

or 3309.401 of the Revised Code. The action of the board shall be final. ~~At the time the board decides it concurs with the determination of the physician or physicians, the board shall determine the date on which the member was first incapacitated by the disabling condition.~~

(F) ~~The school employees retirement board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.~~

(G)(1) A disability benefit recipient shall obtain any vocational rehabilitation recommended by the board's physician or other consultant and submit reports regarding the rehabilitation. If the board determines that a recipient is not obtaining the rehabilitation or the board does not receive a required report, the disability benefit shall be suspended until the rehabilitation is obtained, the report is received by the board, or the board's physician or consultant certifies that rehabilitation is no longer helpful or advisable. If the recipient's failure to obtain rehabilitation or submit a required report continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(2) The board shall adopt rules to implement this division.

(H) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because the member is considered to be mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee, and the physician or physicians selected by the board report to the board that the member is physically and mentally capable of performing service similar to that from which the member was separated, and the board concurs in such report, then the board shall so certify to the employer and the employer shall restore the member to the member's previous position and salary or to a similar position and salary.

Sec. 3309.392. A recipient of a disability benefit granted under this chapter on or after the effective date of this section shall apply for social security disability insurance benefit payments under 42 U.S.C. 423 if the

recipient meets the requirements of divisions (a)(1)(A), (B), and (C) of that section. The application shall be made not later than ninety days after the recipient is granted a disability benefit under this chapter unless the school employees retirement board determines from the member's medical records that the member is physically or mentally unable to make the application. The recipient shall file a copy of the completed application and a copy of the social security administration's acknowledgement of receipt of the application with the school employees retirement system. The system shall accept the copy and acknowledgement as evidence of the member's application.

If a recipient fails without just cause to apply for social security disability insurance benefit payments or to file a copy of the application and acknowledgement of receipt with the system, the disability benefit under this chapter shall be suspended until application is made and a copy of the application and acknowledgement is filed with the system.

The member shall file with the system a copy of the social security administration's final action on the member's application for social security disability insurance benefit payments.

Sec. 3309.401. (A) A member with disability coverage under this section who is determined by the school employees retirement board under section 3309.39 of the Revised Code to qualify for a disability benefit shall receive a disability allowance under this section. The allowance shall be an annual amount equal to the greater of the following:

- (1) Forty-five per cent of the member's final average salary;
- (2) The member's total service credit multiplied by two and two-tenths per cent of the member's final average salary, not exceeding sixty per cent of the member's final average salary.

(B) Sufficient reserves for payment of the disability allowance shall be transferred to the annuity and pension reserve fund from the employers' accumulation fund. The accumulated contributions of the member shall remain in the employees' savings fund. No part of the allowance paid under this section shall be charged against the member's accumulated contributions.

(C) A disability allowance paid under this section shall terminate at the earliest of the following:

- (1) The effective date of service retirement under section 3309.35; or 3309.36, ~~or 3309.38~~ of the Revised Code;
- (2) The date the allowance is terminated under section 3309.41 of the Revised Code;
- (3) The later of the last day of the month in which the recipient attains