

RESOLUTION NO. 481

WHEREAS, the Board of Trustees (Board) of the Bureau of Fire and Police Disability and Retirement (FPDR) determined that changes were necessary to the FPDR Administrative Rules; and

WHEREAS, FPDR staff and the City Attorney's office provided input; and

WHEREAS, a public hearing on proposed amendments to the FPDR Administrative Rules was held on August 27, 2013; and

WHEREAS, the Board has considered and recommends changes to parts of Sections 5.7, 5.8 and 5.9 of the FPDR Administrative Rules as shown on Exhibits "A" and "B", attached hereto and by this reference made a part hereof; and

WHEREAS, it is appropriate and in the public interest that the FPDR Administrative Rules be changed in accordance with the recommendations of the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees that the sections of the FPDR Administrative Rules be amended as shown on Exhibit "B".

ADOPTED by the Board of Trustees on the 24th day of September 2013.

Samuel Hutchison
FPDR Director

fund\resolution\481

no action taken,
deferred to future
meeting

EXHIBIT "A"
(Resolution No. 481)

Amends Section 5.7.03 – "Application for Benefits"

Amends Section 5.7.10 – "Independent Medical Examinations"

Amends Section 5.8.11 – "Independent Medical Examinations"

Amends Section 5.9.06 – "Independent Medical Examinations"

EXHIBIT "B"
**(Sections of proposed Administrative Rules
as listed on Exhibit A - Resolution No. 481)**

5.7.03 – APPLICATION FOR BENEFITS

- (A) No disability benefits shall be paid to a Member unless the Member files with the Director a complete and timely application requesting such benefits.
- (B) Applications shall be made on forms prescribed by the Director. The Director may require the Member to provide any information that it **the Director** deems necessary to carry out FPDR's duties.
- (C) Applications for disability benefits may be made by the Member, or the Member's authorized representative. A representative shall submit to the Director written proof of the representative's authority.
- (D) Applications for disability benefits must be submitted to the Director no later than 30 days after the Member is injured or experiences an illness, unless the Member establishes good cause for failing to do so. Failure to file an application within the time specified bars a Claim for disability benefits.
- (E) By making application for disability benefits, each applicant thereby authorizes the Director to recover overpaid Interim Disability Benefits paid to the Member, should the application/Claim for benefits be withdrawn by the Member or be denied by the Director and the denial become final.
- (F) By making application for disability benefits, each applicant thereby authorizes the Director to request and obtain from any physician, health practitioner, hospital, clinic, pharmacy, employer, employment agency, government agency, institution or any other person or organization, any information within any of their records or knowledge regarding the applicant's health, income and employment which in any way relates to the applicant's Claim of disability and/or capacity to engage in Substantial Gainful Activity.

The applicant thereby also authorizes all such physicians, practitioners, hospitals, clinics, pharmacies, employers, employment agencies, governmental agencies, institutions, persons, and organizations to furnish such medical, health, employment and income information to the Director upon request. The applicant recognizes that the information disclosed may contain information that is protected by federal and state law and, by filing an application for disability benefits, specifically consents to the disclosure of such information. All applications for disability benefits shall contain a form to be signed by the applicant authorizing the release of the foregoing information to the Director or the Director's authorized representatives.

- (G) All applications for service-connected ***injury/illness or occupational*** disability benefits shall contain a report of ~~a superior officer, the signature of the Chief of the Bureau affected and a report of the Member's Attending Physician.~~

~~(H)~~ All applications for occupational disability benefits shall contain a report of a superior officer, the signature of the Chief of the Bureau affected, together with a report of the Member's Attending Physician.

~~(H)~~(H) Although information comes from many sources, Claim assessment **evaluation** is frequently based in part on information provided by the Fire and Police Bureaus. If the ~~B~~bureau designates a process for requesting documents, then the ~~Fund~~ **FPDR** staff will comply with that process. With the exception of attorney-client privileged documents, all information gathered and made part of the Claim file will be accessible to the claimant **Member, or the Member's authorized representative**, upon the claimant's **Member's** request. If a ~~B~~bureau deems some records as privileged, it is that ~~B~~bureau's responsibility to identify what information is privileged and to withhold the information.

(I) ***A Member is required to cooperate with FPDR staff in the investigation of an application for benefits. This includes submitting for and cooperating with personal or telephone interviews and any other gathering of information. Failure to cooperate with this rule in an initial Claim for benefits may delay a compensability determination or result in a Claim denial. Failure to cooperate with this rule on any application for benefits subsequent to approval of the initial Claim may result in a suspension of benefits.***

* * *

5.7.10 – INDEPENDENT MEDICAL EXAMINATIONS

(A) If requested by the Director, any Member **potentially** eligible to receive benefits under this program is required to undergo an **independent** medical examination (**IME**) by one or more licensed physicians or psychologists. Should the Member fail to submit to the examination, or obstructs the same, the Member's rights to benefits may be suspended or reduced by the Director until the exam has taken place.

(B) ***The Director is not required to schedule an IME appointment during Member's work hours. Members will be required to attend an IME during off work hours, as well as work hours, if so scheduled, and unless there is good cause for not attending the IME. An IME scheduled during a Member's off work hours is not considered good cause, of and by itself, for not attending an IME.***

(C) ***FPDR will mail a written notice to the Member by certified and regular mail at least 14 calendar days prior to the IME appointment date. If the member has an attorney, the Member's attorney shall be simultaneously***

notified in writing of a scheduled medical examination under these Administrative Rules. FPDR may provide fewer than 14 days notice if the Member agrees.

~~(B)~~ The Member and the Member's attorney shall be simultaneously notified in writing of a scheduled medical examination under these Administrative Rules. Unless waived at the Member's request or with the Member's permission, FPDR may provide fewer than 14 days notice if the Member agrees. The Member's Notification of the medical examination shall be in writing, sent at least ten (10) days prior to the date of the examination, and include the following information:

(D) *The Member's notification* of the medical examination shall include the following information:

- (1) The name of the examiner or facility;
- (2) A statement of the specific purpose for the examination and; identification of the medical specialties of the examiners;
- (3) The date, time and place of the examination; and
- (4) The first and last name of the Member's Attending Physician and verification that the Member's Attending Physician was informed of the examination.

~~Ten day notification may be waived at Member's request or with the Member's permission.~~

(E) *The Member may request a change in the appointment date, time or place for good cause. With approval of the director, attempts will be made to reschedule the IME. Until a new IME appointment is scheduled and approved by the director, the member is required to attend the original IME appointment.*

~~(G)~~**(F)** When necessary, the following expenses associated with the Member's attending the medical examination will be considered by the Director:

- (1) Reimbursement of reasonable cost of public transportation or use of a private vehicle; and
- (2) Reimbursement of reasonable cost of child care, meals, lodging and other related services.

~~(D)~~**(G)** Requests for reimbursement must be accompanied by a sales slip, receipt or other evidence necessary to support the request. Should an advance of these costs be necessary for attendance, a request for advancement must be made in sufficient time to ensure a timely review and consideration prior to the date of the examination. Mileage reimbursement will be based on City of Portland

Exhibit "B" (Resolution No. 481)

rates in effect at the time of incurred expense.

- (H) ***The Member must cooperate with a scheduled IME by arriving at the date and time of the scheduled appointment and cooperating with the examination and IME Physician unless the Member can show good cause for noncooperation.***

* * *

5.8.11 – INDEPENDENT MEDICAL EXAMINATIONS

- (A) If requested by the Director, any Member ***potentially*** eligible to receive benefits under this program is required to undergo ***an independent*** medical examination (***IME***) by one or more licensed physicians or psychologists. Should the Member fail to submit to the examination, or obstructs the same, the Member's rights to benefits may be suspended or reduced by the Director until the exam has taken place.

- (B) ***The Director is not required to schedule an IME appointment during Member's work hours. Members will be required to attend an IME during off work hours, as well as work hours, if so scheduled, and unless there is good cause for not attending the IME. An IME scheduled during a Member's off work hours is not considered good cause, of and by itself, for not attending an IME.***

- (B)(C) FPDR will mail a written notice to the Member by certified and regular mail at least 14 calendar days prior to the IME appointment date. If the Member has an attorney, the Member's attorney shall be simultaneously notified in writing of a scheduled medical examination under these Administrative Rules. ***FPDR may provide fewer than 14 days notice if the Member agrees.***

~~FPDR shall provide fewer than 14 days notice if the Member agrees.~~

- (D) The Member's notification of the medical examination shall include the following information:
- (1) The name of the examiner or facility;
 - (2) A statement of the specific purpose for the examination and, identification of the medical specialties of the examiners;
 - (3) The date, time and place of the examination; and
 - (4) The first and last name of the Member's Attending Physician and verification that the Member's Attending Physician was informed of the examination.

(E) ***The Member may request a change in the appointment date, time or place for good cause. With the approval of the director, attempts will be made to reschedule the IME. Until a new IME appointment is scheduled and approved by the director, the member is required to attend the original IME appointment.***

(G)(F) When necessary, the following expenses associated with the Member's attending the medical examination will be considered by the Director:

- (1) Reimbursement of reasonable cost of public transportation or use of a private vehicle; and
- (2) Reimbursement of reasonable cost of child care, meals, lodging and other related services.

(D)(G) Requests for reimbursement must be accompanied by a sales slip, receipt or other evidence necessary to support the request. Should an advance of these costs be necessary for attendance, a request for advancement must be made in sufficient time to ensure a timely review and consideration prior to the date of the examination. Mileage reimbursement will be based on City of Portland rates in effect at the time of incurred expense.

(H) ***The Member must cooperate with a scheduled IME by arriving at the date and time of the scheduled appointment and cooperating with the examination and IME Physician unless the Member can show good cause for noncooperation.***

(I) ***Suspension or reduction of benefits may result from noncooperation in participation with an IME.***

* * *

5.9.06 – INDEPENDENT MEDICAL EXAMINATIONS

(A) If requested by the Director, any Member ***potentially*** eligible to receive benefits under this program is required to undergo ***an IME*** by one or more licensed physician(s) or psychologist(s). Should the Member fail to submit to the examination, or obstructs the same, the Member's rights to benefits may be suspended or reduced by the Director until the examination has taken place.

(B) The Director is not required to schedule an IME appointment during a Member's work hours. Members will be required to attend an IME during off work hours, as well as work hours, if so scheduled, ~~and unless there is good cause for not attending the IME. An IME scheduled during a Member's off work hours is not considered good cause, of and by itself, for not attending an IME.~~

(C) ~~Independent Medical Examinations (IME) during the course of a Member's Injury/Illness or Occupational Claim.~~

(1) ~~The Member will be notified in writing by certified and regular mail at least 14 calendar days prior to the IME appointment date.~~

(2) ~~The Member may request a change in the appointment date, time or place for good cause.~~

(3) ~~The Member must cooperate with a scheduled IME by arriving at the date and time of the scheduled appointment and cooperating with the examination unless the Member can show good cause for non-cooperation.~~

(4) ~~Suspension or reduction of benefits may result from non-cooperation in participation with an IME.~~

(B) ~~When Elective Surgery is recommended by the Member's Primary or Specialty Physician the Member may be required to attend an IME with an independent consultant prior to approval of the surgery.~~

(1) ~~The Director will notify the physician within 7 days of receiving a request to approve surgery that an IME will be required prior to approval of the surgery. The Director will arrange the IME as soon as possible, but no later than 30 days following the request for surgery by the Member's Primary Physician or Specialty Physician.~~

(2) ~~The Director will issue a decision to approve or deny the request for surgery as soon as possible, but no later than 21 days, following the date of the IME.~~

(C) ***FPDR will mail a written notice to the Member by certified and regular mail at least 14 calendar days prior to the IME appointment date. If the Member has an attorney, the Member's attorney shall be simultaneously notified in writing of a scheduled medical examination under these Administrative Rules. FPDR may provide fewer than 14 days notice if the Member agrees.***

(D) ***The Member's notification of the medical examination shall include the following information:***

(1) ***The name of the examiner or facility;***

(2) ***A statement of the specific purpose for the examination and identification of the medical specialties of the examiners;***

(3) ***The date, time and place of the examination; and***

- (4) **The first and last name of the Member's Attending Physician and verification that the Member's Attending Physician was informed of the examination.**
- (E) **The Member may request a change in the appointment date, time or place ~~for good cause~~. With approval of the director, attempts will be made to reschedule the IME. Until a new IME appointment is scheduled and approved by the director, the member is required to attend the original IME appointment.**
- (F) **When Elective Surgery is recommended by the Member's Attending or Specialty Physician the Member may be required to attend an IME with an independent consultant prior to approval of the surgery.**
- (1) **The Director will notify the Attending or Specialty Physician within 7 days of receiving a request to approve surgery that an IME will be required prior to approval of the surgery.**
- (2) **The Director will arrange the IME as soon as possible, but no later than 30 days following the request for surgery by the Member's Attending Physician or Specialty Physician.**
- (3) **The Director will issue a decision to approve or deny the request for surgery as soon as possible, but no later than 21 days, following the date of the IME.**
- (G) **When necessary, the following expenses associated with the Member's attending the medical examination will be considered by the Director:**
- (1) **Reimbursement of reasonable cost of public transportation or use of a private vehicle; and**
- (2) **Reimbursement of reasonable cost of child care, meals, lodging and other related services.**
- (H) **Requests for reimbursement must be accompanied by a sales slip, receipt or other evidence necessary to support the request. Should an advance of these costs be necessary for attendance, a request for advancement must be made in sufficient time to ensure a timely review and consideration prior to the date of the examination. Mileage reimbursement will be based on City of Portland rates in effect at the time of incurred expense.**
- (I) **The Member must cooperate with a scheduled IME by arriving at the date and time of the scheduled appointment and cooperating with the examination and IME Physician ~~unless the Member can show good cause for noncooperation.~~**

(J) ***Suspension or reduction of benefits may result from noncooperation in participation with an IME.***