

## Aggravation of a Pre-existing Condition Standard

You may receive a disability retirement allowance if an injury worsens a medical condition from which you already suffered. Your doctor and the Regional Medical Panel are required to use this standard in reaching their conclusion as to whether your injury has worsened an existing medical condition.

## Accidental Disability

An accidental disability is a type of retirement for which a retirement allowance may be paid to members who are permanently and totally disabled from performing the essential duties of their position because of a job-related injury or exposure to a job-related hazard. Eligibility for an accidental disability is defined by G.L. c. 32, § 7.

## Applicant

The individual who seeks to retire and receive a disability retirement allowance or, if an involuntary retirement, the employer.

## Attorney

If you have a lawyer to assist you with this application, please provide his or her name, address and phone number so we may contact him(her) as needed.

## Authorization for Release of Insurance Records

As part of your disability application, you are required to sign a release form to give your retirement board authority to collect insurance records from your insurer. You must also list all insurance policies and their policy number, if known, on the application. Your insurance agent may be able to assist you with obtaining this information.

## Authorization for Release of Medical Records

As part of your disability application, you are required to sign a release form to give your retirement board authority to collect medical records from any doctor or medical facility from which you have received treatment. You must also list all doctors and medical facilities from which you have received care on the application.

## Authorization for Release of Tax Record

As part of your disability application, you are required to sign a release form to give your retirement board and PERAC authority to obtain your tax information from the Massachusetts Department of Revenue and federal Internal Revenue Service.

## Code of Massachusetts Regulations (CMR)

Many of the rules concerning disability applications are contained in these regulations written by PERAC and approved by the Massachusetts Legislature. The disability regulations are found at 840 CMR 10.00.



### **Contributory Retirement Appeal Board**

This is the board to which a member who is aggrieved by an action or failure to act of a retirement board or PERAC can appeal. The Contributory Retirement Appeal Board will assign the appeal to the Division of Administrative Law Appeals for a hearing. If you wish to appeal a decision of your retirement board or PERAC, your retirement board will assist you in filing an appeal.

### **Date of Application**

This is the date your retirement board assigns when your application is complete. This date is important in determining the effective date of your retirement and your retirement allowance date, which is the date from when you are due benefits. Your retirement board will set your date of application when it receives your completed *Member's Application for Disability Retirement*, including the signed *Authorizations* and *Regional Medical Panel Selection Form*, and your *Physician's Statement*. A delay in your retirement board receiving the *Employer's Statement* or medical records will not prevent it from setting a date of application. However, your board cannot begin processing your application until all required documents have been received.

### **Emergency Medical Treatment**

This is the initial care you received for an injury sustained or hazard undergone that was provided by any physician, nurse, emergency medical technician or other health care provider.

### **Employer's Statement**

As a part of your disability application, your department head or immediate supervisor will be asked to file a statement which requests information concerning your position, essential duties and injuries. This statement becomes a part of your application and is considered by your retirement board, PERAC and the Regional Medical Panel that may examine you in connection with this application.

### **Essential Duties**

In order to receive a disability retirement allowance, a member must be permanently and totally disabled from performing the essential duties of their position. Essential duties are those duties or functions of a job or position which must necessarily be performed by an employee to accomplish the principal object(s) of the job or position. The essential duties are those that bear more than a marginal relationship to the position. The determination of which duties are essential is made by the employer based on all relevant facts and circumstances and after considering a number of factors.

### **Grievance**

If you are covered by a union contract, you might have filed an official complaint, or grievance, with your union representative. This may be relevant to your disability application and should be noted on your application.

### **Group 1, 2, 3, 4**

Each public employee's position is assigned to one group based upon its position title or duties. Retirement benefits differ between each group.

### **Hazard Undergone**

One of the reasons for applying for an accidental disability is because a member is permanently and totally disabled because of a hazard undergone while in the performance of his/her duties. This injury must have occurred while in the performance of a member's duties at a definite place and time without serious and willful misconduct on the member's part. As an example, a hazard undergone could include exposure to chemicals which caused a disease which left the member permanently and totally disabled.

### **Hospital and Medical Facilities**

This is a complete list of any hospitals, clinics, doctors' offices or other medical centers which you may have been admitted to or seen at as a result of your injury.

### **Incident Report**

An incident or injury report is an official report submitted by you or another person to your employer and retirement board. This report is the official notification to your employer and retirement board that you suffered an injury. Failure to file an incident report may prevent you from receiving a disability retirement allowance.

### **Intent to Retire**

This statement, which must be signed by you, is a part of your disability application and indicates that you wish to leave your current position and apply for a retirement allowance. This statement is signed under oath and should be carefully read and considered before it is signed.

### **Military Form DD214**

This US Military form is issued to every veteran. The form contains information necessary for your retirement board to determine if you qualify as a veteran under the law and are eligible for special veteran benefits. A copy of this form should be supplied if you believe you qualify as a veteran under the law.

### **Modifications/Accommodations**

These are changes made to a member's position by their employer to allow a disabled member to perform their position.

### **IIIF Benefits**

These are payments made to police and fire fighters who are injured while on duty. Eligibility for these benefits is defined by G.L. c. 41, § IIIF.

### **Option**

If you are approved for disability retirement, you will have three options on how you may receive payments. One option provides maximum benefits for your lifetime with no payments to any beneficiaries after your death. One option provides less benefits but gives your beneficiary the remainder of your annuity savings account, if any, upon your death. One option provides still less benefits during your lifetime, but provides an allowance to your beneficiary for their lifetime after your death. Your retirement board will provide a calculation of the amounts you and your beneficiary will receive under each option before you choose. You should carefully consider which option is appropriate for you before making this choice.

**Option (*continued*)**

Once this choice takes effect, it cannot be changed. If you are married, your spouse must acknowledge your choice in writing. Your retirement board is available to answer all your questions concerning the option choices.

**Ordinary Disability**

An ordinary disability is a type of retirement for which a retirement allowance may be paid to members who are permanently and totally disabled from performing the essential duties of their position for any reason other than a job-related injury or exposure to a job-related hazard. Eligibility for an ordinary disability is defined by G.L. c. 32, § 6.

**Perjury**

Perjury is the crime of lying or providing untrue statements under oath. A disability application is signed under the pains and penalties of perjury. Committing perjury in connection with this application could result in the loss of benefits as well as criminal and civil penalties.

**Permanency Standard**

When your doctor and the Regional Medical Panel examine you to determine whether you are permanently and totally disabled from your position, they are required to use these instructions in reaching their conclusion as to whether your disability will or will not improve. A disability is permanent if it will continue for an indefinite period of time that is likely never to end even though recovery at some remote, unknown time is possible.

**Personal Injury Sustained**

One of the reasons for applying for an accidental disability is because a member is permanently and totally disabled because of a personal injury sustained while in the performance of his/her duties. This injury must have occurred while in the performance of a member's duties at a definite place and time without serious and willful misconduct on the member's part. As an example, a personal injury sustained could include injuries suffered from a fall or psychological injury due to a trauma.

**Physicians**

This is a complete list of medical doctors who treated you for any condition, including your injury, within the last five years.

**Physician's Statement**

As a part of your disability application, your primary treating physician will be asked to file a statement which requests medical information about you and the injury or hazard for which you are seeking to retire. This statement becomes a part of your application and is considered by your retirement board, PERAC and the Regional Medical Panel that may examine you in connection with this application.

## Presumptions

Certain conditions are presumed to be job-related if suffered by persons holding certain public safety positions. Additional information about these presumptions is available from the Public Employee Retirement Administration Commission. The presumptions are:

- **Heart Law (G.L. c. 32, § 94)**

A disability or death caused by heart disease or hypertension is presumed to be suffered in the line of duty for public safety positions, including certain fire fighters, police officers, corrections officers, and public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

- **Lung Law (G.L. c. 32, § 94A)**

A disability or death caused by diseases of the lungs or respiratory tract is presumed to be suffered in the line of duty as a result of inhalation of noxious fumes or poisonous gas for certain fire fighters or public safety employees at the international airport. The employee must have passed a physical examination on or after their date of hire which failed to reveal evidence of such a condition. The presumption can be rebutted by competent evidence which shows the disability was not job-related.

- **Cancer Presumption (G.L. c. 32, § 94B)**

A disability or death caused by certain cancers is presumed to be suffered in the line of duty as a result of exposure to heat, radiant, or a known or suspected carcinogen for certain fire fighters or public safety employees at the international airport. The employee (or retiree) must have been employed in an eligible position on or after July 5, 1990, must have served in such a position for five years or more at the time such condition is or should have been discovered, must have regularly responded to fires during some portion of his/her service, and must discover such cancer within five years of the last date of his/her active service. A retired firefighter or a public safety employee at the international airport where such condition is or should have been discovered within five years of retirement may be eligible for this presumption. The presumption can be rebutted by a preponderance of the evidence which shows that the disability was caused by non-service-related risk factors or accidents or hazards undergone.

## Primary Treating Physician

This is the doctor who gave you the most complete care or who supervised the care for your injury. This doctor will be asked to fill out the Physician's Statement.

## Public Employee Retirement Administration Commission (PERAC)

PERAC is the oversight agency for the I06 retirement systems in Massachusetts. PERAC must approve every disability application before it becomes effective. Your retirement board will forward your application to PERAC if and when it votes to approve your application.

### **Regional Medical Panel**

A three-member panel of independent doctors who specialize in the area of medicine related to the injury for which you seek to retire. If your application is processed, a Regional Medical Panel will be appointed by PERAC and may examine you as a group or separately to determine if you are permanently and totally disabled from your position and, if you are applying for accidental disability, whether your injury is job-related. In addition to the panel physicians, the following people may attend the examination(s): your physician, your attorney, your employer or their representative, your employer's physician, your employer's attorney and a person of your choosing.

### **Regional Medical Panel Selection Form**

On this form, which is part of your disability application, you choose whether you wish to be examined by three independent physicians during one appointment or separately by each doctor in three appointments, if you are sent for a Regional Medical Panel evaluation.

### **Risk of Re-injury**

Please note that the Contributory Retirement Appeal Board (CRAB) has found, "even if a member is physically capable of performing all of the essential duties of his or her position, he or she may be disqualified if a return to work would pose an unreasonable risk to serious harm to the member or third parties." This risk of re-injury has to reasonably be expected to involve a substantial harm.

### **Witnesses**

A witness is another person who saw the injury that you suffered or is aware of the hazard you underwent. That person's name and other information concerning any witnesses should be listed on the Disability Application to allow your retirement board to contact them if necessary.

### **Workers' Compensation**

These are benefits for job-related injuries paid under G.L. c. 152. These benefits may be paid weekly or in one sum as part of a lump sum settlement. These benefits are offset against a disability retirement allowance.