



FIRE AND POLICE DISABILITY AND RETIREMENT City of Portland, Oregon



800 SW First Ave., Suite 450, Portland, OR 97201 · (503) 823-6823 · Fax: (503) 823-5166

Heart/Lung Presumption – Proposed Rule Amendments July 27, 2021

5.7.04 – CLAIM APPROVAL OR DENIAL

(A) Disability Claim applications fall into one of the following ~~five~~ **four** categories:

- (1) Service-Connected Disability Claims **under Section 5-306(b) and (c)**: Except for stress or mental disorder claims, the Director shall determine the existence of a disability and whether the preponderance of the evidence indicates it arises out of and in the course of the Member's employment.

A Member shall not be eligible for the service-connected disability benefit based on an injury suffered in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties or incurred while engaging in, or as the result of engaging in, any recreational or social activities solely for the Member's personal pleasure.

Stress or Mental Disorder Claims: The Director shall determine if each of the following elements exists:

- (a) the employment conditions producing the stress or mental disorder exist in a real and objective sense;
- (b) the employment conditions producing the stress or mental disorder are conditions other than conditions generally inherent in police and fire employment or reasonable disciplinary, corrective or job performance evaluation actions by the employer, or cessation of employment;
- (c) there is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community;
- (d) there is clear and convincing evidence that the stress or mental disorder arose out of and in the course of employment as an Active Member; and
- (e) the Member's employment conditions are the primary cause the stress or mental disorder.

(2) Occupational Disability Claims **under Section 5-306(d)**: The Director shall presume a Member is eligible for an occupational disability enumerated in 5-306(d) of the City Charter unless the Director determines, by a preponderance of the evidence, the occupational disability was not contracted as a result of service as a police officer or fire fighter.

(3) Oregon Statutory Presumption Claims: The Director shall evaluate the following Oregon statutory presumption claims in accordance with the appropriate Oregon Revised Statute (ORS).

(a) Firefighter Heart/Lung Presumption claims as described in ORS 656.802(4).

(b) Post-Traumatic Stress Disorder (PTSD) and Acute Stress Disorder claims as described in ORS 656.802(5).

(c) Firefighter Cancer Presumption claims as described in ORS 656.802(7).

~~(3) Firefighter Cancer Presumption Claims: The Director shall evaluate firefighter cancer presumption claims in accordance with ORS Section 656.802(5).~~

~~(4) Post-Traumatic Stress Disorder (PTSD) and Acute Stress Disorder Claims: The Director shall evaluate and process PTSD and Acute Stress Disorder claims in accordance with ORS Section 656.802(7).~~

~~(5)~~**(4)** COVID-19 Claims:

(a) Definition: the term "COVID-19 Exposed Employees" means Active Members of the FPDR Plan who are required by their work to have hands-on contact with members of the public or coworkers.

(b) For COVID-19 Exposed Employees, the City will treat a diagnosis of COVID-19 as occurring at work, unless clear and convincing evidence indicates that it is not service connected.

(c) Explanation: Claims filed by COVID-19 Exposed Employees who are diagnosed with COVID-19 will be compensable unless the City shows by clear and convincing evidence that it is not service connected. Such provision of medical benefits and time loss shall be consistent with statute, the FPDR Plan and/or FPDR's administrative rules or Charter.

(d) For COVID-19 Exposed Employees who have not been diagnosed with COVID-19 but 1) come into contact at work with someone diagnosed with COVID-19, or develop symptoms at work consistent with COVID-19, as defined by the Center for Disease Control (CDC), and 2) the COVID-19 Exposed Employee seeks medical advice within a

reasonable time of either known exposure or the development of symptoms, and then follow through within a reasonable time for testing for COVID-19 if recommended by the medical provider, will receive medical benefits and time loss. Such provision of medical benefits and time loss shall be consistent with statute, the FPDR Plan and/or FPDR's administrative rules or Charter.

- (e) Disability benefits will be paid to Active Members who are under a mandatory quarantine ordered under the authority of the Multnomah County Health Officer. Such provision of time loss shall be consistent with statute, the FPDR Plan and/or FPDR's administrative rules or Charter. The FPDR Plan does not permit reimbursement to Members for "room and board" costs incurred to quarantine outside of their home at alternative locations.
- (f) These Administrative Rules, 5.7.04(5)(a)-(e), are effective immediately and will remain in effect until 180 days after any COVID-related State of Emergency declared by the Mayor expires.