

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT**

1 **459-076-0050**

2 **Periodic Reviews**

3 (1) Members receiving a disability benefit are subject to periodic reviews of their
4 disabled status until the member reaches normal retirement age or staff determines that
5 periodic reviews are no longer warranted.

6 (2) Periodic reviews will be used to determine that continued disability benefits are
7 warranted. In recommending the continuance or discontinuance of a disability benefit,
8 PERS will follow the criteria established under OAR 459-076-0005 for the original
9 approved disabling condition or a new medical condition. If a member receiving a
10 disability benefit becomes employed, the member’s disability benefit will be terminated
11 as provided in OAR 459-076-0005.

12 (3) For a duty disability, the periodic review will not revisit the original
13 determination that the injury or disease was duty caused, unless there is evidence of
14 misrepresentation or fraud.

15 (4) PERS will establish review dates for each member subject to a periodic review
16 depending on type of disability, extent of disability, and medical reports unique to each
17 individual case:

18 (a) The reviews may be medical or vocational in nature, or both and will be based
19 on the administrative rules in effect when PERS initiates the disability periodic
20 review;

21 (b) Upon review, PERS may accept or require:

22 (A) New treating or consulting physician or specialist reports;

- 1 (B) Updated physician or specialist reports;
- 2 (C) Independent medical or vocational examinations; or
- 3 (D) Employment and wage information, including but not limited to, tax returns or
- 4 information from the State Employment Department. Receipt of weekly unemployment
- 5 insurance payments after the date of disability is substantial evidence that the
- 6 member is able, available, actively seeking and willing to accept employment and is
- 7 not totally and continuously disabled.

8 (c) PERS may immediately discontinue the disability benefit of any person who

9 refuses to provide current medical evidence or refuses to submit to an examination:

10 (A) If the disability claim is discontinued, the staff shall issue an Intent to

11 Discontinue letter by regular and certified mail, return receipt requested. The

12 discontinuation letter shall advise the applicant that additional information to substantiate

13 the claim, or a request for an extension of 30 days to present additional information, may

14 be submitted to the staff in writing within 30 days of the date of the Intent to Discontinue

15 letter;

16 (B) Following the issuance of an Intent to Discontinue letter, staff will review any

17 additional information which is submitted within 30 days:

18 (i) If the additional information results in a recommendation to approve the

19 application, staff shall resubmit the application to the Director, or the Director's designee,

20 with the recommendation;

21 (ii) If the additional information does not result in a recommendation to approve the

22 application, PERS will issue a final discontinuation letter by regular and certified mail,

23 return receipt requested.

1 (C) If no additional information is received within 30 days, PERS will issue a final
2 discontinuation letter by regular and certified mail, return receipt requested;

3 (D) The final discontinuation letter will provide the applicant with notification of the
4 right to request a contested case hearing as provided for in OAR 459-015-0030 and 459-
5 001-0035.

6 (5) The member has the burden to prove continuing eligibility for a disability
7 benefit.

8 (6) The Director, or Director’s designee, may approve or deny the continuance of a
9 disability benefit.

10 Stat. Auth.: ORS 238A.450

11 Stats. Implemented: ORS 23A8.235