§17106-B. Disability retirement; medical review

1. Disability retirement forms; assessment. The chief executive officer shall develop and make easily accessible to health care providers in this State a disability form that allows a health care provider to provide an assessment of a member's ability to work after taking into account the member's mental or physical disability under the standards of this Part. References in this section to "disability form" refer to the form developed by the chief executive officer. A member seeking disability retirement shall cooperate with the chief executive officer in obtaining the member's medical records and may obtain an assessment from the health care provider of the member's ability to work after taking into account the member's mental or physical disability, and, if the health care provider finds that the member is disabled under the standards of this Part, the health care provider, at the request of the member, may file with the chief executive officer a disability form signed by the health care provider. The health care provider shall also provide a copy of the form to the member. The chief executive officer may find that a member has a mental or physical disability and is eligible for disability retirement based on the information provided in the form and medical records. The chief executive officer may seek, receive and consider recommendations and opinions from the medical review service provider in making this determination.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

2. Medical review. If the chief executive officer is unable to determine whether a member is eligible for disability retirement based on the information provided under subsection 1, the chief executive officer shall direct the member to have an independent medical examination by an independent health care provider. The member may waive the independent medical examination, in which case the chief executive officer may determine that the member is not eligible for disability retirement. The member may appeal this determination under subsection 3.

A. The retirement system shall pay all fees of the independent health care provider. The independent health care provider may not be a state employee and may not have any association with the retirement system other than providing independent medical examinations or medical consultations and receiving payment for these services and, unless the member consents in writing, may not have previously examined or treated the member with respect to the member's mental or physical disability. [PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF).]

B. The member may have a representative present at the independent medical examination, who may be a union representative, an attorney, a health care provider or any individual of the member's choice. The retirement system shall reimburse the member's representative as follows:

(1) If the representative is a health care provider, the retirement system shall pay that health care provider a standard per diem rate established by the board and a reasonable mileage reimbursement; and

(2) Any other representative of the member may be paid a reasonable mileage reimbursement only. [PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF).]

[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

3. Disability determination; appeal. After an independent medical review under subsection 2, the chief executive officer or the chief executive officer's designee shall make a determination of eligibility for disability retirement based upon the totality of the evidence and in accordance with subsection 4. The chief executive officer or the chief executive officer's designee may obtain recommendations or opinions from the medical review service provider to assist in this determination. A determination by the chief executive officer or the chief executive officer's designee that the member is not disabled may be appealed by the member to a hearing officer, who shall hear the appeal in accordance with section 17106-A. The board shall by rule provide for procedures for the member to participate in selection of the hearing officer who will hear the member's appeal. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

4. Medical evidence. When reviewing medical evidence in making determinations of disability, the board, chief executive officer and hearing officers shall primarily consider medical opinions in the record and whether the opinions are supported by sound medical evidence and are consistent with other medical evidence in the record.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

5. Attorney's fees. If a member has retained services of an attorney to represent the member before a hearing officer or in a court proceeding on appeal of a board decision, the fee arrangement has been approved by the hearing officer or the court and the attorney obtains a favorable result for the member, the attorney's fees must be paid by the retirement system, up to a maximum of $12,000. The fee arrangement may be a contingency fee, in which case the payment by the retirement system must be applied toward the satisfaction of the contingency fee.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF).]

SECTION HISTORY

PL 2021, c. 277, §18 (NEW). PL 2021, c. 277, §45 (AFF). PL 2021, c. 548, §45 (REV).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 132nd Maine Legislature and is current through October 1, 2026. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.