

Title 27: Personnel

Part 210: PERS, Regulations for Retirement Plans Administered by the Board of Trustees

Chapter 45B: Administration of Disability Benefits for Municipal Systems

100 Purpose

The purpose of this regulation is to provide the rules to be applied in the administration of disability benefits for the municipal retirement plans administered by the PERS Board of Trustees.

101 Fees for determining disability benefits

The Board of Trustees shall adopt and maintain a schedule of fees for disability determination services which shall be reviewed on a periodic basis.

102 Application for Disability Benefits

1. Article 1 - General Municipal Employees (Biloxi and Meridian)

- a. An active General Municipal System member may file an application for disability benefits provided a) such member has at least five (5) years of membership service, or b) such member is permanently and totally disabled from any gainful occupation and such disability occurred as the natural and proximate result of the actual performance of duty, without willful negligence. (Miss. Code Ann. § 21-29-35 and 21-29-39 (1972, as amended))
- b. Any member who has filed a claim for disability benefits, regardless of whether he or she has terminated covered service, but who dies prior to the review and determination by the PERS Medical Board shall be eligible for death benefits, including spouse/survivor benefits or a refund of contributions.
- c. Any member who has filed a claim for disability benefits who has been approved by the Medical Board to receive such benefits but who dies after approval but prior to termination from covered service shall have benefits paid to the surviving spouse and/or dependent children as if he or she had died after disability retirement.

2. Articles 3 and 5

- a. An active Firemen's and Policemen's Disability and Relief Fund member may file an application for disability benefits provided a) such member has at least five (5) years of membership service, or b) such member is totally disabled from duties by reason of sickness or injury caused or sustained by reason of service or discharge of duties. (Miss. Code Ann. §§ 21-29-133, 21-29-135, and 21-29-241 (1972, as amended))
- b. Any member who has filed a claim for disability benefits, regardless of whether he or she has terminated covered service, but who dies prior to the review and determination by the PERS Medical Board shall be eligible for

death benefits, including spouse/survivor benefits or a refund of contributions.

- c. Any member who has filed a claim for disability benefits who has been approved by the Medical Board to receive such benefits but who dies after approval but prior to termination from covered service shall have benefits paid to the surviving spouse and/or dependent children as if he or she had died after disability retirement.

103 Effective date of benefits

1. The effective date of benefits shall be the first of the month following receipt of an application for a disability retirement allowance, but in no event before termination of state service. (Miss. Code Ann. §§25-11-113 (1) (a) and 21-29-35 (1972, as amended))
2. For purposes of determining the effective date of benefits as referenced in number one (1) above, termination from covered service shall mean the cessation of the employee-employer relationship as characterized by resignation or termination from employment, with or without cause. While a member may not be performing the duties of the job, if the member has not resigned or been terminated by the employer, the member is still considered employed and thus, ineligible for initiation of disability retirement benefit payments. In cases where the member is on authorized leave without pay or administrative leave or is receiving Workers' Compensation benefits, such member is considered an employee of the agency, and thus, not eligible to receive disability retirement benefit payments.

104 Medical determination of eligibility for disability benefits

1. The employer must provide the following information, which will be considered by the Medical Board in its determination for eligibility:
 - a. The job description and duties of the member; (Miss. Code Ann. § 25-11-113 (1) a) (1972, as amended))
 - b. Whether the employer has offered the member other duties without material reduction in compensation; (Miss. Code Ann. § 25-11-113 (1) (a) (1972, as amended))
 - c. Whether the employer has complied with the applicable provisions of the Americans With Disabilities Act in affording reasonable accommodations which would allow the employee to continue employment. (Miss. Code Ann. § 25-11-113 (1) (a) (1972, as amended))
 - d. In the case of an application for hurt on the job benefits, the employer shall certify whether, to the best of its knowledge, the sickness or injury was caused or sustained by reason of service or discharge of duties. (Miss. Code Ann. §§ 21-29-35, 21-29-133, 21-29-241 (1972, as amended))
2. The member shall submit medical evidence of the disability to the Medical Board for review. The Medical Board may require an independent medical evaluation or such other examination or report as is necessary to determine the member's eligibility for benefits. Refusal to submit to such examination or to otherwise provide the requested additional information within ninety (90) days of such

- reemployed or seeks such reemployment. (Miss. Code Ann. § 21-29-43 (2) (1972, as amended))
- c. Disability retirees shall be required to submit annually a copy of their federal income tax return, including supporting documentation, or other earnings statements acceptable to the Board of Trustees, no later than 30 days following the due date of such return.
 - d. Any General Municipal disability retiree, who has not completed twenty (20) years of service prior to retirement, who secures gainful employment over a period of three (3) consecutive months shall have his disability benefit revoked by the Board. (Miss. Code Ann. § 21-29-43 (3) (1972, as amended))
 - e. If income information is not submitted as required by the Board of Trustees, benefits shall be suspended until such time as the retiree submits proper documentation as required above. (Miss. Code Ann. § 25-11-113 (4) (1972, as amended))
2. The Medical Board shall review the objective medical information as with an initial claim for disability benefits and determine whether or not the medical condition for which benefits were previously approved has improved sufficiently to allow a return to previous employment. The Medical Board may also consider additional information concerning any new medical condition which may have occurred while in receipt of disability benefits.

106 Termination of Disability Benefits

1. In the event a retiree is determined to no longer qualify for disability benefits, such retiree will be provided with notice of such determination and benefits will continue for a period of three (3) months prior to termination, unless the retiree has returned to covered employment in the position from which he was retired, or under Article 1, such retiree has returned to any gainful employment over a period of three (3) consecutive months in which case benefits shall be terminated immediately.
2. Notice of termination of disability benefits shall constitute a final administrative determination, and the retiree may appeal the determination to the Board of Trustees in accordance with the provisions of Regulation 42.
3. Appeals of decisions made under Regulation 42 by the PERS Board of Trustees may be made by members of the Firemen's and Policemen's Disability and Relief Fund to the Board of Disability and Relief Appeals as provided in Miss. Code Ann. § 21-29-113 and 21-29-215 (1972, as amended).

107 PERS Medical Board

1. The Board of Trustees may designate a Medical Board to be composed of three (3) physicians or may contract with another governmental agency or non-governmental disability determination service that is qualified to make disability determinations. If required, other physicians may be engaged to report on special cases. A physician shall be considered a medical doctor or a doctor of osteopathy with a license to prescribe drugs.

2. The Board of Trustees authorizes the Executive Director to appoint special Medical Board members on a case by case basis to serve in the absence of one or more Board appointed Medical Board members or where a Board appointed Medical Board member may have a conflict of interest. Such special appointments to the Medical Board shall be limited but shall continue for the duration of the claim or claims upon which determinations have been made by such special appointed member.

(History: Adopted August 1, 1996; amended effective January 1, 2002; amended on June 21, 2005, to be effective August 1, 2005; reformatted August 1, 2007)