

# SNOHOMISH COUNTY

## LEOFF DISABILITY

### BOARD RULES



**2017**



TABLE OF CONTENTS

<u>CONTENTS</u>	<u>PAGE</u>
PURPOSE.....	3
SCOPE.....	3
EFFECT OF RULES AND REGULATIONS.....	3
DEFINITIONS.....	3-4
 <b><u>SECTION I - THE BOARD</u></b>	
1.1 Membership.....	4
1.2 Election of Firefighter and Law Enforcement Representative.....	4
1.3 Duties of the Board Members.....	5
1.4 Meetings.....	5-6
1.5 Hearings.....	6-7
 <b><u>SECTION II - PROCESSING APPLICATIONS AND CLAIMS GENERALLY</u></b>	
2.1 Applications and Claims.....	7
2.2 Outside Districts responsibility of medical claims.....	8
2.3 Basis of the Board’s Decision for Approval or Denial.....	8
2.4 Findings of Facts.....	8
2.5 Appeal of a Decision Regarding Medical Claims.....	8
2.6 Notification of Hearing - Appeal.....	8
2.7 Appeal of a Cancellation of Disability Leave or Disability Retirement.....	9
2.8 Appeal of a Decision Denying Disability Leave or Disability Retirement...	9
2.9 Board Appointed Physician.....	9
 <b><u>SECTION III - DISABILITY LEAVE</u></b>	
3.1 Application.....	9-10
3.2 Duration of Disability Leave Uncertain.....	10
3.3 Disability Leave Allowance Period.....	10
3.4 Physician’s Report.....	10
3.5 Returning to Active Service.....	11
3.6 Member Cooperation in Board Evaluation.....	11
3.7 Activities of Member while on Disability Leave.....	11
 <b><u>SECTION IV - DISABILITY RETIREMENT</u></b>	
4.1 Application.....	11-12
4.2 Six Months’ Disability Leave Application.....	12
4.3 Written Waiver of Six Months’ Disability Leave.....	12
4.4 Reexamination during Fifth or Sixth Month of Disability.....	12
4.5 Action on Application.....	12
4.6 Written Decision and Order.....	13
4.7 Notification of Denial of Retirement.....	13
4.8 Reexamination and Return to Duty.....	13-14

**SECTION V - CLAIMS FOR MEDICAL SERVICES**

5.1	Submitting Claims.....	14
5.2	Reduction of Payment of Claims.....	14
5.3	Services Through a Prepaid Health Plan.....	14
5.4	Third Party Liability for Injury or Cost of Medical Services.....	15
5.5	Approval of Claims.....	15
5.6	Payment of Claims.....	15

**SECTION VI - MEDICAL SERVICES RESOLUTIONS**

6.1	Resolution.....	15
6.2	Additional Services and Providers.....	15
6.3	Services obtained in Excess of 6.1 or 6.2.....	15
6.4	Prior Approval on Services Obtained in Excess of 6.1 or 6.2.....	15
6.5	Out of Country Services	15

**SECTION VII - POLICIES REGARDING CERTAIN CLAIMS**

7.1	Approval of Claims RCW 41.26.030 as set forth in RCW 41.26.150.....	16
7.2	Mental Health Services.....	16
7.3	Dental Expenses.....	16
7.4	Eye Glass Expenses.....	17
7.5	Health Club Memberships	17
7.6	Alcohol/Drug/Substance Abuse Treatment.....	17
7.7	Hearing Aid Expenses.....	17
7.8	Medical Services for Necessary Procedures.....	18
7.9	Surgical Procedures.....	18
7.10	Day Care and Nursing Home Care.....	18
7.11	Chiropractic.....	18
7.12	Acupuncture/Acupressure/Massage Therapy.....	18
7.13	Minor Claims.....	18
7.14	Reasonable Charge.....	18
7.15	Medications.....	19
7.16	Medicare Coverage.....	19

**SECTION VIII - RECONSIDERATION**

8.1	Procedure.....	19
8.2	Stay.....	19
8.3	Terms.....	19

**SECTION IX - AMENDMENTS**

Amendments.....	20
-----------------	----

**SECTION X - REVIEW**

Review of Rules and Regulations.....	20
--------------------------------------	----

<b><u>SIGNATURE PAGE</u></b> .....	21
------------------------------------	----

## **SNOHOMISH COUNTY DISABILITY RULES AND REGULATIONS**

**PURPOSE:** The purpose of these rules is to establish uniform methods of procedure for the conduct of the business of the Snohomish County Disability Board. This Board was established pursuant to the authority of RCW 41.26.110 and Chapter 164, Washington Laws passed in 1988 and its powers, duties, and responsibilities are as established by State Law. In the event of any conflict of these rules with State law, the latter shall govern.

**SCOPE:** These rules and regulations shall be applicable to all LEOFF 1 employees and retirees covered by chapter 41.26 RCW whether fire fighter or police officer, unless specifically provided herein.

**EFFECT OF RULES AND REGULATIONS:** All fire fighters, law enforcement officers, and retired members covered by the aforementioned chapter shall be subject to the rules and regulations contained herein. A member's failure to follow these procedures may subject such member to the loss of benefits otherwise due under the acts. Upon adoption of these rules, a copy will be distributed to the appropriate agencies.

### **DEFINITIONS:**

**APPLICATION:** A request by a member for Board approval of disability leave or retirement.

**CLAIM:** A request by a member for Board approval of payment for medical services or expenses.

**CONDITIONAL RETURN:** A return to duty by a member for the purpose of determining whether the member's disability persists.

**DISABILITY:** The existence of a physical or mental condition which renders the member unable to discharge with average efficiency the duty of the grade or rank to which the member belongs, or the position in which the member regularly serves. If a member is able to perform all of the duties of any available position to which a member of her/his grade or rank is normally assigned, the member is not considered disabled.

**HIPAA:** The Health Insurance Portability and Accountability Act (Pub. L. No. 104-191) and its implementing requirements relating to privacy and security of individually identifiable health information set out at 45 CFR Parts 160 and 164.

**IN THE LINE OF DUTY:** The member's disability occurred as direct result of the performance of the member's duties.

**MEMBER:** A law enforcement officer or fire fighter eligible for benefits provided under Chapter 41.26, LEOFF I plan.

NECESSARY MEDICAL SERVICE, MEDICALLY NECESSARY OR MEDICAL NECESSITY: And words of similar import shall mean, as to services or supplies, but not be limited to:

- 1) It is required to diagnose or treat a condition.
- 2) It is consistent with the symptoms or diagnosis and treatment of the condition.
- 3) It is the most appropriate level of service that is essential to the member.
- 4) It is not primarily for the convenience of the member.

The fact that a service or supply is furnished, prescribed, recommended or approved by a physician or other provider will not, of itself, make it medically necessary. A service or supply may be medically necessary in part only.

## SECTION 1 -THE BOARD

1.1 Membership - the Board shall consist of five (5) members as follows:

- 1) One member of the legislative body of the county.
- 2) One member of a city or town legislative body.
- 3) One fire fighter representative employed or retired.
- 4) One law enforcement officer representative employed or retired.
- 5) One member from the public at large.

The Board members shall serve a two (2) year term. In the event a vacancy occurs in the membership, a successor shall be elected or appointed as in the original election to serve the remainder of the unexpired term. The members of the Board will appoint their own chairperson.

1.2 Election of the fire fighter and law enforcement officer representatives: Both retired and employed members who are subject to the jurisdiction of the Board have both the right to elect and the right to be elected as the fire fighter or law enforcement officer representative.

By January 15 of each even numbered year, any retired or employed fire fighter or law enforcement officer may submit nominations for the respective representative to the Secretary of the Board. The Secretary will prepare and mail ballots to all members eligible to vote by January 20. Each ballot shall be returned in a sealed, specially marked envelope provided by the Secretary, within two (2) weeks. The ballots shall be opened and counted by the Secretary at specified time, place and date, and may be witnessed by any interested member. Each ballot shall only contain the name of any person nominated in writing to the Secretary and no write-in names shall be allowed. In the event only one name is nominated for a position, no mail out ballot shall be required, and the election shall be concluded.

**IT SHALL BE EACH MEMBER'S RESPONSIBILITY TO ADVISE THE SECRETARY OF HER/HIS CURRENT MAILING ADDRESS.**

### 1.3 Duties of the Board Member's:

- 1) Chairperson - The chairperson shall preside at all meetings and/or hearings of the Disability Board and call special meetings. The chairperson shall have the privilege of discussing all matters before the Board and voting thereon except where to do so would constitute a violation of the appearance of fairness doctrine or a conflict of interest. S/he shall have all the duties normally conferred by parliamentary procedures on such officers and shall perform such other duties as may be requested by the Disability Board.
- 2) Chairperson Pro Tem - The Chairperson Pro Tem shall assume the duties and powers of the chairperson in her/his absence.
- 3) Secretary - The Secretary shall be appointed by the Board. The Secretary shall keep the minutes and all regular, adjourned and special meetings of the Disability Board. The Board shall approve such minutes and copies shall be distributed to all members of the Board. The Secretary shall prepare the agenda of regular and special meetings, shall give notice of all disability hearings, and shall draft and sign routine correspondence for the Board.

### 1.4 Meetings

- 1) The regular monthly meeting of the Snohomish County Disability Board shall be held on the first Thursday of each month in the available room on the county campus at 8:30 a.m. In the event that the first Thursday is a holiday the meeting shall be held on the following Thursday. Special meetings of the Board shall be held upon the call of the Chairperson, of which notice shall be given in accordance with RCW 42.30.080. The Board may in its discretion, allow the public to attend regular meetings. Provided, however, that pursuant to RCW 42.30.140 (2), the Board reserves the right to close those portions of meetings in which the Board is deliberating upon quasi-judicial matters relating to specific request for benefits, where the Board finds that such deliberations might be expected to include discussion of sensitive personal information relating to a particular applicant.
- 2) Information relating to any member's claim or application, may be released only as required by chapter 42.17 RCW, as authorized by federal law (including certain medical information disclosed to medical experts as provided herein), pursuant to court order meeting the requirements of 45 CFR 164.512(e), or upon written authorization of the member. The affected member shall be notified when his/her medical records are released and to whom they were released. All records under the jurisdiction of the Disability Board shall be stored in a locked file cabinet and accessible only by the Board Secretary or his/her designee or other person so authorized by the Board.
- 3) At no time shall anyone attending be authorized to videotape or tape record portions of disability Board meetings unless specifically authorized by the Board.

- 4) Three (3) members shall constitute a quorum and the same shall have power to transact all business. Each Board member is expected to notify the Secretary three (3) working days prior to a scheduled meeting if that member will be unable to attend the meeting.
- 5) The LEOFF Board Secretary preceding each regular monthly meeting shall prepare an agenda.
- 6) "Robert's Rules of Order" shall guide the Board where rules or state law does not otherwise govern the proceedings.
- 7) If any person(s) on the Board concludes that s/he has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the Board so that s/he cannot discharge her/his duties, s/he shall disqualify her/himself from participating in the deliberations and the decisions making process with respect to the matter.
- 8) If at a meeting, significant conflicting evidence is presented, the Board will schedule an evidentiary hearing and give twenty (20) days notice thereof to all parties.

### 1.5 Hearings

The Board may hold a full hearing on any matter when deemed necessary. To ensure consideration by the Board, all documentary evidence should be submitted to the Secretary of the Board five (5) working days before the hearing.

At such a hearing:

- (a) Any person testifying before the Board may have her/his attorney present.
- (b) Opportunity shall be afforded all parties to respond and present relevant evidence and argument on all issues involved.
- (c) Unless precluded by law, informal dispositions may also be made of any contested case by stipulation, agreed settlement, consent order, or default.
- (d) The record of a hearing shall include:
  - 1) All pleadings, motions, intermediate rulings;
  - 2) Evidence received or considered;
  - 3) A statement of matters officially noticed, if any;
  - 4) Questions and offers of proof, objections, and ruling thereon, if any;
  - 5) Prepared findings and exceptions, if any; and,
  - 6) Any decisions, opinion, or report by the Board.
- (e) All oral proceedings in a Board hearing shall be recorded. A copy of the record, or any part thereof, shall be transcribed and furnished to any party to the hearing upon request therefore, and payment of the reasonable cost thereof.
- (f) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

- (g) The Disability Board may:
- 1) Administer oaths and affirmations, examine witnesses, and receive evidence;
  - 2) Issue subpoenas as provided in subsection (h) below;
  - 3) Rule upon offers of proof and receives relevant evidence;
  - 4) Take or cause depositions to be taken pursuant to rules promulgated by the Board; and,
  - 5) Regulate the course of the hearing.
- (h) The Board may compel the attendance of a witness at any hearing as follows:
- 1) The Board may issue a subpoena on its own motion or on the request of any party.
  - 2) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the Board may petition the Superior Court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the Board.
  - 3) Witness subpoenaed to attend such a hearing shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by RCW 2.40 and by RCW 5.56.010, as now or hereafter amended, as to Courts. Such fees and allowances, and the costs of producing records required to be produced by its subpoena, shall be paid by the Board or, by the party requesting the issuance of the subpoena.

## SECTION II - PROCESSING APPLICATIONS AND CLAIMS GENERALLY

2.1 All applications and claims shall be submitted to the Board Secretary on forms approved by the Board. All material to be considered in connection with any application or claim must be submitted to the Board at least ten (10) calendar days prior to the Board meeting at which such claim or application is to be considered. Material submitted after such time may be considered at the discretion of the Board.



2.2 Outside Districts, that is, all districts other than the Snohomish County Sheriff's Office and the Snohomish County Airport Fire Fighters, shall be responsible for processing medical claims for their LEOFF I members. All medical claims shall be submitted on Claim Approval forms. Outside Districts shall fill out the Claim Approval forms completely and attach the supporting documentation. They shall gather all the proper documentation, including but not limited to, explanation of benefits forms from insurance companies, itemized billings, etc. Before submitting claims, the Outside Districts shall assure that no previous payments have been made on those claims and that they are accurate. All Claim Approval forms must be submitted to the Board Secretary ten (10) days before the Board meeting at which they will be considered. Meetings are the first Thursday of every month. Claim Approval forms that are submitted late may be held for the following meeting.

2.3 The Board's decision to approve or deny applications or claims will ordinarily be based on the forms and other written information submitted by the member and on information provided to the Board by its own doctors. The Board may require a member to appear before the Board before deciding on the member's application or claim.

2.4 Every order of the disability Board granting or denying a disability retirement allowance shall contain the following presented in clear concise terms:

- 1) Findings of fact supported by evidence in the record supporting the granting or denying of the disability retirement allowance. When a disability retirement is granted, findings of fact shall include:
  - (a) Whether or not the disability was incurred in the line of duty.
  - (b) Whether or not the disability was incurred in other employment.
  - (c) Dates encompassing disability leave and/or dates relating to authorized trial basis return to duty; and, in the case of return to duty on a trial basis, the factual basis for such decision.
  - (d) Dates encompassing waiver of disability leave, if applicable; and that applicant established that such disability would be in existence for a period of six (6) months.
- 2) Conclusions of law in accordance with law on the basis of the facts in the case.
- 3) Decision and order.

2.5 Any decision of the Board regarding medical claims made in the manner provided in Rule 2.3 may be appealed to the Board for a hearing and reconsideration of its decision. Notice of such a hearing must be filed with the Board no more than thirty (30) days after notification of the Board's decision.

2.6 When the Board receives a notice of appeal, a hearing shall be scheduled before the Board at its next regular meeting or at a special meeting as determined by the Board. The party appealing the decision shall be given at least ten (10) days notice of the time, place, and nature of the hearing.

2.7 If the Board denies disability leave or disability retirement or cancels a previously granted disability leave or retirement, the applicant shall be immediately notified and advised of the right to appeal such decision or order to the Director of the Department of Retirement Systems, pursuant to RCW 41.26.200. Such notification shall be in writing and served by personal service or mail. Provided, that written notice need not be given if applicant or her/his duly authorized representative is in attendance at the meeting or hearing and is advised of decision and of the right of appeal.

2.8 Any decision of the Board denying disability leave or disability retirement or canceling a previously granted disability leave or retirement may be appealed to the Director of the Department of Retirement Systems. This appeal must be filed with the Director within thirty (30) days following the rendition of the order by the Board.

### 2.9 Board Appointed Physician

- 1) A duly licensed and practicing physician or physicians shall be appointed by the Board. No disability retirement shall be approved by the Board without prior examination of the claimant by the Board doctor or a specialist of her/his selection, on or near the expiration of the disability leave period. The Board doctor shall render such other medical service as may be requested by the Board.
- 2) In order to carry out the duties of this position, each physician appointed or approved by the Board is required to be knowledgeable concerning the duties, functions, and general demands required of the employee being examined. The disability Board shall furnish to the examining physician the job and/or position description of the applicant.
- 3) Reexamination of any member on disability retirement shall be conducted by a Board appointed or approved physician.

## SECTION III - DISABILITY LEAVE

### 3.1

- 1) Following receipt of an application for disability benefits, the Board shall review all relevant information pertaining to the question of the applicant's fitness for duty, and if in the opinion of the majority of the Board, the evidence supports the proposition that the member is unfit for duty, such member shall be granted disability leave, unless such leave is waived pursuant to RCW 41.26.120 (4). In considering such application, the Board shall consider the duties of the position, and any other evidence that is relevant.
- 2) The burden of proving the existence of a disabling condition, and whether or not the condition was incurred in line of duty, shall be upon the applicant.
- 3) The minimum medical and health standards previously promulgated by the state retirement Board for entry or reentry into LEOFF system membership were provided only to safeguard the fiscal integrity of the pension system and are not the applicable standards for any other purpose.

- 4) Each application shall be accompanied by a list identifying by name any physician who had been contacted within the last six (6) months for the illness or injury for which disability is claimed.
- 5) In the event the Board finds that insufficient information is available to make a determination, the matter may be continued to the next regular Board meeting or be set for consideration at a special meeting. The Board shall also advise the member of additional information needed, and of the member's obligation to provide additional information, and the deadline date by which such information must be provided.
- 6) The Board shall be authorized to demand the appearance of the member and to request the appearance of such other persons as deems appropriate. It shall be incumbent upon each member obtaining medical evaluations to be used in connection with such disability leave and subsequent evaluations, to advise each and every examining physician: that such evaluation is being conducted at the direction of the Board; that the doctor-patient privilege may not be invoked with respect thereto; and that the physician may be called upon by the Board to testify as to her/his findings.

All applications for disability retirement shall be submitted on a form provided by the Board, together with statements from two (2) doctors and the employer's statement and report on the application for disability retirement, and:

- (a) If the disability claimed is the result of an accident, a detailed statement, including dates, times and place, shall be submitted with the application;
- (b) If the disability claimed was incurred in the line of duty, proper evidence must be submitted substantiating this claim.

3.2 Where the duration of a disability leave is uncertain, the Board will estimate the duration of the leave when considering the application. In such cases, the Board may later act to modify the duration of the leave allowed.

3.3 Disability Leave Allowance - Such leave may encompass a period from one (1) day to a maximum of six (6) months.

3.4 Physicians Report - The law enforcement or fire fighter agency which employs the member may request a physician's evaluation report at the time the member makes application for disability leave if the disability is one which reasonably appears may lead to a disability retirement. The agency, which requests the evaluation, will compensate the evaluating physician.

### 3.5 Return to Active Service from Disability:

- 1) It shall be incumbent upon all members granted disability leave to seek authorization to return to active service at the earliest possible time. In the event the Board finds that a member has not sought authorization to return to active service immediately upon cessation of disability, the Board may determine the date at which the disability ceased and may retroactively cancel the member's disability leave allowance for the period between the cessation of disability and the date that the member actually returns to service.
- 2) Authorization to return to work may be issued by written order of the member's physician or by written order of the Board or a Board-appointed physician. In the event the medical evidence is inconclusive, the Board may specify in a written order a reasonable period to determine the member's fitness for active duty. The reasonable length and conditional return to service shall be supported by medical evidence. Such a conditional return to service does not entitle the member to a second six-month (6) period of service, if s/he is then found to be still disabled.
- 3) Unless the member receives authorization to return to work and returns to work following an absence of fourteen (14) working days or more, it shall be automatically deemed a conditional return for a two-month (2) period.

### 3.6 Member Cooperation in Board Evaluation

While on disability leave, the member shall be obligated to comply with directives of the Board. Such directives may include, but are not limited to, requests for medical or psychological evaluation or testing; requests for submittal of other relevant reports; orders to appear before the Board. If the Board finds compliance with such a request was within the control of the member and s/he failed to comply, it will presume compliance with the request would have shown the member to recover. This assumption can be overcome by competent medical evidence.

### 3.7 Activities of Member while on Disability Leave:

If a member in receipt of disability leave allowance, moves of her/his own volition, to a location more than one hundred (100) miles from the location of the Disability Board, any travel expenses incurred to appear before the Board or its designated physician shall be borne by the member. Such member shall keep the Board advised of her/his current address.

## SECTION IV - DISABILITY RETIREMENT

- 4.1 Application - All applications for disability retirement shall be submitted on a form provided by the Board, together with statements from two (2) doctors, the employer's statement and report on the application for disability retirement, and a list identifying by name any physician who had been contacted within the last six (6) months for the illness or injury for which disability is claimed; and:

- 1) If the disability is asserted to be the result of an accident, a detailed statement, including date, time, and place, shall be submitted with the application.
- 2) If the disability is asserted to have been incurred in the line of duty, proper evidence must be submitted substantiating this assertion.

4.2 Each application for disability retirement shall be deemed to include an application for six (6) month disability leave, unless otherwise provided.

4.3 Any member may sign a written waiver of her/his rights to all or part of the six (6) months' disability leave in order to have her/his disability retirement application acted on at an earlier date than would otherwise be permitted.

When the Board receives an application for a disability retirement where the applicant voluntarily waives her/his right to disability leave, arrangements shall be made to have the applicant examined as soon as practicable by a physician designated by the Board.

4.4

1) Applicants for disability retirement shall be reexamined during the fifth (5th) or sixth (6th) month of disability leave in order to determine their eligibility for retirement, with the following exceptions:

- (a) If the Board doctor assures the Board that the applicant's condition has not and will not be corrected before the end of the sixth (6th) months; or,
- (b) If the applicant establishes that the disabling condition will be in existence for a period of at least six (6) months and s/he voluntarily waives disability leave. No applicant will be granted a disability retirement allowance unless the conditions imposed by this subsection are met.

2) In the event the medical and other relevant evidence is inconclusive, the Board may specify in written order a reasonable trial service period to determine the member's fitness for active duty. The reasonable length of such conditional return to service shall be supported by medical and all other relevant evidence. Such a conditional return to service does not entitle the member to a second (2nd) six (6) month period of disability leave for the same disability if, based upon this trial period of service, the member is found to be disabled.

4.5 The Board will not act on any application for disability retirement before the fifth (5th) month of the applicant's disability leave, unless such leave is waived as in provided in Board rule 4.3. The Board may, in its discretion, postpone any decision and request additional information or a hearing under Board rule 1.4 (8).

#### 4.6

- 1) If the evidence shows to the satisfaction of the Board that the member is physically or mentally disabled from further performance of duty and that the disability has been continuous from the date of commencement of disability leave for a period of six months, the Board shall enter its written decision and order, accompanied by appropriate findings of fact and conclusions of law in compliance with RCW 41.26.120. Such written decision and order with supporting documentation shall thereafter be forwarded to the Director, Department of Retirement Systems, for review. In the event a regular meeting of the Board precedes by no more than 40 days the date at which the full six months will conclude and the evidence is clear that the disability can be expected to continue through the full six-month period, the Board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period, so as to eliminate unnecessary delay of receipt of retirement benefits.
- 2) In order to qualify to receive a disability retirement allowance, the applicant will be required to prove that s/he is physically or mentally disabled to such extent that s/he is unable to discharge with average efficiency the duty of the position held at time of discontinuance of service. Provided, that no member shall be entitled to a disability retirement allowance if the appropriate authority advises that there is an available position for which the member is qualified and to which one of such grade or rank is normally assigned and the Board determines that the member is capable of discharging, with average efficiency, the duties of the position.

4.7 If an application for disability retirement is denied, the applicant and employer will be promptly notified of the decision and the applicant's rights of appeal to the Director of the Retirement Systems.

#### 4.8 Reexamination and Return to Duty

- 1) In the event a member is placed on disability retirement, the Board shall determine whether or not the member is so disabled that no possibility exists for return to duty or that there is no possibility that rehabilitation could restore the member to fitness for duty. Further, the Board may at any point subsequent to retirement make such a determination. A copy of all such determinations shall be sent to the Department of Retirement Systems. Unless the Board has made such a finding, the Board's representative shall order a reexamination at six-month intervals and advise the Board of the results thereof with a copy to the Department of Retirement systems: Provided that such reexamination need not be conducted on a member over 49.5 years of age. In the event the retired member is residing at a location more than one hundred (100) miles from her/his former place of employment, the member may be authorized to be examined by a physician in her/his immediate area, provided, however, such physician shall be first approved by the Board and prior to such evaluation the examining physician shall be apprised of the basis upon which the examination is to be conducted and the issues to be addressed in the physician's evaluative report.

- 2) The retirement allowance of any member who fails to submit to medical examination as provided herein shall be discontinued and in the event such refusal continues for one (1) year, her/his allowance shall be canceled. Failure of the member to affirmatively respond to the request for reexamination shall be deemed a continuing refusal.
- 3) Where a periodic reexamination determines that a retired member may no longer be disabled, the member shall be notified by certified mail. The notification shall contain notice of time, place, and nature of a hearing to be held under Board rule 1.4 (8). The purpose of the hearing will be to determine whether the member continues to be disabled and whether the member's disability retirement should be continued or canceled.
- 4) In order for the Board to cancel a previously granted retirement, the Board must find that a changed circumstance exists and that the member is able to substantially perform job duties with average efficiency. A new diagnosis based on the unchanged medical condition, unchanged job duties and unchanged adaption to the medical condition is not sufficient to cancel the previous Board order.
- 5) Every decision and order revoking a disability retirement shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The appellant shall be notified of the decision and order in person or by certified mail.

#### SECTION V - CLAIMS FOR MEDICAL SERVICES

- 5.1 Claims for payment of medical services shall be submitted to the Board after member has made claim to her/his medical insurance company. The member shall submit itemized billings from the physician or provider and explanation of benefits from member's medical insurance company. Payment for services shall be made to the provider unless otherwise requested by the member.

All claims for medical services provided for by these rules shall be submitted to the Board within one (1) year from the date of service, unless extenuating circumstances substantiate the necessity for late filing.

- 5.2 Payment of claims shall be reduced by any amount received or eligible to be received under Social Security, Medicare, insurance provided by another employer, pension plan, or other similar source.
- 5.3 The Board will not approve payment of medical/dental services in cases where the member could have obtained reasonably equivalent services through a prepaid health plan. The Board will decide which services are reasonably equivalent.

- 5.4 Upon making payment for authorized medical service the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for the payment of the cost of medical services in connection with a member's sickness or disability. Such subrogation shall be to the extent necessary to recover payments made to the member by the employer.
- 5.5 The chairperson or a quorum of the Board may approve, at other than regular Board meetings, payment of claims.
- 5.6 Payment of Claims - Claims of the Snohomish County Sheriff's Office and Airport Fire Department for necessary medical services approved by the Board shall be summarized on a list and only the list shall be forwarded to Accounting for payment. Supporting documentation shall be kept in a secured location in the LEOFF Office. Other agencies claims approved by the Board shall be returned to the member's employer for payment.

#### SECTION VI - MEDICAL SERVICES RESOLUTIONS

- 6.1 Each member must obtain medical services through her/his prepaid health plan, if any.
- 6.2 The Board may authorize additional services and providers on a case by case basis upon a showing of need by the member. The Board may, at its discretion, notify the employing law enforcement or fire-fighting agency of the member's request for authorization for additional services and that agency shall be entitled to respond to that request. In making its determination whether to authorize additional services or providers the Board shall not be bound by rules of evidence and the decision of the Board shall be final.
- 6.3 Medical services obtained in excess of those provided for in subsections 6.1 and 6.2 of this section shall be at the expense of the member unless the Board in its discretion finds that compliance with subsection 6.1 and 6.2 was not possible under the circumstances or unless justice requires.
- 6.4 If a member is seeking medical services in excess of those provided in subsections 6.1 and 6.2; the member must obtain prior approval from the Board to guarantee payment of such claims.
- 6.5 Other than extreme emergency situations, all out of country medical expenses must be pre-approved by the Board.



## SECTION VII - POLICIES REGARDING CERTAIN CLAIMS

7.1 The Board will approve payment of claims for all medical services defined in RCW 41.26.030 under the conditions set forth in RCW 41.26.150. Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability Board shall be the judge, is confined in any hospital or in her/his home, and whether or not so confined, requires medical services, the employer shall pay for such active or retired member the necessary medical services not payable from some other source as provided for in RCW 41.26.150, subsection 2.

7.2 Mental Health Services – Payment for psychological services to a member during a continuous 12 month period will be approved only under the following conditions:

- 1) The Psychologist is licensed by the State of Washington pursuant to RCW 18.83 or other state whose certification requirements are, at a minimum, equivalent to the certification requirements set forth by Washington State.
- 2) The Psychologist submits to the Board upon request an individualized treatment plan which was prepared within one (1) month of commencement of treatment. Updated treatment progress reports to be submitted by the Psychologist every six (6) sessions in order for the Board to determine whether charges for such treatment should continue to be approved for payment.
- 3) The above rules shall also apply for all mental health treatment provided by the Board.

7.3 Dental Expenses:

- 1) Dental charges incurred by a member who sustains an accidental injury to his or her teeth shall be paid.
- 2) The expense of one (1) general dental checkup each year will be covered for each member.
- 3) No more than two (2) dental cleanings each year will be covered for a member, unless it is determined, in the discretion of the Board, that a more frequent cleaning schedule is medically necessary in a particular case or for a particular member.
- 4) Every member shall have at least one (1) dental cleaning and one (1) dental checkup once a year, defined as a 12 month period. Failure to do so shall impact reimbursement and/or authorization for other dental procedures.
- 5) The dental expenses incurred by a member for routine dental and periodontal work, as may be found by the Board to be medically necessary, will be covered.
- 6) Dental expenses incurred by a member for dental services or work which is purely cosmetic in nature will not be approved, except in unusual circumstances, and then only with the prior written approval of the Board and based upon medical necessity.
- 7) Dental expenses incurred by a member for teeth whitening will not be approved.
- 8) Board authorizes \$25.00 maximum for fluoride treatment once per year.

#### 7.4 Eye Glasses

The Board will approve payment of the expense of eye glasses prescribed by an ophthalmologist or optometrist as follows:

- 1) One (1) eye examination per year less amount payable by insurance.
- 2) One set of frames and lenses every two (2) years. Cost not to exceed \$200.00 for frames and \$300.00 for lenses if purchased separately or \$500.00 per set combined. The \$500.00 shall be less any amount payable by some other source such as insurance.
- 3) Lens and/or frame replacement caused by breakage or loss will only be approved if the breakage or loss occurs through no fault or negligence of the member such as being hit, a vehicle accident, or other type of accident such as a fall, subject to approval of the Board.
- 4) The member may only receive glasses (lenses & frames) OR contacts during a two year period. The Board will not approve payment for both.

The Disability Board, with the receipt of related bills and medical information, may, in its discretion, review individual circumstances not covered above. Pre-approval is required if a member needs glasses more frequently than every two years.

7.5 Health Club Memberships – Health club memberships may be approved by the Board on a case-by-case basis in lieu of physical therapy for rehabilitation purposes only.

7.6 Alcohol/Drug/Substance Abuse Treatment - The Board's policy is to provide for the treatment of substance abuse at a facility licensed by the State to provide that service. The member is to first obtain a referral from the member's physician for the selected facility or organization, subject to review by a Board appointed physician.

Treatment may consist of inpatient or outpatient treatment with the prior approval of the Board. The member shall receive prior approval from the Board whenever possible.

Payment for substance abuse treatment will be subject to a maximum lifetime limit of one single course of treatment. Extenuating circumstances may be reviewed at the discretion of the Board.

7.7 Hearing Aids - Suitable evidence of medical necessity shall be required. Failure to deliver this evidence may result in denial of payment of all or part of the costs of such hearing aid or device. Batteries and maintenance supplies will be provided at a maximum of \$200.00 per year. All hearing devices require Board pre-approval.

7.8 Necessary Procedures - Only medical services for necessary procedures will be considered. The following will not be considered:

- 1) Sterilization;
- 2) Cosmetic surgery or procedures, except those expenses arising from cosmetic surgery or procedures that are directly related to traumatic injury may be covered if approved by the Board prior to being incurred.

7.9 Surgical Procedures - For any surgical procedure which is not performed on an emergency or urgent basis the member shall:

- 1) Advise the Board, one (1) month in advance,
- 2) The Board may elect to require such member to see a Board appointed physician for a second opinion as to the necessity for such surgical procedure.

7.10 Day Care/Nursing Home Care/Assisted Living Care for members must receive prior approval of the Board whenever possible.

7.11 Chiropractic – The Board will approve up to twenty (20) annual visits to a Chiropractor licensed by the State of Washington pursuant to RCW 18.25 or a Chiropractor in another state whose certification requirements are, at a minimum, equivalent to the certification requirement set forth by Washington State provided:

- 1) The Board receives an evaluation and treatment plan for more than four (4) chiropractic visits for the same injury/illness/condition.
- 2) The Board requires a referral and documentation stating the medical necessity from the member's physician if chiropractic visits exceed 20 per calendar year.

Nothing shall prevent the Board from extending the number of allotted visits upon proof of medical necessity.

7.12 Acupuncture/Acupressure/Massage Therapy/Physical Therapy shall be provided under the following conditions:

- 1) Services have been prescribed by a licensed physician stating the medical necessity.
- 2) If treatment is to be continuous (more than four (4) visits for the same illness or condition) an evaluation and proposed treatment plan must be submitted by the prescribing physician to the Board for pre-approval.

7.13 Minor Claims - Claims which individually or when aggregated with other related claims of the member do not exceed ten dollars (\$10), will only be considered by the Board quarterly. Such claims will be accumulated by the Secretary and presented to the Board quarterly

7.14 Reasonable Charge - The Board shall be responsible for determining what is reasonable.

7.15 Medications - Medications will only be covered when prescribed by a licensed medical provider.

- 1) Smoking cessation prescriptions and medication shall be limited to a 90-day lifetime maximum.
- 2) Sexual dysfunction and infertility prescriptions may be approved upon showing of medical necessity, and shall be limited to no more than six (6) doses per month.

7.16 Medicare Coverage - Where, at a member's request the LEOFF Disability Board has authorized payment of members Medicare B premium, the Board shall require that member to seek medical services from a Medicare B Provider, unless, such member can show just cause that necessary medical treatment will not be provided, such as, emergency or out of the area treatment.

- 1) Every member is required to sign up for Medicare Part B when eligible.

#### SECTION VIII - RECONSIDERATION

8.1 Procedure: The member or employer may petition in writing the Board to reconsider any decision made, if done within thirty (30) days of notice of the Board's decision.

Grounds: The Board may reconsider its decision if one of the following grounds and supporting facts are alleged:

- 1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in making the decision;
- 2) Newly discovered evidence;
- 3) Fraud, misrepresentation, or misconduct of an adverse party;
- 4) The decision is void;
- 5) Any other reason which, in the Board discretion, justifies relief.

8.2 Stay: Pending the reconsideration, the decision of the Board will be stayed. The stay shall apply to the next meeting of the Board, at which time the reconsideration will be heard.

8.3 Terms: If the Board finds that the motion to reconsider was frivolous, without any arguable basis, or in bad faith, the Board may award terms for the prevailing party.

## SECTION IX - AMENDMENTS

These rules and regulations may be amended, repealed or altered in whole or in part by a majority vote of the total membership of the Board.

## SECTION X - REVIEW

These rules and regulations shall be reviewed annually in June of each year or whenever the Board deems necessary to assure that:

- (1) Provisions herein remain in conformance with Washington statutory and administrative codes and/or the Snohomish County Code.
- (2) Provisions herein reflect current philosophy and intent of the Board.

ADOPTED by the Snohomish County Law Enforcement Officers' and Fire Fighters' Disability Board the 1<sup>st</sup> day of July 1982. AMENDED by the Snohomish County Law Enforcement Officers' and Fire Fighters' Disability Board this 5th day of January, 2017.

SNOHOMISH COUNTY LAW ENFORCEMENT OFFICERS'  
AND FIRE FIGHTERS' DISABILITY BOARD



---

Warren Asplen



---

Ken Crowder



---

Millard Davis

---

Stephanie Wright



---

Jeffrey Beeler