

RESOLUTION NO. 488

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 Question and Answer session on proposed amendments to the FPDR Administrative Rules was held on February 14, 2014; and

WHEREAS, the Board has considered and recommends changes to Sections 5.7.01, 5.8.01, 5.9.01 and 5.10.02 of the FPDR Administrative Rules as shown on Exhibits "A" and "B", attached hereto and by this reference made a part hereof; and

WHEREAS, the Board also authorizes FPDR staff to make any housekeeping changes to the proposed amendments that are strictly related to spacing, pagination, section lettering, cross-references in the Rules and Charter, and spelling that will not impact the meaning of the Administrative Rules.

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

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 25th day of March 2014.



Samuel Hutchison
FPDR Director

Proposed Rule Changes for Definitions

Existing Wording					Proposed New Wording
Row	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
1	<p>"Attending Physician." The term "Attending Physician" means:</p> <p>(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Board of Medical Examiners for the State of Oregon or a similarly licensed doctor in any country or in any state, territory or possession of the United States, or</p> <p>(B) For a period of 30 days from the first visit on the initial Claim or for 12 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in any state, territory, or possession of the United States. All Members drawing disability benefits shall be examined at least once during each twelve-month period by the Member's identified physician or a physician appointed by the Director, unless otherwise determined by the Director.</p>	<p>"Attending Physician." The term "Attending Physician" means:</p> <p>(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Board of Medical Examiners for the State of Oregon or a similarly licensed doctor in any country or in any state, territory or possession of the United States, or</p> <p>(B) For a period of 30 days from the first visit on the initial Claim or for 12 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in any state, territory, or possession of the United States. All Members drawing disability benefits shall be examined at least once during each twelve-month period by the Member's identified physician or a physician appointed by the Director, unless otherwise determined by the Director.</p>	<p>"Attending Physician." The term "Attending Physician" means:</p> <p>(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Board of Medical Examiners for the State of Oregon or a similarly licensed doctor in any country or in any state, territory or possession of the United States, or</p> <p>(B) For a period of 30 days from the first visit on the initial Claim or for 12 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in any state, territory, or possession of the United States. All Members drawing disability benefits shall be examined at least once during each twelve-month period by the Member's identified physician or a physician appointed by the Director, unless otherwise determined by the Director.</p>		<p>"Attending Physician." The term "Attending Physician" means:</p> <p>(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the Board of Medical Examiners for the State of Oregon, Oregon Medical Board, or a podiatric physician or surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States; or</p> <p>(B) For a period of 30 days from the first visit on the initial Claim or for 12 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in any state, territory, or possession of the United States. All Members drawing disability benefits shall be examined at least once during each twelve-month period by the Member's identified physician or a physician appointed by the Director, unless otherwise determined by the Director.</p> <p>Changes apply to 5.07.01, 5.08.01 & 5.09.01; Add to 5.10.02</p>
2	<p>"Base Pay." The term "Base Pay" means the base pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation, sick or other leave. When a Member is paid overtime for part of his or her regular work schedule as required by Fair Labor Standards Act provisions, the straight-time portion of the overtime hours in the Member's regular work schedule shall be included in Base Pay.</p>	<p>"Base Pay." The term "Base Pay" means the base pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation, sick or other leave. When a Member is paid overtime for part of his or her regular work schedule as required by Fair Labor Standards Act provisions, the straight-time portion of the overtime hours in the Member's regular work schedule shall be included in Base Pay.</p>		<p>"Base Pay in Effect at Disability." The term "Base Pay in Effect at Disability" means the Member's Base Pay amount at the time the disability payment is due.</p>	<p>HOUSEKEEPING</p> <p>"Base Pay." The term "Base Pay" means the base pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation, sick or other leave. When a Member is paid overtime for part of his or her regular work schedule as required by Fair Labor Standards Act provisions, the straight-time portion of the overtime hours in the Member's regular work schedule shall be included in Base Pay.</p> <p>Changes apply to 5.7.01, 5.8.01 & 5.10.02 only</p>
3			<p>"Chart Note." The term "Chart Note" means a chronological documentation in an individual's Member's medical record, and includes subjective and objective findings, diagnosis, treatment rendered and proposed, status, and recovery and return to work objectives.</p>		<p>HOUSEKEEPING</p> <p>"Chart Note." The term "Chart Note" means a chronological documentation in an individual's Member's medical record, and includes subjective and objective findings, diagnosis, treatment rendered and proposed, status, and recovery and return to work objectives.</p> <p>Changes apply to 5.9.01 only</p>

Proposed Rule Changes for Definitions

Existing Wording					Proposed New Wording
Row	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
4	"Claim." The term "Claim" means a written request to FPDR for a retirement, disability or death benefit and may be filed by an active member, his/her representative or legal beneficiary, or surviving spouse or other legal representative of a deceased Member. This term may be used synonymously with the term "application."	"Claim." The term "Claim" means a written request to FPDR for a retirement, disability or death benefit and may be filed by an active mMember, his/her representative or legal beneficiary, or surviving spouse or other legal representative of a deceased m Member. This term may be used synonymously with the term "application."	"Claim." The term "Claim" means a written request to FPDR for a retirement, disability or death benefit and may be filed by an active mMember, his/her representative or legal beneficiary, or surviving spouse or other legal representative of a deceased m Member. This term may be used synonymously with the term "application."		HOUSEKEEPING "Claim." The term "Claim" means a written request to FPDR for a retirement, disability or death benefit and may be filed by an active m mMember, his/her representative or legal beneficiary, or surviving spouse or other legal representative of a deceased m Member. This term may be used synonymously with the term "application." <i>Changes apply to 5.7.01, 5.8.01, & 5.9.01</i>
5			"Current Procedural Terminology." The term "Current Procedural Terminology or "CPT" ® means the codes and terminology most recently published by the American Medical Association.		"CPT." "Current Procedural Terminology." The term "Current Procedural Terminology or "CPT" ® means the codes and terminology most recently published by the American Medical Association. <i>Changes apply to 5.9.01 only</i>
6	"Date of Disability." The term "Date of Disability" means the date that the Member is first unable to perform the Member's required duties as a result of a injury/illness that has been determined to arise out of and in the course of the Member's employment in the Bureau of Police or Fire.	"Date of Disability." The term "Date of Disability" means the date that the Member is first unable to perform the Member's required duties as a result of a injury/illness that has been determined to arise out of and in the course of the Member's employment in the Bureau of Police or Fire.	"Date of Disability." The term "Date of Disability" means the date that the Member's physician determines that the Member is unable to perform the Member's required duties.	"Date of Disability." The term "Date of Disability" means the date that the Member is first unable to perform the Member's required duties as a result of an injury, illness or occupational disability that has been determined to arise out of and in the course of the Member's employment in the Bureau of Police or Fire.	"Date of Disability." The term "Date of Disability" means the date that the Member's Attending Physician establishes that the Member is first unable to perform the Member's required duties as a result of a service-connected injury/illness or occupational disability that has been determined to arise out of and in the course of the Member's employment in the Bureau of Police or Fire. <i>Changes apply to 5.7.01, 5.8.01, 5.9.01 & 5.10.02</i>
7					"Documented Absence." The term "Documented Absence" means documentation of the time missed from a scheduled work shift submitted to the Director demonstrating that the Member was not paid by the Bureau of Fire or Police for that time. <i>Add to 5.7.01 & 5.8.01 only</i>

Proposed Rule Changes for Definitions

Row	Existing Wording				Proposed New Wording
	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
8					<p>"Full-Time Work." For the purpose of Other Employment, the term Full-Time Work means working an average of at least 36 hours per week or the maximum work hours documented in the permanent restriction(s) placed by the Attending Physician.</p> <p>Add to 5.7.01, 5.8.01 & 5.10.02</p>
9			<p>"Home Health Care." The term "Home Health Care" means medically necessary medical and medically related services provided in the Member's home environment. These services may include professional nursing care, medical administration, or personal hygiene, or assistance with mobility and transportation.</p>		<p>"Home Health Care." The term "Home Health Care" means medically necessary medical and medically related services provided in the Member's home environment. These services may include professional nursing care, medical administration, or personal hygiene, or assistance with mobility and transportation.</p> <p>Changes apply to 5.9.01 only</p>
10			<p>"Independent Medical Examination (IME)." An examination by one or more licensed medical providers in order to provide an opinion of findings in connection with an injury/illness or occupational Claim. A Physical Capacities Evaluation (PCE) or a Work Capacities Evaluation (WCE) is considered an "IME" under these rules.</p>		<p>"Independent Medical Examination (IME)." The term "Independent Medical Examination" means An examination by one or more licensed medical providers in order to provide an opinion of findings in connection with an service-connected injury/illness or an occupational disability Claim. A Physical Capacities Evaluation (PCE) or a Work Capacities Evaluation (WCE) is considered an "IME" under these rules.</p> <p>Changes apply to 5.09.01; Add to 5.7.01 & 5.8.01</p>
11	<p>"Interim Disability Benefits". : The term "Interim Disability Benefits" means an amount that may be payable to a Member for lost time from work prior to the compensability determination or withdrawal of his/her application for service-connected or occupational disability benefits.</p>				<p>HOUSEKEEPING</p> <p>"Interim Disability Benefits". : The term "Interim Disability Benefits" means an amount that may be payable to a Member for lost time from work prior to the compensability determination or withdrawal of his/her application for service-connected injury/illness or occupational disability benefits.</p> <p>Changes apply to 5.7.01 only</p>

Proposed Rule Changes for Definitions

Row	Existing Wording				Proposed New Wording
	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
12			"Medical Evidence." The term "Medical Evidence" means expert written testimony, statements and opinions; sworn affidavits and testimony of medical experts; records, reports, documents, diagnostic test results authored, produced, generated, or verified by medical professionals; and medical research and reference material utilized, produced, or verified by medical professionals who are physicians or medical record reviewers in the particular case under consideration. acronym		"Medical Evidence." The term "Medical Evidence" means expert written testimony, statements and opinions; sworn affidavits and testimony of medical experts; records, reports, documents, diagnostic test results authored, produced, generated, or verified by medical professionals; and medical research and reference material utilized, produced, or verified by medical professionals who are physicians or medical record reviewers in the particular case under consideration. acronym Changes apply to 5.9.01 only
13	Monthly Disability Benefits." The term "Monthly Disability Benefits" means benefits payable once per month on approved service-connected and occupational disability claims after a member's first year of receiving disability benefits.				HOUSEKEEPING Monthly Disability Benefits." The term "Monthly Disability Benefits" means benefits payable once per month on approved service-connected and occupational disability claims after a member's first year of receiving disability benefits. Changes apply to 5.7.01 only
14		"Monthly Disability Benefits." The term "Monthly Disability Benefits" means benefits payable once per month on approved non service-connected disability Claims.			HOUSEKEEPING "Monthly Disability Benefits." The term "Monthly Disability Benefits" means benefits payable once per month on approved non-service <i>nonservice</i> -connected disability Claims. Changes apply to 5.8.01 only
15	"Original Injury." The term "Original Injury" means the period from the first occasion of medical treatment or disability resulting from a service-connected or occupational disability through the date the member first reaches a medically stationary status.		"Original Injury." The term "Original Injury" means the period from the first occasion of medical treatment or disability resulting from a service-connected or occupational disability through the date the member first reaches a Medically Stationary status.	"Original Injury." The term "Original Injury" means the period from the first occasion of medical treatment or disability resulting from a service-connected or occupational disability through the date the member first reaches a medically stationary status.	HOUSEKEEPING "Original Injury." The term "Original Injury" means the period from the first occasion of medical treatment or disability resulting from a service-connected <i>injury/illness</i> or occupational disability through the date the member first reaches a medically stationary status. Changes apply to 5.7.01, 5.9.01 & 5.10.01 only

Proposed Rule Changes for Definitions

Existing Wording					Proposed New Wording
Row	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
16					<p>"Other Employment." The term "Other Employment" means employment with any person, firm, company, corporation, government agency, municipality or Self-Employment, and does not include employment as an Active Member of the Bureau of Fire or Bureau of Police, or work performed as part of an approved Transitional Duty Return to Work Program in accordance with Administrative Rule 5.10.03.</p> <p>Changes apply to 5.7.01, 5.8.01 & 5.10.02 only</p>
17					<p>"Pended." The term "Pended" means the 60-90 day period following FPDR's receipt of a complete application for benefits on an original Claim or for a Recurrence Claim during which FPDR is evaluating the Claim to determine if the injury or illness arose out of and in the course of the Member's employment with the Bureau of Fire or Police.</p> <p>Add to 5.7.01 & 5.8.01 only</p>
18			"Primary Physician." See "Attending Physician."		<p>"Primary Physician." See "Attending Physician."</p> <p>Changes apply to 5.9.01 only</p>
19				"Pursue Other Employment." "Pursue Other Employment" means: an active, serious, and continuing effort to seek full-time work each week that the Member claims benefits.	<p>HOUSEKEEPING</p> <p>"Pursue Other Employment." "Pursue Other Employment" means: an active, serious, and continuing effort to seek Full-Time Work each week that the Member claims benefits.</p> <p>Changes apply to 5.10.02 only</p>

Proposed Rule Changes for Definitions

Row	Existing Wording				Proposed New Wording
	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
20					<p>"Self-Employment." The Term "Self-Employment" means the Member is working as:</p> <ul style="list-style-type: none"> • a sole proprietor who conducts a trade or business; • an independent contractor; • a member of a partnership that conducts a trade or business; or • otherwise is in business for himself or herself <p>Self-Employment is considered Full-Time Work only when the Member is working an average of at least 36 hours per week or the maximum work hours documented in the permanent restriction(s) placed by the Attending Physician</p> <p>Add to 5.7.01 & 5.8.01</p>
21	<p>"Substantial Gainful Activity." The term "Substantial Gainful Activity" means the Member is qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at disability .</p>	<p>"Substantial Gainful Activity." The term "Substantial Gainful Activity" means the Member is qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at disability .</p>		<p>"Substantial Gainful Activity." The term "Substantial Gainful Activity" means the Member is qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at Disability.</p>	<p>"Substantial Gainful Activity." The term "Substantial Gainful Activity" means the Member is qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at disability in Effect at Disability.</p> <p>Change applies to 5.7.01, 5.8.01 & 5.10.02</p>
22	<p>"Suspension of Benefits." The term "Suspension of Benefits" means disability benefits are stopped by the Director for the period of suspension when the Member has failed to comply with the provisions of Chapter 5 of the City Charter, or with a particular FPDR Administrative Rule provision.</p>	<p>"Suspension of Benefits." The term "Suspension of Benefits" means disability benefits are stopped by the Director for the period of suspension when the Member has failed to comply with the provisions of Chapter 5 of the City Charter, or with a particular FPDR Administrative Rule provision.</p>			<p>HOUSEKEEPING</p> <p>"Suspension of Benefits." The term "Suspension of Benefits" means the payment of disability benefits are stopped by the Director for the period of suspension when the Member has failed to comply with the provisions of Chapter 5 of the City Charter, or with a particular and the FPDR Administrative Rules provision.</p> <p>Changes apply to 5.7.01 & 5.8.01 only</p>

Proposed Rule Changes for Definitions

Existing Wording					Proposed New Wording
Row	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs	
23					<p><i>"Usual and Customary Fee."</i> The term <i>"Usual and Customary Fee"</i> means a treatment service fee that falls within the range of fees normally charged for treatment of occupational injuries and illnesses in Oregon.</p> <p>Changes apply to 5.9.01 only</p>
24					<p>*** MOVED FROM 5.7.12 and 5.8.13 ***</p> <p>(5) The term <i>"Wwages Earned in Oother Employment"</i> includes:</p> <p>(a) the gross salary, overtime pay, fees, commissions, or other remuneration received by a Member for services rendered as an employee to an employer in Other Employment, other than the Bureau of Fire or Bureau of Police. The term wages earned in other employment also includes;</p> <p>(b) any salary, fees, commissions, profits or other remuneration that the Member receives from his or her Self-Employment in a profession, trade or business; and</p> <p>(c) However, if you any rental income, if the Member owns a rental(s) and the IRS requires that the rental income be reported as Self-Employment income, your rental income is considered "outside wages" and is subject to the wage offset</p> <p>The term <i>"Wwages Earned in Oother Employment"</i> does not include income from investments such as interest, dividends, rentals, and capital gains.</p>
25					<p><i>"Work Capacity Evaluation."</i> The term <i>"Work Capacity Evaluation"</i> means a physical capacity evaluation with special emphasis on the ability to perform a variety of vocationally oriented tasks based on specific job demands. Work Tolerance Screening will be considered to have the same meaning as Work Capacity Evaluation.</p> <p>Changes apply to 5.9.01 only</p>

Proposed Rule Changes for Definitions

Existing Wording					Proposed New Wording	
Row	5.7.01 Service Connected Disability	5.8.01 Nonservice Connected Disability	5.9.01 Medical Benefits	5.10.02 Return to Work and Vocational Rehabilitation Programs		
26	"Worsening." The term "Worsening" means objective findings indicating a worsening of the approved service-connected injury/illness or occupational disability based on expert medical opinion or an expert medical opinion explaining why the Member's symptoms indicate a worsening of the approved service-connected injury/illness or occupational disability.		"Worsening." The term "Worsening" means objective findings indicating a worsening of the approved service-connected injury/illness or occupational disability based on expert medical opinion or an expert medical opinion explaining why the Member's symptoms indicate a worsening of the approved service-connected injury/illness or occupational disability.		<p>"Worsening." The term "Worsening" means objective findings indicating a deterioration worsening of the approved service-connected injury/illness or occupational disability based on expert medical opinion or an expert medical opinion explaining why the Member's symptoms indicate a deterioration worsening of the approved service-connected injury/illness or occupational disability.</p> <p><i>Changes apply to 5.7.01 & 5.9.01 only</i></p>	

DEFINITIONS

PROPOSED RULE CHANGES:

5.7.01 – DEFINITIONS

"Aggravation." The term "Aggravation" means a Worsening of an approved service-connected injury/illness or occupational disability that occurs after the Member's condition has been deemed Medically Stationary.

"Attending Physician." The term "Attending Physician" means:

- (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the ~~Board of Medical Examiners for the State of Oregon~~ **Oregon Medical Board, or a podiatric physician or surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry** or a similarly licensed doctor in any country or in any state, territory or possession of the United States, or
- (B) For a period of 30 days from the first visit on the initial Claim or for 12 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in any state, territory, or possession of the United States. All Members drawing disability benefits shall be examined at least once during each twelve-month period by the Member's identified physician or a physician appointed by the Director, unless otherwise determined by the Director.

"Base Pay." The term "Base Pay" means the ~~bBase p~~**Base p**Pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation, sick or other leave. When a Member is paid overtime for part of his or her regular work schedule as required by Fair Labor Standards Act provisions, the straight-time portion of the overtime hours in the Member's regular work schedule shall be included in Base Pay.

"Base Pay in Effect at Disability." The term "Base Pay in Effect at Disability" means the Member's base pay amount at the time the disability payment is due.

"Bi-weekly Disability Benefits." The term "Bi-weekly" Disability Benefits" means disability benefits payable on the same schedule as the Member's regular payroll on approved service-connected and occupational disability Claims during a member's first year of receiving disability benefits.

"Claim." The term "Claim" means a written request to FPDR for a retirement, disability or death benefit and may be filed by an active ~~mMember~~**Member**, his/her representative or legal beneficiary, or surviving spouse or other legal beneficiary of a deceased ~~mMember~~**Member**. This term may be used synonymously with the term "application."

"Date of Disability." The term "Date of Disability" means the date that the Member's **Attending Physician establishes that the Member** is first unable to perform the Member's

"Preponderance of the Evidence." The term "Preponderance of the Evidence" means the greater weight of the evidence.

"Primary Physician." See "Attending Physician."

"Proximate Cause." The term "Proximate Cause" means a cause that directly produces an event and without which the event would not have occurred.

"Recurrence." An Aggravation of a service-connected injury/illness or occupational disability that requires Claim re-opening for additional disability benefits and/or medical benefits.

"Self-Employment." The term "Self-Employment" means the Member is working as:

- **a sole proprietor who conducts a trade or business;**
- **an independent contractor;**
- **a member of a partnership that conducts a trade or business; or**
- **otherwise is in business for himself or herself**

Self-Employment is considered Full-Time Work only when the Member is working an average of at least 36 hours per week or the maximum work hours documented in the permanent restriction(s) placed by the Attending Physician.

"Significant Factor." The term a "Significant Factor" means an important, proximate cause.

"Specialty Physician." The term "Specialty Physician" means a licensed physician who qualifies as an Attending Physician who provides evaluation, diagnosis or temporary specialized treatment at the request of the Member's "Attending Physician" on an approved Claim.

"Substantial Gainful Activity." The term "Substantial Gainful Activity" means the Member is qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at ~~disability~~ **in Effect at Disability.**

"Suspension of Benefits." The term "Suspension of Benefits" means **the payment of** disability benefits are stopped by the Director for the period of suspension when the Member has failed to comply with the provisions of Chapter 5 of the City Charter, or ~~with a particular~~ **FPDR Administrative Rules provision.**

"Wages Earned in Other Employment." The term "Wages Earned in Other Employment" includes:

- (a) the gross salary, overtime pay, fees, commissions, or other remuneration received by a Member for services rendered as an employee to an employer in Other Employment other than the Bureau of Fire or Bureau of Police. The term Wages Earned in Other Employment also includes;**

5.8.01 – DEFINITIONS

"Attending Physician." The term "Attending Physician" means:

- (A) A medical doctor or doctor of osteopathy licensed under **ORS 677.100 to 677.228 by the ~~Board of Medical Examiners for the State of Oregon~~ Oregon Medical Board, or a podiatric physician or surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry** or a similarly licensed doctor in any country or in any state, territory or possession of the United States, or
- (B) For a period of 30 days from the first visit on the initial Claim or for 12 visits, whichever first occurs, a doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon or a similarly licensed doctor or physician in any country or in any state, territory, or possession of the United States.

"Base Pay." The term "Base Pay" means the ~~bBase p~~Pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation, sick or other leave. When a Member is paid overtime for part of his or her regular work schedule as required by Fair Labor Standards Act provisions, the straight-time portion of the overtime hours in the Member's regular work schedule shall be included in Base Pay.

"Base Pay in Effect at Disability." The term "Base Pay in Effect at Disability" means the Member's Base Pay amount at the time the disability payment is due.

"Claim." The term "Claim" means a written request to FPDR for a retirement, disability or death benefit and may be filed by an active ~~m~~Member, his/her representative or legal beneficiary, or surviving spouse or other legal beneficiary of a deceased ~~m~~Member. This term may be used synonymously with the term "application."

"Date of Disability." The term "Date of Disability" means the date that the Member's **Attending Physician establishes that the Member** is first unable to perform the Member's required duties as a result of **a service-connected injury/illness or occupational disability** that has been determined to arise out of and in the course of the Member's employment in the Bureau of Police or Fire.

"Director." The term "Director" where used in these Administrative Rules shall mean the Fund Director and/or Fund Administrator or his or her designee.

"Documented Absence." The term "Documented Absence" means documentation of the time missed from a scheduled work shift submitted to the Director demonstrating that the Member was not paid by the Bureau of Fire or Police for that time.

"Full-Time Work." For the purpose of Other Employment, the term "Full-Time Work" means working an average of at least 36 hours per week or the maximum work hours documented in the permanent restriction(s) placed by the Attending Physician.

- (a) the gross salary, overtime pay, fees, commissions, or other remuneration received by a Member for services rendered as an employee to an employer in Other Employment other than the Bureau of Fire or Bureau of Police. The term Wages Earned in Other Employment also includes;**
- (b) any salary, fees, commissions, profits or other remuneration that the Member receives from his or her Self-Employment in a profession, trade or business; and**
- (c) any rental income, if the Member owns a rental(s) and the IRS requires that the rental income be reported as Self-Employment income, your rental income is considered "outside wages" and is subject to the wage offset.**

The term "Wages Earned in Other Employment" does not include income from investments such as interest, dividends and capital gains.

"Years of Service." The term "Years of Service" of a FPDR Two or FPDR Three Member shall mean the service credit for FPDR Two retirement benefits as defined in Charter Section 5-302 and these Administrative Rules.

unable to perform the Member's required duties *as a result of a service-connected injury/illness or occupational disability that has been determined to arise out of and in the course of the Member's employment in the Bureau of Police or Fire.*

"Director." The term "Director" where used in these Administrative Rules shall mean the Fund Director and/or Fund Administrator or his or her designee.

"Elective Surgery." The term "Elective Surgery" is surgery which may be necessary in the process of recovery from an injury or illness, but need not be done as an emergency to preserve life, function or health.

~~"Home Health Care." The term "Home Health Care" means medically necessary medical and medically related services provided in the Member's home environment. These services may include professional nursing care, medical administration, or personal hygiene, or assistance with mobility and transportation.~~

"Independent Medical Examination (IME)." *The term "Independent Medical Examination" means an examination by one or more licensed medical providers in order to provide an opinion of findings in connection with an **service-connected** injury/illness or an occupational disability Claim. A Physical Capacities Evaluation (PCE) or a Work Capacities Evaluation (WCE) is considered an "IME" under these rules.*

~~"Medical Evidence." The term "Medical Evidence" means expert written testimony, statements and opinions; sworn affidavits and testimony of medical experts; records, reports, documents, diagnostic test results authored, produced, generated, or verified by medical professionals; and medical research and reference material utilized, produced, or verified by medical professionals who are physicians or medical record reviewers in the particular case under consideration.~~

"Medical Service." The term "Medical Service" means any medical treatment, including:

- (A) Surgery
- (B) Diagnostic procedures
- (C) Chiropractic
- (D) Dental
- (E) In-patient and Out-patient hospitalization
- (F) Professional nursing
- (G) Ambulance transport
- (H) Prescription drugs
- (I) Medicine
- (J) Durable medical equipment
- (K) Crutches
- (L) Braces and supports
- (M) Prosthetic appliances
- (N) Physical Restorative Services

"Work Capacity Evaluation." The term "Work Capacity Evaluation" means a physical capacity evaluation with special emphasis on the ability to perform a variety of vocationally oriented tasks based on specific job demands. Work Tolerance Screening will be considered to have the same meaning as Work Capacity Evaluations.

"Worsening" The term "Worsening" means objective findings indicating a **deterioration** worsening of the approved service-connected injury/illness or occupational disability based on expert medical opinion or an expert medical opinion explaining why the Member's symptoms indicate a worsening **deterioration** of the approved service-connected injury/illness or occupational disability.

Fire or Bureau of Police, or work performed as part of an approved Transitional Duty Return to Work Program in accordance with Administrative Rule 5.10.03.

"Pursue Other Employment." "Pursue Other Employment" means: an active, serious, and continuing effort to seek ~~Full-time~~ ^{Pay} ~~work~~ each week that the Member claims benefits.

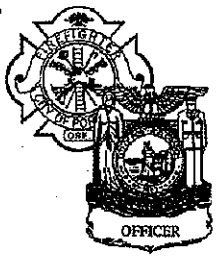
"Substantial Gainful Activity." The term "Substantial Gainful Activity" means the Member is qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base ~~at Disability~~ ***in Effect at Disability.***

"Transferable Skills." The term "Transferable Skills" means the knowledge, skills and abilities demonstrated in past training and employment which make a Member employable at work, with a new employer, with earnings equal to or exceeding one-third of the Member's rate of Base Pay at Disability.

"Transitional Duty." The term "Transitional Duty" means available tasks that allow a disabled member to return to work at an assignment that is less physically/mentally demanding than the member's regular work for a limited period of time. Also known as "Limited Duty."

"Vocational Assessment." The term "Vocational Assessment" means an evaluation, performed by a certified vocational counselor, consisting of one or more tests conducted to determine if a Member has reached a level of Substantial Gainful Activity.

"Vocational Rehabilitation." The term "Vocational Rehabilitation" means any services, goods, or allowance intended to support the Member's return to work efforts. A process initiated as early as possible for a Member who has been disabled and may require a different job or career as a result. May include Vocational Assessment, labor market surveys, developing alternative work plans, retraining, and assistance with job-seeking skills.



City of Portland, Oregon



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Statement of Rulemaking Need and Fiscal Impact (Resolution No. 488)

Purpose of Administrative Rule Amendment Recommendations – Staff proposes FPDR Administrative Rule amendments when it is deemed essential to providing clarity, consistency of application of Chapter 5 provisions, and full disclosure to all stakeholders.

Summary of Amendments:

FPDR Staff recommends amending Sections:

5.7 Service-Connected or Occupational Disability Benefits
5.7.01 Definitions

5.8 nonservice Connected Disability Benefits
5.8.01 Definitions

5.9 Medical Benefits
5.9.01 Definitions

5.10 Return to Work and Vocational Rehabilitation Programs
5.10.02 Definitions

See Exhibits "A" and "B" for complete description of proposed rule changes

Desired Outcome:

Board adopts amendments as recommended by staff.

Fiscal Impact Statement

FPDR finance staff has reviewed the proposed rules changes for fiscal impact:

No impact anticipated.