rule 742-7-06 of the Administrative Code. In such event, the disability benefit recipient shall fully cooperate with the fund on the coordination of claims filed for medical expenses incurred during such suspension period. Notwithstanding the reinstatement of disability and medical expense benefits provided for in this paragraph, the fund shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of medical expense benefits under the applicable health care plans, and the fund shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension, including, but not limited to dental, vision, and prescription expenses, and in such event, the fund shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.
- (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 and medical expense benefits 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 members 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 OP&F receives the physician's report or copies of one of the tests or diagnostic procedures set forth in rule 742-1-02 of the Administrative Code (but not the medical questionnaire completed by the member) 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, except that in the case where OP&F sent a notice of deficiency to the employer, a subsequent examination will satisfy these requirements if the employer corrected the noted deficiency(ies) within the time period prescribed by OP&F and in all cases, 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) ~~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 demonstrating that a member's heart disease or any cardiovascular or respiratory disease is the result of the member's duties as a police officer or fire fighter.~~ 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 paragraph (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.

Effective:

R.C. 119.032 review dates: 10/11/2013

Certification

Date

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Rule Amplifies: 742.38, 742.353
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2/16/06, 7/24/08, 10/16/08, 01/22/09, 10/17/10,
06/07/2013

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Agents standard of conduct.

- (A) All attorneys, agents and representatives of an OP&F member shall abide by the following standards of conduct while representing the member in any dealings with OP&F:
- (1) Provide competent representation to a member, which requires the knowledge, skill, thoroughness and preparation reasonably necessary for the representation. This also includes being, or becoming, familiar with OP&F's governing statutes, administrative rules and procedures;
 - (2) Abide by OP&F's governing provisions and procedures at all times;
 - (3) Conduct his or her dealings in an ethical manner that furthers the efficient, fair and orderly conduct of the administrative decision-making process. This includes acting with reasonable diligence and promptness in representing a member and providing prompt and responsive answers to requests from OP&F for any relevant information or documentation;
 - (4) Be forthright in his or her dealings with OP&F and with the member; and
 - (5) Otherwise act in a manner that is consistent with OP&F's core values, which includes acting with prudence, integrity and empathy.
- (B) All attorneys, agents and representatives of an OP&F member shall not do any of the following while representing the member in any dealings with OP&F:
- (1) In any manner or by any means threaten, coerce, intimidate, deceive or knowingly mislead any member or beneficiary regarding benefits or other rights;
 - (2) Knowingly make or present any misleading oral or written statements, assertions or representations about a material fact of provision of law concerning any matter;
 - (3) Through his or her own actions or omissions, unreasonably delay or cause to be delayed any benefit process;
 - (4) Divulge, without the member's written consent, any information from the member's personal history record;
 - (5) Attempt to influence, directly or indirectly, the outcome of a decision,

determination or other administrative action by offering a loan, gift or anything of value to a board member or employee of OP&F; and

- (6) Engage in actions or behavior prejudicial to the fair and orderly conduct of administrative proceedings, including, but not limited to, threatening or intimidating language, gestures or actions.
- (C) All attorneys, agents and representatives of an OP&F member shall be required to sign a letter of engagement on a form provided by OP&F in which they acknowledge the provisions of this rule and agree to abide by such standards when representing an OP&F member in any dealings with OP&F. Any attorney, agent or representative of an OP&F member who fails to sign the letter of engagement or violates any provision of this rule shall not be permitted to practice or represent parties before OP&F's board of trustees.

R.C. 119.032 review dates: 10/29/2013 and 10/29/2018

CERTIFIED ELECTRONICALLY

Certification

10/29/2013

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.10, 742.41
Prior Effective Dates: 12/04/2008

742-7-12

Health care discount program.

- (A) OP&F may offer a discount in the non-subsidized portion of the health care contributions established by OP&F's board of trustees for eligible members or eligible survivors who meet the criteria established by OP&F's board of trustees. If such a discount is offered, eligible members or eligible survivors requesting the discount must file the appropriate form with OP&F's third party administrator for healthcare. The request must be filed prior to the date published on the form in order to be eligible for the discount for the applicable period. If an eligible member or eligible survivor fails to file the appropriate request form by the deadline date, no discount for that year, including a retroactive discount established by OP&F's board of trustees.

To be eligible for any discount in the non-subsidized portion of the health care contributions offered by the OP&F board of trustees, a member or survivor shall have a total household income equal to or less than a percentage, which shall be annually established by the board, of the poverty level established annually by the United States department of health and human services.

- ~~(1) In order to request a discount for those eligible members or eligible survivors, the request must be filed with OP&F according to OP&F's established the form and it must be received by OP&F prior to the date published in OP&F's form in order to be eligible for the discount for the applicable period, except as otherwise provided in paragraph (G)() of this rule. If an eligible member or eligible survivor fails to file an application by the deadline date, no discount for that year, including a retroactive discount, may be granted by OP&F, even if the person meets the criteria established by OP&F's board of trustees.~~

- ~~(B) For purposes of determining household income, the applicant must certify the household income of the applicant and a member of his/her household for the year immediately preceding the period over which the discount is requested regardless of whether or not the spouse or member of the household are enrolled in health care coverage provided through insurance companies who have a contractual relationship with OP&F, which may include, but not be limited to, the following:~~

- ~~(1) The annual benefit paid by OP&F to the eligible member or eligible survivor;~~
- ~~(2) Annuity payments or benefits paid to the eligible member or eligible survivor or a member of their household;~~
- ~~(3) Death benefits paid to the eligible member or eligible survivor or a member of their household;~~
- ~~(4) The annual income of the eligible member's spouse or the eligible survivor's spouse;~~
- ~~(5) Social security benefits paid to the eligible member or eligible survivor or a~~

member of their household;

- ~~(6) Welfare benefits paid to the eligible member or eligible survivor or a member of their household;~~
- ~~(7) Workers compensation benefits paid to the eligible member or eligible survivor or a member of their household;~~
- ~~(8) Child or spousal support paid to the eligible member or eligible survivor or a member of their household; and~~
- ~~(9) Unemployment benefits or assistance paid to the eligible member or eligible survivor or a member of their household.~~
- ~~(10) Income from investment, including, but not limited to interest and dividends.~~
- ~~(11) Any other income that is reportable according to the Internal Revenue Code of 1986, as amended.~~

~~(C)(B)~~ OP&F's board of trustees initially established discounts on contributions for the period July 1, 2001 through June 30, 2002. The board of trustees then re-evaluated and changed discounts on contributions for the period July 1, 2002 through June 30, 2003 and for the period July 1, 2003 through December 31, 2004, subject to the right to apply for the discount as part of the 2004 annual change period election period for plan year 2004. For plan year 2005 and thereafter, the The discount amount established by the board of trustees shall be effective on January first of each year through and including December thirty-first of that year.

~~(D)(C)~~ OP&F OP&F's third party administrator for healthcare will provide a written notice to the applicant on whether or not the discount has been granted.

~~(E)(D)~~ If the discount has been granted by ~~OP&F~~OP&F's third party administrator for healthcare, a change in the household income of that eligible member or eligible survivor shall not impact the discount granted to that person for the discount period provided the person originally met the criteria at the time the application discount request form was filed ~~with OP&F~~. If the discount has not been granted by OP&F and a decline in the household income of that eligible member or eligible survivor occurs from and after the deadline date referenced in paragraph (A)~~(1)~~ of this rule, the eligible member or eligible survivor shall not be allowed to enroll or receive the discount.

~~(F)(E)~~ By filing the application discount request form, the eligible member or survivor authorizes OP&F to recover any discount granted as a result of a false or inaccurate statement made by the eligible member or eligible survivor or their authorized representative and OP&F reserves the right to request additional information for

verification purposes only.

~~(G) For new eligible members or eligible survivors enrolling in health care, OP&F will consider the application if the application is requested and filed within ninety days from the date on which OP&F sent the discount application form to the eligible member or eligible survivor, based on the current address shown on OP&F's books and records, but in no event will OP&F consider a discount application if it has been requested and filed more than ninety days after the member elected the health care coverage. For these type of cases where the application has been timely filed and the person meets the criteria established by OP&F's board of trustees, the discount will be effective the month following receipt of the discount application once OP&F has granted the discount to such eligible persons so no prorations will be made.~~

~~(H)~~(F) For purposes of this rule, a "member of the household" shall include any eligible child, as defined in the health care plan referenced in rule 742-7-13 of the Administrative Code.

Effective:

R.C. 119.032 review dates: 10/11/2013

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.45
Prior Effective Dates: 1/29/01, 4/9/01 (Emer.), 6/24/01, 8/30/01, 6/26/02 (Emer.), 9/13/02, 10/6/2003, 11/5/2008

742-7-13

Health care program.

(A) For purposes of the health care program referenced in section 742.45 of the Revised Code, the board of trustees of the police and fire pension fund (OP&F) shall initially establish the terms of a health care plan, which will address the following, among other things:

- (1) Health care/prescription drug coverage through contracts with third party administrators;
- (2) Schedule of benefits;
- (3) Supplemental dental and vision benefits;
- ~~(4) Long term care benefits, as more fully described in rule 742-7-10 of the Administrative Code;~~
- ~~(5)~~(4) Medicare part B, as more fully described in rule 742-7-09 of the Administrative Code;
- ~~(6)~~(5) Eligibility criteria;
- ~~(7)~~(6) Coverage provisions;
- ~~(8)~~(7) Enrollment rights;
- ~~(9)~~(8) Termination of coverage;
- ~~(10)~~(9) Contributions and the provision for the payment of any excess contributions due;
- ~~(11)~~(10) The subsidy offered by OP&F;
- ~~(12)~~(11) The right to continue coverage upon the occurrence of certain events;
- ~~(13)~~(12) Coordination with medicare and other plans and benefits;
- ~~(14)~~(13) Administration of the program;
- ~~(15)~~(14) Claims procedures;

~~(16)~~(15) Subrogation rights;

~~(17)~~(16) Excluded coverage; and

~~(18)~~(17) Mandated coverage.

- (B) ~~For plan year beginning January 1, 2004 and thereafter, the~~The terms of the health care plan that outlines the eligibility criteria and OP&F subsidy may only be changed/amended by OP&F's board of trustees, which is intended to serve as an amendment to the health care plan. With the exception of the eligibility criteria, OP&F subsidy, and designation of third party administrators, which may only be changed/amended by OP&F's board of trustees, the plan committee, which consists of OP&F's executive director, director of ~~health~~member services and general counsel, may approve any other amendments to the health care plan for plan year ~~beginning January 1, 2004 and thereafter.~~
- (C) ~~Beginning for plan year 2000 and each year thereafter,~~ OP&F's board of trustees shall annually establish the amount of OP&F's subsidy for that plan year, consistent with OP&F's health care funding policy.
- (D) OP&F shall communicate a summary of the health care plan to its eligible participants. Nothing in the summary is meant to interpret, extend or change in any way the rules set forth in the health care plan.

Effective:

R.C. 119.032 review dates: 10/11/2013

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.45
Prior Effective Dates: 10/6/2003, 11/5/2008

742-10-01

Policy on employee bonuses.

In accordance with division (B) of section 742.102 of the Revised Code, any discretionary non-recurring awards (bonuses) shall be determined and approved each year by the board of trustees of Ohio police and fire pension fund (OP&F). Non-recurring awards may be granted only if OP&F's board of trustees had adopted a budget allocation for non-recurring awards. Each OP&F department director may use allotted funds to reward employees, as appropriate, throughout the year, subject to the limitations set forth in this rule and terms of the discretionary non-recurring award (bonus) program adopted by OP&F's board of trustees. The recommended awards are limited to one payment per year, which shall be limited by the terms of the approved budget and subject to approval by the executive director. At no time shall any non-recurring award in a given calendar year, exceed the lesser of three per cent of an individual's base wages or three thousand five hundred dollars.

R.C. 119.032 review dates: 10/29/2013 and 10/29/2018

CERTIFIED ELECTRONICALLY

Certification

10/29/2013

Date

Promulgated Under: 111.15
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Rule Amplifies: 742.102
Prior Effective Dates: 01/10/2005