



2015 Winter Convention
December 4, 2015

**Ohio Public Employees Retirement System and Ohio Police and
Fire Disability Pension Fund Session**



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PERS & Police & Fire Session

**Ohio Public Employees Retirement System: Advice from Inside
the Agency**

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December 4, 2015



What is the OPERS Disability Program?

- **Governing authority**
- **What is the process**

NOTE: Each OPERS member who applies for and who may be approved to receive a disability benefit has their own unique situation and circumstance that may impact the processing of their account.

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The Ohio Public Employees Retirement System (OPERS) is governed by Ohio Revised Code Chapter 145 and the corresponding administrative rules

- The OPERS disability program is administered per specific statutes and administrative rules

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The New and Improved OPERS Disability Program

- **OPERS Board carefully considered the purpose and structure of the program and approved certain changes to the design of the program**
- **Sub. Senate Bill 343 was enacted on January 7, 2013, and amended OPERS' governing law for the disability program and revised the design of the program**

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OPERS Disability Program

Goals for changing the program are:

- **Continue to provide disability benefits to those members who are eligible and truly need them**
- **Have a program that is consistent with "best practices and industry standards"**
- **Encourage members to use the appropriate retirement vehicle**
- **Maximize employability**

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Statutes for OPERS Disability Program

- **Ohio Revised Code Section 145.27**
 - Release of account information
- **Ohio Revised Code Section 145.35**
 - Application and medical examination for disability benefits
- **Ohio Revised Code Section 145.36**
 - Original disability plan
- **Ohio Revised Code Section 145.361**
 - Revised disability plan
- **Ohio Revised Code Section 145.362**
 - Disability leave of absence, medical reexamination, Employment & Earnings Statement, restoration to employment
- **Ohio Revised Code Section 145.367**
 - Social Security offset

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Administrative Rules for OPERS Disability Program

- **Ohio Administrative Code 145-2-21**
 - Application
- **Ohio Administrative Code 145-2-22**
 - Receipt of benefits
- **Ohio Administrative Code 145-2-23**
 - Appeals
- **Ohio Administrative Code 145-2-27**
 - Employment and Earnings Statements

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OPERS Two Disability Plans:
Original Plan and Revised Plan

Original Plan:

- Hired prior to July 29, 1992, unless elected to switch to Revised Disability Plan
- Must apply by age 60 for those members in Retirement Transition Groups A and B
- Must apply by age 62 for those members in Retirement Transition Group C
- Receive disability benefit for life unless determined to no longer be disabled
- Benefit payment is calculated based on between 30% and 75% of Final Average Salary (FAS)

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Original and Revised Disability Plans

Revised Plan:

- Hired on or after July 29, 1992, is automatically in the revised plan or, if hired prior to July 29, 1992, elected to switch
- Can apply at any age, but there is a limited disability period
- Once disability period ends, the recipient converts to an age and service retirement benefit (requires application)
- Benefit payment is calculated based on between 45% and 60% of FAS

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What is the Disability Process?

- Applying for a disability benefit
- If approved by the OPERS Board, receiving a disability benefit
- Periodic review and reexamination for continued receipt of benefits
- Appeal when application is denied or benefit is terminated

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How to Apply for an OPERS Disability Benefit

Eligibility requirements:

- Must have at least 60 contributing months of service credit
- If Law Enforcement, at any time if disability arose due to on duty illness or injury
- Must apply within 2 years from the date contributing service terminated
- Condition must have occurred before contributing service ends or, if applying after last date of contributing service, must be related to work performed during contributing service

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Disability Application Packet

The disability application packet is available on the OPERS website, www.opers.org, or by calling the OPERS Member Services Center at 1-800-222-7377

Forms in packet that must be completed and returned to OPERS are:

- Disability Benefit Application (DR-1)
- Report of Physician (DR-APS)
– must be completed by M.D. or D.O.
- Report of Employer (DR-4) and Job Description (OPERS will send DR-4)
- IRS Form W-4P
- Form IT-4P (State of Ohio tax withholding)
- Designation of Beneficiary for Lump Sum Death Benefit for Traditional Pension Plan (DBO-3T)

Also:

- Authorization for Release of Account Information (LL-2)

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What is the Application Process?

- IME/IPE report is reviewed by OPERS' third party administrator along with member's medical records to make recommendation to OPERS medical consultant
- IME/IPE report, entire disability medical record, and recommendation are reviewed by OPERS medical consultant who then makes their recommendation to the OPERS Board
- The OPERS Board approves or denies the disability application at its monthly meeting (third Wednesday of the month)

NOTE: The OPERS Board does not hold disability hearings.

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Disability Application Approval and Receiving Benefits

Disability benefit is effective the first of the month immediately following the later of:

- The last day for which compensation was paid
- The attainment of eligibility for a disability benefit (Ohio Revised Code Section 145.35(D))

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OPERS Rehabilitative Services Program

Members who applied after January 7, 2013, can elect to participate in OPERS Rehabilitative Services Program upon approval of disability

- Goal of program is to maximize the member's employability by partnering with the member and the member's physician, providing the member with information about their health condition, and directing the member to resources to assist the member in their self-directed job search
- Two components are Clinical Case Management and Vocational Case Management
- Part of disability program redesign to help members maximize their employability

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Leave of Absence and Standard of Review

Participation in the Rehabilitative Services Program impacts the member's leave of absence period and the standard of review for reexam

- Leave of absence period when not in Rehabilitative Services Program is 3 years from the effective benefit date
- Leave of absence period when participating in program is up to 5 years, provided participant complies with program requirements
- Leave of absence impacts standard of review
 - Own Occupation Standard of Review if in program up to 5 years
 - Any Occupation Standard of Review after 3 years if not in program, fails to comply with program in years 3 to 5, after 5 years from the effective benefit date

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Own Occupation Standard of Review – member is mentally or physically incapacitated for the performance of duty from his or her last position of public employment and disability is presumed permanent.

Any Occupation Standard of Review – member is not mentally or physically incapable of performing the duties of any position which meets all the criteria of:

1. Replaces not less than 75% of inflation-adjusted FAS
2. Is reasonably to be found within a 75 mile radius from member's address on file with OPERS
3. Is one that the member is qualified for by experience or education (Ohio Revised Code Section 145.362(B))

NOTE: Any occupation standard does NOT apply to a member who was law enforcement when contributing service terminated.

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Continued Treatment

If member does not elect to participate in Rehabilitative Services, he or she will likely be required to participate in Continued Treatment

- Requires periodically getting treatment information from member's attending physician on condition and treatment

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Periodic Reexamination

- Reexamined under appropriate standard of review – Own Occupation or Any Occupation
- Information from Attending Physician will be requested
- IME/IPE may be scheduled
- Review of IME/IPE report and medical records by third party administrator who makes recommendation to OPERS medical consultant
- Review of IME/IPE report, medical records, and third party administrator's recommendation by OPERS medical consultant
- OPERS Board reviews IME/IPE report, medical records, and OPERS medical consultant recommendation to determine if still disabled or if disability should be terminated
- If terminated, disability benefits shall be terminated not later than 3 months after date of Board's decision or upon member returning to public employment

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Denial of Application or Termination of Disability Benefits

- Ohio Administrative Code 145-2-23 outlines appeal procedure
- Termination NOT subject to appeal
 - Restored to public service
 - Refusal of reexam
 - Noncompliant with Employment & Earnings Statement
- Failure to participate in Continued Treatment (clinical case management in Rehabilitative Services) and/or submit Continued Treatment form

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Appeals

Appeal process in Ohio Administrative Code 145-2-23

- Member must submit written notice of intent to appeal no later than 30 days from OPERS Board's written notice of action (Disability Benefits Appeal Request Form (DR-APPLREQ))
- Member must submit additional objective medical evidence in support of appeal within 45 days of appeal request
- Member can request an additional 45 days extension to submit additional objective medical evidence
- All medical costs for member's physician on appeal shall be the member's expense

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Appeals

Next steps after receipt of appeal and member's additional objective medical evidence

- Additional objective medical evidence is reviewed by OPERS' third party administrator
- IME/IPE may be scheduled
- OPERS' third party administrator will review all additional objective medical evidence and IME/IPE report to make recommendation to OPERS medical consultant
- OPERS medical consultant will review all additional objective medical evidence and IME/IPE report to make recommendation to OPERS Board
- OPERS Board will decide to approve or deny appeal and its decision is final

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Questions?

OPERS Member Services Center
1-800-222-7377

OPERS website
www.opers.org

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PERS & Police & Fire Session

PERS Law and Strategy

Mike Malyuk
Cuyahoga Falls, OH



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**Ohio Police and Fire Disability Pension Fund: What You Need to
Know about the Agency and Claims**

Mary Beth Foley
Columbus, OH



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P&F Disability Pension Fund Law and Claims Strategy

Jon Goodman
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