



## Ohio Administrative Code

### Rule 742-3-10 Annual medical examinations, termination of benefits and appeal of terminations.

Effective: [September 22, 2022](#)

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#### (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 a physician designated by OP&F, unless the 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 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) The disability benefit recipient shall be notified of the need to schedule the medical examination and 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 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 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 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 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 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.