

Sec. 742.40. (A) As used in this section, "disability benefit recipient" means a member of the OHIO police and ~~firemen's disability~~ and FIRE pension fund who is receiving a disability benefit pursuant to division (C)(2), (3), (4), or (5) of former section 742.37 of the Revised Code or pursuant to section 742.38 of the Revised Code.

(B) The board of trustees of the OHIO police and ~~firemen's disability~~ and FIRE pension fund 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 or physicians 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.

(C)(1) A disability benefit recipient shall be considered on leave of absence from the recipient's position of employment as a member of a police or fire department during the first five years following the effective date of the recipient's disability benefit, notwithstanding any contrary provisions of this chapter.

(2)(a) The board shall require a disability benefit recipient who has been a member of the fund for less than twenty-five years and has not attained age forty-eight to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing.

(b) The board may require a disability benefit recipient not described in division (C)(2)(a) of this section to undergo a medical examination at any time it considers necessary.

(c) If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be suspended until the recipient withdraws the refusal. If the refusal continues for one year, the recipient's rights under and to the disability benefit are terminated as of the effective date of the original suspension.

(3) The board shall designate one or more physicians to conduct an examination required under this division. After completing the examination, the physician shall determine and certify to the board whether the disability benefit recipient continues to meet the disability standard set forth in division (D)(1), (2), or (4) of section 742.38 of the Revised Code or

division (C)(2), (3), or (5) of former section 742.37 of the Revised Code on which the recipient was originally determined to be disabled. If the physician's determination is that the recipient no longer meets the standard and the board concurs in the physician's determination, or the recipient becomes employed as a police officer or firefighter, the disability benefit shall be terminated the earlier of ninety days after the date of the board's concurrence or on the date the recipient returns to employment as a police officer or firefighter, except that if the recipient was receiving a benefit pursuant to division (D)(1) of section 742.38 of the Revised Code or division (C)(2) of former section 742.37 of the Revised Code, the board shall reevaluate the recipient's disability under division (D)(2) of section 742.38 of the Revised Code and award a benefit under that division if the recipient qualifies for it. A recipient may appeal the board's concurrence in the physician's determination. The board shall adopt rules establishing procedures for the appeal. If the leave of absence provided under division (C)(1) of this section has not expired when a disability benefit is terminated under this division, the board shall certify to the recipient's last employer before being found disabled that the recipient is no longer incapable of resuming service. At the recipient's request, the employer shall restore the recipient to the previous position and salary or to a position and salary similar to it, with all previous rights, including civil service status. The employer is not required to restore the recipient to employment if the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) Each disability benefit recipient shall file with the board an annual statement of earnings and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file the annual statement of earnings if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.