

FINANCE AND ADMINISTRATION CABINET

Kentucky Retirement Systems (Amended at ARRS Committee)

105 KAR 1:210. Disability procedures.

RELATES TO: KRS 16.505-16.652, 61.505~~[10]~~-61.705, 78.510-78.852, 344.030, 29 C.F.R. Part 1630, 42 U.S.C. 12111(9)

STATUTORY AUTHORITY: KRS 61.505(1)(f) ~~[KRS 61.645(9)(g)]~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(f) ~~[61.645(9)(g)]~~ authorizes the Kentucky Public Pensions Authority ~~[Board of Trustees of Kentucky Retirement Systems]~~ to promulgate all administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with ~~[necessary or proper in order to carry out the provisions of]~~ KRS 61.510~~[61.515]~~ to 61.705, 16.505 ~~[16.510]~~ to 16.652, and 78.510 ~~[78.520]~~ to 78.852. KRS 16.582, 78.5524, 61.600, 78.5522, ~~[and]~~ 61.665, and 78.545 establish ~~[provide for]~~ a process for applying for disability retirement benefits to members of the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System ~~[retirement systems]~~ and a process for administrative appeal of a denial of an application or reapplication for disability retirement benefits. This administrative regulation establishes the procedure for filing an application or reapplication for disability retirement benefits and the procedures for filing an administrative appeal of a denial of an application for disability retirement benefits.

Section 1. Definitions.

(1) Unless otherwise defined in this section, the definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation ~~[, unless otherwise defined] [herein]~~.

(2) Prior to April 1, 2021, "the agency" means the Kentucky Retirement Systems, which administers the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "the agency" means the Kentucky Public Pension Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.

(3) "Applicant" means a member or retired member of the State Police Retirement System, the Kentucky Employees Retirement System, or the County Employees Retirement System (or a member or retired member of multiple Systems) who has applied or is applying for disability retirement benefits in accordance with KRS 16.582, 78.5524, 61.600, 78.5522, 61.665, and 78.545.

(4) Prior to April 1, 2021, "DAC" means the Disability Appeals Committee of the Board of Trustees of the Kentucky Retirement Systems. Effective April 1, 2021, "DAC" means the separate or joint Disability Appeals Committees of the Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees of the County Employees Retirement System in accordance with KRS 61.665(4) and 78.545.

(5) "File" means ~~[the following methods for]~~ delivering or submitting a form or other documents to the retirement office, unless otherwise stated by ~~[the]~~ mail, fax, in-person delivery, secure email, or ~~[and]~~ upload via Self Service on the Web site maintained by the agency (if available). A form or other document is ~~[shall]~~ not ~~[be deemed]~~ filed until it has been received at the retirement office.

(6) "Invalid" means that the form is deficient and not to be accepted or processed by the agency.

(7) ~~(6)~~ "Participating employers" means employers participating in the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.

(8) ~~(7)~~ "Provide ~~to~~" ~~"when used in reference to a form,"~~ means ~~the following methods for~~ the agency ~~makes to make~~ a form available to a member, retired member, or beneficiary ~~by~~ : mail, fax, secure email, ~~or and~~ upload via Self Service on the Web site maintained by the agency (if available).

(9) ~~(8)~~ ~~"For the purposes of this regulation only,"~~ "Recipient" means a retired member of the State Police Retirement System, the Kentucky Employees Retirement System, or the County Employees Retirement System (or a retired member of multiple Systems) who is receiving disability retirement benefits in accordance with KRS 16.582, 78.5524, 61.600, 78.5522, 61.665, and 78.545.

(10) ~~(9)~~ ~~"The~~ Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.

(11) ~~(10)~~ "Valid ~~to~~" ~~"when used in reference to a form,"~~ means that all required sections on a form are completed and all required signatures on a form are executed.

~~(11)~~ ~~"Invalid," when used in reference to a form, means that the form is deficient and shall not be accepted or processed by the Agency.~~ [(1) An application or reapplication for disability benefits shall be made on "Form 6000, Notification of Retirement".]

~~(2)~~

~~[(a)] [The application or reapplication shall be filed at the retirement systems within twenty-four (24) months, which is 730 calendar days, of the applicant's last day of paid employment in a regular full-time position.]~~

~~[(b)] [The time period for filing an application or reapplication for disability retirement benefits shall begin on the day after the applicant's last day of paid employment in the regular full-time position and shall end at close of business on the following 730th day.]~~

~~(c) If the last day of the period is a Saturday, Sunday, or state or federal holiday, then the application shall be valid if filed at the retirement systems by the close of the next business day following the weekend or holiday.]~~

~~[(d)] [The applicant's employer shall certify the applicant's last day of paid employment.]~~

~~[(e)] [An application or reapplication may be submitted prior to the applicant's last day of paid employment.]~~

Section 2. Use of Third-party Vendors.

(1) The agency may contract with third-party vendors to act on its behalf throughout the disability retirement application and review process. The agency may also contract with third-party vendors to act on its behalf throughout the periodic review, reinstatement review, and employment review processes.

(2) The agency may utilize independent, licensed physicians provided by third-party vendors to serve as medical examiners pursuant to KRS 61.665 and 78.545. Third-party vendors may ~~also~~ provide additional persons to fulfill non-physician roles throughout the disability retirement application process.

(3) ~~For purposes of this regulation,~~ Third-party vendors may act on behalf of the agency and the systems with all the rights and responsibilities therein.

~~[(1)] [If the applicant is eligible to begin drawing early retirement benefits, the applicant shall be notified of the right to receive a retirement allowance while the disability application is being processed.]~~

~~[(2)] Election of early retirement by the applicant shall not affect the application for disability retirement.]~~

Section 3. Filing an Application or Reapplication for Disability Retirement Benefits.

(1) An application for disability retirement benefits or a reapplication for disability retirement benefits shall be made on the Form 6000, ~~f" Notification of Retirement. f"~~

(2)

(a)

1. A reapplication for disability retirement benefits based on the same claim of incapacity shall be accompanied by new objective medical evidence not previously considered with prior applications.

2. An applicant shall have ~~one hundred eighty (180)~~ days from the date the reapplication for disability retirement benefits based on the same claim of incapacity is on file at the retirement office in which to file new objective medical evidence not previously considered with prior applications.

3. If the last day of the period described in subparagraph 2. of this paragraph is a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the retirement office is actually and legally closed, or any other state or federal holiday that disrupts mail service, then the deadline shall be satisfied if the required forms, certification, information, ~~or and/or~~ request are on file at the retirement office by the close of the next business day.

4. A reapplication for disability retirement benefits based on the same claim of incapacity that is accompanied by new objective medical evidence shall be reviewed in conjunction with the objective medical evidence, forms, and information filed with all previous applications.

(b) A reapplication for disability retirement benefits based on the same claim of incapacity that is unaccompanied by new objective medical evidence that was not considered with previous applications within ~~one hundred eighty (180)~~ days of filing of the reapplication shall be invalid and shall not be accepted or considered by the agency.

(3) A reapplication for disability retirement benefits that is filed subsequent to a prior application for disability retirement benefits and is based on an entirely different claim of incapacity shall ~~will~~ be treated in the same manner as a reapplication for disability retirement benefits based on the same claim of incapacity under subsection (2) of this section.

(4)

(a) Pursuant to KRS 16.582, 78.5524, 61.600, and 78.5522, the twenty-four (24) month period after the applicant's last day of paid employment during which the applicant shall ~~must~~ have a valid application on file at the retirement office shall consist of ~~seven hundred thirty (730)~~ calendar days.

(b) If the 730th day is on a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the retirement office is actually and legally closed, or any other state or federal holiday that disrupts mail service, then the application shall be timely if filed at the retirement office by the close of the next business day.

(c) If a valid application or reapplication for disability retirement benefits is not on file at the retirement office at the close of business on the 730th day, then the application or reapplication is not timely and the applicant is not qualified to retire on disability.

(d)

1. The applicant's last day of paid employment shall either be certified by the applicant's employer or filed by the applicant and corroborated by the reporting information received by the agency from the applicant's employer.

2. In accordance with KRS 61.685 and 78.545, the applicant's last day of paid employment may be corrected at any time upon discovery of any error or omission in the agency's records.

(5) An application or reapplication may be filed prior to the applicant's last day of paid employment but no earlier than six (6) months prior to the applicant's last day of paid employment.

Section 4. Forms Required with Disability Retirement Application or Reapplication.

(1) In addition to a valid application or reapplication for disability retirement benefits in accordance with Section 3 of this administrative regulation, the applicant shall ~~be required to~~ file the following forms and information with the retirement office prior to review by the medical examiners under KRS 61.665 and 78.545:

(a) A valid Form 8035, ~~Employee Job Description~~;

(b) A valid Form 8040, ~~Prescription and Nonprescription Medications~~;

(c) Supporting medical information; and

(d) Once all supporting medical information has been submitted, a valid Form 8001, ~~Certification of Application for Disability Retirement and Supporting Medical Information~~.

(2) The applicant's employer shall complete and submit to the retirement office a Form 8030, ~~Employer Job Description~~, for all initial applications for disability retirement benefits.

(3) Both the applicant and the employer shall file information regarding the applicant's request for reasonable accommodations as required by KRS 61.665(2)(a), 61.665(2)(b), and 78.545.

(4) The applicant and the applicant's employer shall file or submit additional information regarding the applicant's job duties and reasonable accommodations upon request by the agency or a third-party vendor on its behalf.

(5) For a reapplication for disability retirement benefits, the applicant's employer shall ~~be required to~~ complete and submit to the retirement office an updated Form 8030, ~~Employer Job Description~~, and additional information on reasonable accommodations as described in subsection (3) of this section only if the applicant's job duties or the reasonable accommodation information have changed since the prior application.

(6) The agency or its contracted third-party vendor shall provide to the medical examiners the application or reapplication for disability retirement benefits and all forms and information listed in subsections (1) and (5) of this section upon submission of a valid Form 8001, ~~Certification of Application for Disability Retirement and Supporting Medical Information~~.

(7)

(a) The ~~one hundred eighty (180) day~~ period to file all necessary forms, certifications, and information under KRS 61.665(2)(a) and 78.545 and this section shall begin on the day the applicant's valid Form 6000, ~~Notification of Retirement~~, that complies with Section 3 of this administrative regulation is on file at the retirement office and shall end at close of business on the last day of the prescribed time period.

(b) Pursuant to KRS 61.665(2)(f), 61.665(2)(h), 61.665(3)(a), and 78.545, the ~~one hundred eighty (180) day~~ period to appeal the recommended denial of disability retirement benefits by two (2) or more of the three (3) medical examiners reviewing the objective medical evidence shall begin on the day the notification of the recommendation of the medical examiners is mailed by the agency, or a third-party vendor on its behalf, and shall end at close of business on the last day of the prescribed time period.

(c) If the last day of the period described in paragraphs (a) or (b) of this subsection is a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the retirement office is actually and legally closed, or any other state or federal holiday that disrupts mail service, then the deadline shall be satisfied if the forms, certification, information, appeals, ~~or *and/or*~~ requests required by KRS 61.665 and 78.545 and this section are on file at the retirement office by the close of the next business day.

Section 5. Effect of Subsequent Disability Retirement Reapplication While a Prior Application or Reapplication is Still Pending.

(1) If a subsequent valid reapplication for disability retirement benefits that complies with Section 3 *of this administrative regulation* is filed at the retirement office while a prior application or reapplication is pending review by the medical examiners under KRS 61.665 and 78.545, then the subsequent reapplication shall be accepted solely for the purpose of designating a new beneficiary in accordance with KRS 61.542 and 78.545. The subsequent reapplication shall not be submitted for review by the medical examiners.

(2)

(a) If a subsequent valid reapplication for disability retirement benefits that complies with Section 3 *of this administrative regulation* is filed at the retirement office after an applicant has requested an administrative hearing to appeal the denial of an earlier application or reapplication for disability retirement benefits, but prior to a Final Order of DAC regarding the earlier application or reapplication, then the subsequently filed reapplication shall be *found as ~~deemed~~* a notice of intent to dismiss the request for administrative hearing unless the applicant simultaneously files a written statement that the subsequently filed reapplication has been filed solely for the purpose of designating a new beneficiary in accordance with KRS 61.542 and 78.545.

(b) A subsequently filed reapplication as described in paragraph (a) of this subsection shall not be processed by the agency until thirty-one (31) days after the entry of a Final Order of DAC dismissing the previously requested administrative appeal, except that a new beneficiary designated on the subsequently filed reapplication in accordance with KRS 61.542 and 78.545 shall be effective immediately.

(c) All evidentiary filings made during an administrative hearing process to appeal the denial of an earlier application or reapplication for disability retirement benefits shall be included in the information provided to the medical examiners for review of the subsequently filed reapplication.

(3)

(a)

1. If a subsequent valid reapplication for disability retirement benefits is filed at the retirement office after DAC has issued a Final Order denying a prior application or reapplication for disability retirement benefits and during the statutory time for appeal of the Final Order or after an appeal of the Final Order has been made, then the subsequently filed reapplication shall be accepted solely for the purpose of designating a new beneficiary in accordance with KRS 61.542 and 78.545.

2. The subsequent reapplication as described in subparagraph 1. of this paragraph shall not be submitted for review by the medical examiners, unless the applicant simultaneously files a written statement that the applicant *shall ~~will~~* not appeal the Final Order of DAC or has withdrawn any pending appeal of a Final Order of DAC.

(b) If a subsequent valid reapplication for disability retirement benefits is filed at the retirement office after DAC has issued a Final Order denying an application or reapplication for disability retirement benefits, all applicable statutory time for appeals of the Final Order have lapsed, and the reapplication complies with KRS 16.582,

78.5524, 61.600, 78.5522, and Section 3 of this *administrative* regulation, then the subsequently filed reapplication for disability retirement benefits shall be valid.

Section 6. Eligibility for Early or Normal Retirement Benefits at the Time of Application for Disability Retirement Benefits.

(1)

(a) If the applicant is eligible to receive early or normal retirement benefits ~~when *at the time*~~ a valid Form 6000, ~~*Notification of Retirement*~~ for disability retirement benefits that complies with Section 3 of this *administrative regulation* is filed at the retirement office, the agency shall treat a valid Form 6000, ~~*Notification of Retirement*~~ as ~~*also*~~ being an application for early or normal retirement benefits.

(b) If the applicant becomes eligible to receive early or normal retirement benefits while the application for disability retirement benefits is pending or an appeal of the denial of disability retirement benefits is pending, the agency shall treat a valid Form 6000, ~~*Notification of Retirement*~~ of the applicant that complies with Section 3 of this *administrative regulation* as ~~*also*~~ being an application for early or normal retirement benefits upon written request by the applicant filed at the retirement office.

(2) If the applicant has terminated employment from all participating employers and the applicant's Form 6000, ~~*Notification of Retirement*~~ is ~~*also*~~ an effective application for early or normal retirement benefits pursuant to subsection (1) of this section, the agency shall provide a Form 6010, ~~*Estimated Retirement Allowance*~~, ~~for~~ for early or normal retirement benefits to the applicant.

(3)

(a) An application for disability retirement benefits on the Form 6000, ~~*Notification of Retirement*~~ that is ~~*also*~~ an effective application for early retirement benefits pursuant to subsection (1) of this section shall not be affected if the applicant fails to have a valid Form 6010, ~~*Estimated Retirement Allowance*~~, ~~for~~ for early retirement benefits on file at the retirement office within six (6) months following termination from all employment with participating employers in accordance with KRS 61.590(5)(b) and 78.545, ~~if *so long as*~~ the application for disability retirement benefits is still pending medical examiner review, administrative action, or judicial review.

(b) If the applicant has been provided with a Form 6010, ~~*Estimated Retirement Allowance*~~, ~~for~~ for early retirement benefits in accordance with subsection (2) of this section and the applicant does not have a valid Form 6010, ~~*Estimated Retirement Allowance*~~, ~~for~~ for early retirement benefits on file at the retirement office within six (6) months following termination from all employment with participating employers, then ~~*in order*~~ to receive early retirement benefits the applicant shall ~~*be required to*~~ ~~file~~ file a new Form 6000, ~~*Notification of Retirement*~~ solely for early retirement benefits in accordance with KRS 61.590(5)(b) and 78.545.

(c) If the applicant is required to file a new valid Form 6000, ~~*Notification of Retirement*~~ specifically for early retirement benefits as described in paragraph (b) of this subsection and designates a different beneficiary than designated on the original Form 6000, ~~*Notification of Retirement*~~ for disability retirement benefits, then the beneficiary designation on the later Form 6000, ~~*Notification of Retirement*~~ specifically for early retirement benefits shall supersede any prior beneficiary designation pursuant to KRS 61.542 and 78.545.

Section 7. Requests for Additional Objective Medical Evidence by the Medical Examiners.

(1) A medical examiner reviewing an application or reapplication for disability retirement benefits pursuant to KRS 61.665 and 78.545 may place their recommendation on hold and request additional objective medical evidence.

(2) If two (2) or more of the three (3) medical examiners reviewing an application or reapplication for disability retirement benefits place their recommendation on hold and request additional objective medical evidence, then the agency, or a third-party vendor, shall notify the applicant of the medical examiner's request for additional objective medical evidence. The applicant shall have sixty (60) days from the date of the notification to file the requested objective medical evidence along with a valid Form 8001, ~~f" f~~ Certification of Application for Disability Retirement and Supporting Medical Information, ~~f" f~~ to the retirement office.

(3) If there is no majority recommendation by the three (3) medical examiners reviewing an application or reapplication for disability retirement benefits because one (1) medical examiner recommends approval, one (1) medical examiner recommends denial, and one (1) medical examiner requests additional objective medical evidence, then the agency, or a third-party vendor, shall notify the applicant of the medical examiner's request for additional objective medical evidence. The applicant shall have sixty (60) days from the date of the notification to file the requested objective medical evidence along with a valid Form 8001, ~~f" f~~ Certification of Application for Disability Retirement and Supporting Medical Information, ~~f" f~~ to the retirement office.

(4)

(a) Upon receipt of the requested additional objective medical evidence with a valid Form 8001, ~~f" f~~ Certification of Application for Disability Retirement and Supporting Medical Information, ~~f" f~~ the agency, or a third-party vendor, shall resubmit the matter, including any additional objective medical evidence submitted in response to the medical examiner's request, to all three (3) medical examiners and the medical examiners shall issue new recommendations.

(b) Upon the expiration of sixty (60) days from the date of the notification, if no additional objective medical evidence with a valid Form 8001, ~~f" f~~ Certification of Application for Disability Retirement and Supporting Medical Information, ~~f" f~~ is on file at the retirement office, the agency, or a third-party vendor, shall resubmit the matter to only the medical *examiner or examiners* ~~f-examiner(s)-f~~ that placed their recommendation on hold and the medical *examiner or examiners* ~~f-examiner(s)-f~~ shall issue a new recommendation.

Section 8. Medical or Psychological Examination Required at the Expense of the Agency.

~~[(1)] [The applicant shall complete and submit to the retirement systems a "Form 8035, Employee's Job Description". The applicant's employer shall complete and submit to the retirement systems a "Form 8030, Employer's Job Description". Both the applicant and the employer shall provide information regarding applicant's request for reasonable accommodations and the reasonable accommodations available to applicant, whether or not the applicant actually accepted the reasonable accommodations.]~~

~~[(2)] [The retirement systems may require additional details from the applicant and the applicant's employer regarding the applicant's job duties, if necessary.]~~

[Section 4.]

(1) If the agency~~[retirement systems]~~ requires an applicant to submit to a medical or psychological examination under KRS 61.665(2)(j) and 78.545 or KRS 61.665(3)(c) and 78.545, the agency~~[retirement systems]~~ shall reimburse the applicant for mileage from the applicant's home address as it is on file at the retirement office~~[systems]~~, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement office~~[systems]~~. The applicant shall be reimbursed for the most direct~~[and usually traveled]~~ route~~[s]~~.

(2)

(a) ~~[Mileage shall be based on the MapQuest website, Google Maps website, the "Kentucky Official Highway Map", mileage software, or the most recent edition of the~~

~~"Rand McNally Road Atlas."~~] The applicant shall complete and ~~file~~~~[submit]~~ a Form 8846, *Travel Voucher for*~~[*Travel Voucher*]~~ indicating the mileage the applicant traveled from the applicant's home address as it is on file at the retirement ~~office~~~~[systems]~~, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement ~~office~~~~[systems]~~. The applicant shall ~~also~~ indicate any actual parking costs and any actual bridge or highway toll charges on the most direct route on the Form 8846, *Travel Voucher for*~~[*Travel Voucher*]~~ ~~[The applicant shall use the most direct and usually traveled routes.]~~

(b) The applicant shall file the Form 8846, *Travel Voucher for* ~~the~~ Independent Examination ~~*Travel Voucher*~~ and all necessary receipts at the retirement office within fifteen (15) days of the examination or evaluation ~~in order~~ to be reimbursed for mileage, actual parking costs, and any actual bridge or highway toll charges as described in subsections (3) through (6) of this section.

(3)

(a) Mileage shall be based on the MapQuest Web site, Google Maps Web site, the ~~the~~ Kentucky Official Highway Map, *as incorporated by reference in 200 KAR 2:006* ~~the~~ or the most recent edition of the ~~the~~ Rand McNally Road Atlas , *as incorporated by reference in 200 KAR 2:006* . ~~the~~

(b) The mileage certified by the applicant on the Form 8846, *Travel Voucher for*~~[*Travel Voucher*]~~ shall not be greater than the mileage indicated by the MapQuest Web site, Google Maps Web site, the ~~the~~ Kentucky Official Highway Map, ~~the~~ , ~~mileage software,~~ or the most recent edition of the ~~the~~ Rand McNally Road Atlas ~~the~~ for the most direct~~[and usually traveled]~~ route from applicant's home address as it is on file at the retirement ~~office~~~~[systems]~~, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement ~~office~~~~[systems]~~.

(c) If the mileage certified by the applicant on the Form 8846, *Travel Voucher for*~~[*Travel Voucher*]~~ is greater than the mileage indicated by the MapQuest Web site, Google Maps Web site, the ~~the~~ Kentucky Official Highway Map, ~~the~~ , ~~mileage software,~~ or the most recent edition of the ~~the~~ Rand McNally Road Atlas ~~the~~ for the most direct route, the ~~agency~~~~[retirement systems]~~ shall pay the applicant the mileage indicated by the MapQuest Web site, Google Maps Web site, the ~~the~~ Kentucky Official Highway Map, ~~the~~ , ~~mileage software,~~ or the most recent edition of the ~~the~~ Rand McNally Road Atlas ~~the~~ for the most direct route.

(4) Reimbursement for use of a privately owned vehicle shall be made at the Internal Revenue Service~~[IRS]~~ established standard mileage rate applicable at the time of travel~~[which changes periodically; and shall not exceed the cost of commercial coach fare].~~

(5) Actual costs for parking shall be reimbursed upon submission of receipts.~~[The applicant shall submit the originals of the parking receipts along with a written request for reimbursement.]~~

(6) Actual ~~Actually~~ bridge and highway toll charges shall be reimbursed if the bridge or highway is on the most direct~~[and usually traveled]~~ route.~~[The applicant shall submit the originals of the bridge and highway toll receipts along with a written request for reimbursement.]~~

~~[(7)] [The applicant shall file at the retirement office a completed Form 8846, Independent Examination Travel Voucher, within fifteen (15) days of the date of the examination or evaluation in order to receive reimbursement for travel expenses.]~~

~~[Section 5.] [The applicant shall provide to the retirement system information concerning his continuing status with regard to receipt of Workers' Compensation and Social Security~~

~~disability benefits.]~~

~~[Section 6.]~~

~~[(1)] [The applicant shall complete and submit a "Form 8001, Certification of Application for Disability Retirement and Supporting Medical Information." The applicant shall attach all medical information, forms, and other information for review by the medical examiners to the "Form 8001, Certification of Application for Disability Retirement and Supporting Medical Information."]~~

~~[(2)] [The retirement systems shall submit the completed "Form 8001, Certification of Application for Disability Retirement and Supporting Medical Information" and all the attached information to the medical examiners upon receipt by the retirement systems.]~~

~~[(3)] [The time periods prescribed in KRS 61.600 and 61.665 shall begin on the day the notification of the recommendation of the medical examiners is mailed by the retirement systems and shall end at close of business on the last day of the prescribed time period.]~~

~~[(4)] [If the last day of the period is a Saturday, Sunday, or state or federal holiday, then the application shall be valid if filed at the retirement systems by the close of the next business day following the weekend or holiday.]~~

~~[(5)] [An applicant's request for a formal hearing shall be made in writing.]~~

~~[(6)] [Statements by the physicians shall not be considered medical evidence unless accompanied by documented medical records or test results.]~~

~~[Section 7.] [The medical examiner may contact the applicant or the applicant's physicians to request additional medical evidence as necessary.]~~

Section 9. Social Security and Workers' Compensation Benefits.

(1) The applicant shall notify the agency of his or her intent to apply for Workers' Compensation or disability benefits from the Social Security Administration.

(2) The applicant shall file information concerning his or her status with regard to receipt of Workers' Compensation and Social Security disability benefits at the retirement office.

(3) Upon receipt of approval for Workers' Compensation or disability benefits from the Social Security Administration, the applicant shall file at the retirement office a copy of the approval notice containing the amount of the award or payments. For Workers' Compensation settlements, the applicant shall file a copy of the settlement signed by the Administrative Law Judge.

(4) To determine the maximum benefit under KRS 61.607 and 78.5530, the following shall be added together:

(a) The applicant's gross monthly disability retirement allowance determined in accordance with KRS 61.605 and 78.5522 or 16.582 and 78.5522, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 and 78.545 or 16.576, converted to an annual amount.

(b) The applicant's total gross monthly benefit from Workers' Compensation excluding spouse or dependent benefits and allowances. If the applicant's benefit includes a lump sum payment or a payment for a period less than the applicant's lifetime, then an annualized benefit shall be determined as follows:

1. The gross amount of any lump sum payment shall be divided by the applicant's life expectancy, expressed in years, from the applicant's effective date of retirement.

2. The total gross amount of all payments paid for any period other than the applicant's lifetime shall be divided by the applicant's life expectancy, expressed in years, from the applicant's effective date of retirement.

3. The total determined in subparagraphs 1 . and 2 . of this paragraph shall be combined and added to the total gross annual amount of the applicant's lifetime benefit, if any.

- (c) The applicant's gross monthly disability benefit from the Social Security Administration, excluding spouse or dependent benefits converted to an annual amount.
- (5) If the projected combined monthly benefit exceeds 100 percent of the disabled employee's final rate of pay or final compensation, whichever is greater, the disability retirement allowance from the systems operated by the agency shall be reduced as follows:
- (a) The difference shall be divided by twelve (12) and subtracted from the applicant's monthly retirement allowance determined in accordance with KRS 61.605 and 78.5522 or 16.582 and 78.5522, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 and 78.545 or 16.576.
- (b) The actuarial reduction for the applicant's optional plan under KRS 61.635 and 78.545 or 16.576 shall be applied to determine the applicant's monthly retirement allowance. The reduction shall apply to all retirement allowances received since the date the combined benefits exceeded 100 percent of the higher of the applicant's final compensation or final rate of pay based on the effective dates of the individual benefits.
- (6) The disability retirement allowance payable shall not be reduced below an amount that ~~results~~ ~~from a computation of retirement allowance under early retirement or the disability retirement allowance from the systems operated by the agency using the applicant's actual total service, whichever is greater.~~
- (7)
- (a) Failure to respond to requests from the agency for information concerning a recipient's status with regard to receipt of Workers' Compensation and Social Security disability benefits may result in the agency putting the recipient's monthly benefit on hold.
- (b) Monthly benefits held for failure to respond to a request for information concerning a recipient's status with regard to receipt of Workers' Compensation and Social Security disability benefits ~~shall~~ ~~will~~ be paid to the recipient once the recipient files the requested information at the retirement office.

Section 10. Administrative Hearings Concerning the Denial of Disability Retirement Benefits.

- (1)
- (a) A request by the applicant for an administrative hearing to appeal the denial of disability retirement benefits under KRS 61.665 and 78.545 shall be made in writing and contain a short statement of the issues being appealed.
- (b) An applicant's written request for an administrative hearing to appeal the denial of disability retirement benefits shall be filed at the retirement office. Email requests shall not be accepted.
- (2)

~~{Section 8.}~~

- ~~{(1)}~~ The hearing officer presiding over an administrative hearing may allow the applicant to introduce, among other evidence, the determination of other state and federal agencies, ~~such as~~including, but not limited to the Kentucky Department of Workers' Claims and the ~~Workers' Compensation or~~ Social ~~Security Administration, approving the applicant for~~ ~~awarding disability~~ benefits ~~to the applicant~~ if accompanied by underlying objective medical evidence.
- ~~{(2)}~~ The hearing officer presiding over an administrative hearing shall consider only objective medical evidence~~records~~ contained within the determination and shall not

consider or be bound by vocational factors or ~~be bound by~~ factual or legal findings of other state or federal agencies.

(4) Statements by physicians within the administrative record of the application or reapplication for disability retirement benefits shall not be considered by themselves to be objective medical evidence unless accompanied by documented medical records or test results.

Section 11. ~~Section 9.~~ Provisions Applicable to Applicants with Hazardous and Nonhazardous Service.

(1) ~~The provisions of this section shall only apply to a member who began participating on or before July 31, 2004.~~

~~[(2)] If an application for disability is approved, the applicant's disability benefit shall be paid retroactive to the month following the month of the applicant's last day of paid employment.~~

~~[(3)]~~ The service added for determining the disability retirement allowance shall be determined under KRS 16.582 and 78.5524 if the applicant's last day of paid employment was in a hazardous position, or under KRS 61.605 and 78.5522 if the applicant's last day of paid employment was in a nonhazardous position.

(2) ~~[(4)]~~ If the applicant has both hazardous and nonhazardous service in the same system, the added service shall be prorated between hazardous and nonhazardous service based on the proportion of service in each position to the whole, except that all of the added service shall be applied toward the nonhazardous retirement allowance if:

(a) The applicant is disabled from a hazardous position as a result of an act in line of duty; and

(b) Twenty-five (25) percent of the applicant's final rate of pay is greater than the hazardous disability retirement allowance determined using the prorated added service.

(3) ~~[(5)]~~ If the applicant has service in more than one (1) system administered by the Kentucky Retirement Systems or the County Employees Retirement System, the added service shall be prorated between the systems based on the proportion of service in each system to the whole, except if the applicant is disabled from a hazardous position in one (1) system as a result of an act in line of duty and twenty-five (25) percent of the applicant's final rate of pay is greater than the hazardous disability retirement allowance determined using the prorated added service:

(a) All of the added service shall be applied toward the nonhazardous retirement system if the applicant is vested for disability retirement benefits from the nonhazardous system.

(b) All of the added service shall be applied toward the hazardous retirement system if the applicant is not vested for disability retirement benefits from the nonhazardous system.

Section 12. ~~Section 10.~~ Back Payment of Enhanced Disability Retirement Allowance.

(1) If the applicant ~~who~~ is awarded disability retirement benefits and did not receive early or normal retirement benefits, ~~upon the applicant's selection of a payment option,~~ the agency ~~retirement systems~~ shall pay the applicant the total monthly retirement allowance[s] payable retroactive to the month following the month of the applicant's last day of paid employment ~~from the~~ ~~effective date of disability retirement~~.

(2)

(a) If the applicant received early or normal retirement benefits, the agency ~~retirement systems~~ shall calculate and pay to the applicant the difference between the early or normal retirement benefit which was paid to the applicant and the disability retirement benefit.

(b) The applicant shall not change the beneficiary named or ~~his~~ the payment option selected upon early or normal retirement, except as provided in KRS 61.542(5)(a),

~~61.542(5)(b), and 78.545. (3) If benefits are payable to dependent children, as defined in KRS 16.505(17), the parent or guardian shall provide:}~~

~~{(a)} [A completed Form 6456, Designation of Dependent Child;}~~

~~{(b)} [A verification of full-time student status of a child age eighteen (18) or over;}~~

~~{(c)} [A copy of the birth certificate of each dependent child;}~~

~~{(d)} [If a dependent child is a minor, a Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor. If the minor child has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor, the guardian or conservator shall submit a copy of the court order appointing the guardian or conservator; and}~~

~~{(e)} [Notice of the death or marriage of a dependent child, or if the dependent child ceases to be a full-time student.}~~

~~{(f)} [A copy of the dependent child's verification of full-time student status shall be filed with the retirement system for each semester of study within thirty (30) days following the start and within thirty (30) days following the end of each semester.}~~

~~{(4)} [An increase provided to recipients under KRS 61.691 shall be applied to the applicant's disability benefit and payments to dependent children in determining the total retroactive payments owed to the applicant and dependent children.}~~

~~[Section 11.]~~

~~{(1)} [The applicant shall notify the retirement systems of his intent to apply for workers' compensation or benefits from the Social Security Administration. Upon receipt of approval for workers' compensation or benefits from the Social Security Administration, the applicant shall file at the retirement systems a copy of the approval notice containing the amount of the award.}~~

~~{(2)} [To determine the maximum benefit under KRS 61.607, the following shall be added together:]~~

~~{(a)} [The applicant's gross monthly disability retirement allowance determined in accordance with KRS 61.605 or 16.582, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or 16.576, converted to an annual amount.}~~

~~{(b)} [The applicant's total gross annual benefit from workers' compensation. If the applicant's benefit includes a lump sum payment or a payment for a period less than the applicant's lifetime, then an annualized benefit shall be determined as follows:]~~

~~{1.} [The gross amount of any lump sum payment shall be divided by the applicant's life expectancy, expressed in years, from the effective date of the award.}~~

~~{2.} [The total gross amount of all payments paid for any period other than the applicant's lifetime shall be divided by the applicant's life expectancy, expressed in years, from the effective date of the award.}~~

~~{3.} [The total determined in subparagraphs 1 and 2 of this paragraph shall be combined and added to the total gross annual amount of the applicant's lifetime benefit, if any.}~~

~~{(c)} [The applicant's gross monthly disability benefit from the Social Security Administration, excluding spouse or dependent benefits converted to an annual amount.}~~

~~{(3)} [If the projected combined monthly benefit exceeds 100 percent of the disabled employee's final rate of pay or final compensation, whichever is greater, the disability retirement allowance from the retirement system shall be reduced as follows:]~~

~~{(a)} [The difference shall be divided by twelve (12) and subtracted from the applicant's monthly retirement allowance determined in accordance with KRS 61.605}~~

~~or 16.582, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or 16.576.]~~

~~[(b)] [The actuarial reduction for the applicant's optional plan under KRS 61.635 or 16.576 shall be applied to determine the applicant's monthly retirement allowance. The reduction shall apply to all retirement allowances received since the date the combined benefits exceeded 100 percent of the higher of the applicant's final compensation or final rate of pay based on the effective dates of the individual benefits.]~~

~~[(4)] [The disability retirement allowance payable shall not be reduced below an amount which would result from a computation of retirement allowance under early retirement or the disability retirement allowance from the retirement system using the disabled employee's actual total service, whichever is greater.]~~

Section 13. [Section 12.] Direct Deposit or Payment by Check.

(1) A recipient shall complete a Form 6130, ~~the~~ Authorization for Deposit of Retirement Payment, and file it at the retirement office, include direct deposit information on the Form 6000, the Notification of Retirement, or authorize direct deposit via Self-Service on the Web site maintained by the agency, to have the monthly retirement allowance deposited to an account in a financial institution.

(2) The recipient and the financial institution shall ~~file~~ provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.

(3)

(a) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new valid Form 6130, ~~the~~ Authorization for Deposit of Retirement Payment, and filing the form at the retirement office ~~systems~~, or by changing their direct deposit information via Self-Service on the Web site maintained by the agency.

(b) The ~~latter~~ last of the designation on a valid Form 6000, ~~the~~ Notification of Retirement, ~~the~~ the last valid Form 6130, ~~the~~ Authorization for Deposit of Retirement Payment, ~~after the Form 6000 is on file at the retirement office~~ after the Form 6000 is on file at the retirement office ~~systems~~, or the direct deposit information submitted via Self-Service on the Web site maintained by the Agency, shall control the electronic transfer of the recipient's retirement allowance.

(4) The recipient may complete a Form 6135, ~~the~~ Request for Payment by Check, and file it at the retirement office if the recipient does not currently have an account with a financial institution or the member's financial institution does not participate in the electronic funds transfer program.

(5) The agency ~~retirement systems~~ shall not process the retirement allowance until the recipient has filed a valid Form 6000, ~~the~~ Notification of Retirement, that complies with Section 3 ***of this administrative regulation*** at the retirement office ~~a completed Form 6130, Authorization for Deposit of Retirement Payment or filed a completed Form 6135, Request for Payment by Check.~~

Section 14. Death During Disability Retirement Application Process.

(1)

(a) If an applicant has a valid Form 6000, the Notification of Retirement, for disability retirement benefits that complies with Section 3 of this administrative regulation on file at the retirement office, is not receiving monthly early or normal retirement benefits, and dies prior to being approved for disability retirement benefits by at least a majority of the medical examiners or by a Final Order of DAC, then the beneficiary named on the Form 6000 shall file the following at the retirement office in accordance with any applicable deadlines in KRS 61.665 and 78.545 in order to continue with the applicant's application or reapplication for disability retirement benefits:

1. A Form 6008, ~~f" /~~ Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member; ~~f, /~~
2. Any outstanding forms required by Section 4 of this administrative regulation that have not yet been filed by the applicant ; ~~f, /~~ and
3. Any additional relevant objective medical evidence and a valid Form 8002, ~~f "Beneficiary /~~ Certification of Application for Disability Retirement and Supporting Medical Information. ~~f" /~~

(b) If there are no applicable deadlines pursuant to KRS 61.665 and 78.545, then the beneficiary named on the Form 6000, ~~f" /~~ Notification of Retirement, ~~f" /~~ as described in paragraph (a) of this subsection shall file at the retirement office a Form 6008, ~~f" /~~ Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member, ~~f" /~~ within sixty (60) days of the date of the applicant's death.

(c) A beneficiary as described in paragraphs (a) or (b) of this subsection that does not want to continue with the applicant's application or reapplication may file at the retirement office a Form 6008, ~~f" /~~ Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member. ~~f" /~~

(d) If the beneficiary named on the Form 6000, ~~f" /~~ Notification of Retirement, ~~f" /~~ as described in paragraphs (a) or (b) of this subsection does not timely file the required documentation, then the Form 6000 shall be invalid and the disability application or reapplication shall not be processed by the agency.

(2)

(a) If an applicant has a valid Form 6000, ~~f" /~~ Notification of Retirement, ~~f" /~~ for disability retirement benefits that complies with Section 3 of this administrative regulation on file at the retirement office, is receiving monthly early or normal retirement benefits, and dies prior to being approved for disability retirement benefits by at least a majority of the medical examiners or by a Final Order of DAC, and no monthly or lump-sum benefits are payable to the beneficiary listed on the Form 6000, then the executor, administrator, or other representative of the applicant's estate shall file the following at the retirement office in accordance with any applicable deadlines in KRS 61.665 and 78.545 ~~f in order /~~ to continue with the applicant's application or reapplication for disability retirement benefits:

1. An order appointing the executor, administrator, or other representative of the applicant's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court ; ~~f, /~~
2. A written statement that the application or reapplication for disability retirement benefits shall ~~f should /~~ continue ; ~~f, /~~
3. Any outstanding forms required by Section 4 of this administrative regulation that have not yet been filed by the applicant ; ~~f, /~~ and
4. Any additional relevant objective medical evidence and a valid Form 8002, ~~f "Beneficiary /~~ Certification of Application for Disability Retirement and Supporting Medical Information. ~~f" /~~

(b) If none of the deadlines in KRS 61.665 and 78.545 apply, within sixty (60) days of their appointment, the executor, administrator, or other representative of the applicant's estate as described in paragraph (a) of this subsection shall file the following at the retirement office ~~f in order /~~ to continue with the applicant's application or reapplication for disability retirement benefits:

1. A copy of the order appointing the executor, administrator, or other representative of the applicant's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court ; ~~f, /~~ and
2. A written statement that the application or reapplication for disability retirement benefits shall ~~f should /~~ continue.

(c) An executor, administrator, or other representative of the applicant's estate as described in paragraphs (a) or (b) of this subsection that does not want to continue with the applicant's application or reapplication may file the following at the retirement office:

1. A copy of the order appointing the executor, administrator, or other representative of the applicant's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court ; ~~f, f~~ and
2. A written statement that the application or reapplication for disability retirement benefits is withdrawn.

(d) If the executor, administrator, or other representative of the applicant's estate as described in paragraphs (a) or (b) of this subsection does not timely file the required documentation, then the application or reapplication for disability retirement benefits shall be invalid and shall not be processed by the agency.

(3)

(a) If an applicant has a valid Form 6000, ~~f, f~~ Notification of Retirement, ~~f, f~~ for disability retirement benefits that complies with Section 3 of this administrative regulation on file at the retirement office, is receiving monthly early or normal retirement benefits, and dies prior to being approved for disability retirement benefits by at least a majority of the medical examiners or by a Final Order of DAC, and lump sum or monthly benefits are payable to the beneficiary listed on the Form 6000, then the beneficiary named on the Form 6000 shall file the following at the retirement office in accordance with any applicable deadlines in KRS 61.665 and 78.545 ~~f in order f~~ to continue with the applicant's application or reapplication for disability retirement benefits:

1. A Form 6008, ~~f, f~~ Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member ; ~~f, f~~
2. Any outstanding forms required by Section 4 of this administrative regulation that have not yet been filed by the applicant ; ~~f, f~~ and
3. Any additional relevant objective medical evidence and a valid Form 8002, ~~f "Beneficiary" Certification of Application for Disability Retirement and Supporting Medical Information. f, f~~

(b) If there are no applicable deadlines pursuant to KRS 61.665 and 78.545, then the beneficiary named on the Form 6000, ~~f, f~~ Notification of Retirement, ~~f, f~~ as described in paragraph (a) of this subsection shall file at the retirement office a Form 6008, ~~f, f~~ Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member, ~~f, f~~ within sixty (60) days of the date of the applicant's death.

(c) A beneficiary as described in paragraphs (a) or (b) of this subsection that does not want to continue with the applicant's application or reapplication may file at the retirement office a Form 6008, ~~f, f~~ Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member. ~~f, f~~

(d) If the beneficiary named on the Form 6000, ~~f, f~~ Notification of Retirement, ~~f, f~~ as described in paragraphs (a) or (b) of this subsection does not timely file the required documentation, then the disability retirement application or reapplication shall be invalid and shall not be processed by the agency.

Section 15. ~~[Section 13.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Form 6000, "Notification of Retirement," ~~[,] April 2021 [July 2004];~~
- (b) Form 8030, "Employer[s] Job Description," ~~[,] April 2021 [July 2004];~~
- (c) Form 8035, "Employee[s] Job Description," ~~[,] April 2021 [July 2004];~~
- (d) Form 8040, "Prescription and Nonprescription Medications," October 2005 ~~[Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor", May 2003];~~

(e) Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information," April 2021 [~~Form 6456, "Designation of Dependent Child," July 2004~~];

(f) Form 6010, "Estimated Retirement Allowance," April 2021;

(g) Form 8846, "Travel Voucher for Independent Examination," May 2008;

(h) Form 6130, "Authorization for Deposit of Retirement Payment,"~~[,]April 2021~~~~[May 2008]~~;

(i) ~~[(g)]~~ Form 6135, "Request for Payment by Check,"~~[,]May 2015~~~~[February 2002]~~;

(j) Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member," ~~September 2010~~ ~~[April 2021]~~ ; and

(k) Form 8002, " ~~/Beneficiary/~~ Certification of Application for Disability Retirement and Supporting Medical Information," April 2021.

~~[(h)]~~ [~~Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information", May 2008; and~~

~~[(i)]~~ [~~Form 8846, "Independent Examination Travel Voucher", May 2008.]~~

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(105 KAR 001:210. 18 Ky.R. 932; eff. 11-8-1991; Am. 19 Ky.R. 968; 1338; eff. 12-9-1992; 20 Ky.R. 829; eff. 12-6-1993; 21 Ky.R. 1525; eff. 2-8-1995; 22 Ky.R. 775; eff. 12-7-1995; 27 Ky.R. 1050; 1444; eff. 12-21-2000; 28 Ky.R. 912; 1350; eff. 12-19-2001; 29 Ky.R. 767; 1250; eff. 11-12-2002; 31 Ky.R. 386; eff. 11-5-2004; 35 Ky.R. 111; Am. 538; eff. 10-3-2008; Crt eff. 1-29-2020; 48 Ky.R. 858, 2381; eff. 5-31-2022; Recodified to 105 KAR 003:210; eff. 8-5-2026.)

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