

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(New Administrative Regulation)

105 KAR 1:455. In line of duty Hazardous Retirement Disability Benefits.

RELATES TO: KRS 16.505, 16.582, 61.505, 61.510, 61.542, 61.592, 61.610, 61.615, 61.640, 61.665, 61.685, 61.691, 78.510, 78.545, 78.5518, 78.5524, 78.5528, 78.5532

STATUTORY AUTHORITY: KRS 61.505(1)(g) and (3)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852. KRS 16.582 and 78.5524 establish hazardous disability retirement benefits for employees in hazardous positions who are disabled from an act in line of duty. This administrative regulation establishes the procedures for filing an application or reapplication for in line of duty hazardous disability retirement benefits and total and permanent in line of duty hazardous disability retirement benefits, and the appeal procedures if denied.

Section 1. Definitions.

- (1) "Applicant" means a participant who has applied or is applying for ILOD disability or total and permanent ILOD disability in accordance with KRS 16.582 and 78.5524.
- (2) "Dependent child benefit" means a retirement benefit payable to a dependent child as provided by KRS 16.582(6)(b) and (7)(b) and 78.5524(6)(b) and (7)(b).
- (3) "Full-time student" means a person:
 - (a) Enrolled in a postsecondary program of study that meets the full-time student requirements of the institution in which he or she is enrolled;
 - (b) Enrolled in a continuing education or training program that meets the full-time requirements of the program or institution in which he or she is enrolled; or
 - (c) Enrolled in high school or a GED program that meets the full-time student requirements of the program or institution in which he or she is enrolled.
- (4) "ILOD disability" means a form of disability retirement benefits that requires a disability that was due to an act in line of duty.
- (5) "Retirement benefit" means the retirement allowance as defined by KRS 16.505(12), 61.510(16), and 78.510(16).
- (6) "Self-Service Web site" means the secure Member Self-Service or Retiree Self-Service agency Web site.
- (7) "Submit" means the employer required form, documentation, report, or payment has been received by the retirement office via mail, fax, electronic mail, the Employer Self Service Web site, or other mode specifically detailed in this administrative regulation.
- (8) "Total and permanent ILOD disability" means a form of disability retirement benefits that requires a total and permanent disability that was due to an act in line of duty.

Section 2. Use of Third-party Vendors. Subject to KRS 61.505(3)(d), the agency may contract with third-party vendors to provide independent, licensed physicians to serve as medical examiners pursuant to KRS 61.665 and 78.545, and additional persons to fulfill non-physician roles throughout the ILOD disability or total and permanent ILOD disability application and review process.

Section 3. Documentation of applicant's last day of paid employment.

- (1) The applicant's last day of paid employment shall either be certified by the applicant's employer, or by a written statement filed by the applicant and corroborated by the

reporting information received by the agency or the agency's third-party vendor 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.

Section 4. Time period requirements.

(1)

(a) An application or reapplication for ILOD disability or total and permanent ILOD disability shall be filed by the end of day twenty-four (24) months from the applicant's last day of paid employment in a regular full-time position.

(b) The time period for filing shall begin on the day after the last day of paid employment in a regular full-time position and shall end at the end of day on the 730th calendar day.

(2) If the application or reapplication is not filed within the time period prescribed by subsection (1) of this section, except as provided in subsection (3) of this section, then the application or reapplication is not timely, and the applicant shall not qualify for ILOD disability or total and permanent ILOD disability.

(3) If the end of any time period prescribed in this administrative regulation falls 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 time period shall be met if the application, documentation, form, or other requested information is filed or submitted no later than the end of day on the next business day following the weekend or holiday.

Section 5. Application or reapplication for ILOD disability or total and permanent ILOD disability.

(1) An application or reapplication for ILOD disability or total and permanent ILOD disability pursuant to KRS 16.582 and 78.5524 shall be made by completing and filing a valid Form 6000, Notification of Retirement, indicating the applicant's alleged disability is due to an act in line of duty. If available, a Workers' Compensation incident report shall be filed with the Form 6000.

(2)

(a) Once an application or reapplication pursuant to subsection (1) of this section is received by the agency, the agency or its third-party vendor shall notify the applicant of the following additional requirements that shall be completed and filed no later than the end of day 180 calendar days from filing a valid Form 6000:

1. A valid Form 8035, Employee Job Description;
2. A valid Form 8040, Prescription and Nonprescription Medications;
3. All supporting objective medical evidence;
4. A valid Form 8001, Certification of Application for Disability Retirement and Supporting Medical Information; and
5. If the Workers' Compensation incident report was not filed with the application or reapplication, then a Workers' Compensation incident report, or a valid Form 8480, Certification of Statement of Disability – Act in the Line of Duty, indicating one of the following:
 - a. The applicant is alleging that he or she is disabled due to an act in line of duty but cannot provide an incident report; or
 - b. The applicant is not alleging that he or she is disabled due to an act in line of duty. If the applicant indicates he or she is not alleging disability due to an act in line of duty, the application or reapplication will not be reviewed for ILOD disability or total and permanent ILOD disability.

(b) The agency or the agency's third-party vendor shall provide the applicant's employer with a Form 8030, Employer Job Description. The employer shall have until the end of day 180 calendar days from the date of the filed valid Form 6000, Notification of Retirement, to complete and submit the valid Form 8030.

(3) A reapplication for ILOD disability or total and permanent ILOD disability based on the same claim of incapacity shall only be considered if accompanied by new objective medical evidence or new evidence concerning the act in line of duty that was not considered with previous applications.

(4)

(a) Once all requirements established in subsection (1)-(3) of this section are on file or submitted, the agency or the agency's third-party vendor shall review and evaluate the documentation in accordance with KRS 61.665 and 78.545. Upon review, the agency or its third-party vendor may:

1. Request the applicant complete an independent medical or psychological evaluation in accordance with Section 6 of this administrative regulation; or

2. Request additional information including additional objective medical evidence, information about the applicant's job duties and accommodations, documentation relating to Workers' Compensation claims, police or other crime reports from the employer or applicant, and any other relevant information. If the employer or applicant fail to return the requested information by the end of day sixty (60) calendar days from the date the request for additional information was provided, the agency or the agency's third-party vendor shall make a determination using the information on file.

(b) If all requirements established in this section are not on file or submitted within the prescribed time period, the request for ILOD disability or total and permanent ILOD disability shall be void. The Form 6000, Notification of Retirement, shall still be reviewed for other benefits for which the applicant may be entitled.

Section 6. Medical or psychological examination requested at the expense of the agency.

(1) If the agency or the agency's third-party vendor recommends an independent medical or psychological examination, including physical or mental functional evaluations or assessments be conducted pursuant to KRS 61.665(2)(j) and 78.545 or KRS 61.665(3)(c) and 78.545, a Form 8025, Authorization for Independent Medical or Psychological Examination and Release of Medical Information, will be provided to the applicant.

(a) The applicant shall complete and file a valid Form 8025 by the end of day sixty (60) calendar days from the date the Form 8025 is provided.

(b) Once the valid Form 8025 is filed, the applicant shall be notified in writing of the date, time, and location of the appointment. Records from the examination shall be used in determining eligibility for ILOD disability, total and permanent ILOD disability, or any other disability benefits for which the applicant may be entitled.

(c) If the applicant fails to file a valid Form 8025 within the prescribed time period, or fails or refuses to complete a scheduled medical or psychological examination, the agency or the agency's third-party vendor shall make a determination using the medical information on file.

(d) If the applicant fails to appear at the medical or psychological examination or fails to cancel the appointment within the time period required in the notice of appointment, the applicant shall be responsible for payment of any charges associated with the medical or psychological examination.

(2)

(a) The agency shall reimburse the applicant for expenses associated with the medical or psychological examination in the same manner as prescribed in 105 KAR 1:210, Section 8.

(b)

1. To receive reimbursement for mileage, actual parking costs, and any actual bridge or highway toll charges, the applicant shall file a valid Form 8846, Travel Voucher for Independent Examination, and all necessary receipts no later than end of day fifteen (15) calendar days from the date of the examination or evaluation.
2. If the applicant fails to file the Form 8846 by the end of day fifteen (15) calendar days from the date of the examination or evaluation, the applicant shall not be eligible for reimbursement.

Section 7. Determining applicant's eligibility for ILOD disability or total and permanent ILOD disability.

(1)

(a) An applicant may qualify for disability retirement benefits if he or she has sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), and 78.615(1). The service requirements shall be waived for ILOD disability or total and permanent ILOD disability pursuant to KRS 16.582(2)(a) and 78.5524(2)(a).

(b) To be eligible for any type of disability retirement allowance, the applicant shall receive a satisfactory disability determination pursuant to KRS 61.665.

(2) The agency or the agency's third-party vendor shall evaluate and determine eligibility for ILOD disability or total and permanent ILOD disability in accordance with KRS 16.582 and 78.5524, and shall notify the applicant of the findings.

(3) Denial of ILOD disability, total and permanent ILOD disability, or both.

(a) The applicant shall have until the end of day 180 calendar days from the date the notice of denial is provided to complete one of the options listed in paragraph (b) of this subsection if:

1. The application is denied for ILOD disability, total and permanent ILOD disability, or both; and
2.
 - a. The applicant did not meet the service requirements for hazardous disability or total and permanent disability pursuant to subsection (1) of this section; or
 - b. Is approved for hazardous disability or total and permanent disability.

(b)

1. File additional supporting information in accordance with Section 8 of this administrative regulation; or
2. Request a formal hearing in accordance with Section 16 of this administrative regulation to appeal the denial of the ILOD disability, total and permanent ILOD disability, or both.

(c) The applicant shall receive any approved hazardous disability or total and permanent disability within the time period requirements established by Section 11(1) of this administrative regulation while awaiting a determination or during the pendency of the appeal regarding ILOD disability, total and permanent ILOD disability, or both. An adverse determination or denial of the appeal shall not affect the benefits for which the applicant has already been approved or is already receiving.

(4) Approval of ILOD disability and denial of total and permanent ILOD disability.

(a) If the application is approved for ILOD disability, but denied for total and permanent ILOD disability, the applicant shall have until the end of day 180 calendar days from the date the notice of denial is provided to complete one of the following:

1. File additional supporting information in accordance with Section 8 of this administrative regulation; or
2. Request a formal hearing in accordance with Section 16 of this administrative regulation to appeal the denial of the total and permanent ILOD disability.

- (b) The applicant shall receive the approved ILOD disability within the time period requirements established by Section 11(1) of this administrative regulation while awaiting a determination or during the pendency of the appeal regarding total and permanent ILOD disability. An adverse determination or denial of the appeal shall not affect the benefits for which the applicant has already been approved or is already receiving.
- (5) Denial of ILOD disability, total and permanent ILOD disability, hazardous disability, and total and permanent disability. If the application is denied for ILOD disability, total and permanent ILOD disability, hazardous disability, and total and permanent disability, the applicant shall have until the end of day 180 calendar days from the date the notice of denial is provided to complete one of the following:
- (a) File additional supporting information in accordance with Section 8 of this administrative regulation; or
 - (b) Request a formal hearing in accordance with Section 16 of this administrative regulation to appeal the denial of the ILOD disability, total and permanent ILOD disability, hazardous disability, total and permanent disability, or all that are applicable.
- (6)
- (a) The denial of ILOD disability or total and permanent ILOD disability may only be appealed if the applicant indicated on the valid Form 6000, Notification of Retirement, or the valid Form 8480, Certification of Statement of Disability – Act In the Line of Duty, that he or she was disabled due to an act in line of duty. Responses on the valid Form 8480 shall supersede responses on the valid Form 6000.
 - (b) The denial of total and permanent disability alone is not appealable.
- (7) Denial of ILOD disability, total and permanent ILOD disability, hazardous disability, or total and permanent disability shall not affect any other benefits to which the applicant may be entitled.

Section 8. Additional Supporting Information.

- (1)
- (a) Upon denial of ILOD disability or total and permanent ILOD disability in accordance with Section 7 of this administrative regulation, the agency or its third-party vendor shall provide the applicant with a Form 8001, Certification of Application for Disability Retirement and Supporting Medical Information.
 - (b) The agency or its third-party vendor shall review and evaluate the additional supporting information upon receipt of the valid Form 8001 and additional supporting information, including additional medical information, information about his or her job duties and accommodations, documentation relating to Workers' Compensation claims, police or other crime reports, or other required documentation, when filed within the required time period.
- (2) Once the agency or its third-party vendor completes the evaluation of the additional supporting information, the agency or its third-party vendor shall make a determination and notify the applicant of the findings.
- (a)
1. The applicant shall have until the end of day 180 calendar days from the date the notice of denial is provided to request a formal hearing in accordance with Section 16 of this administrative regulation to appeal the denial of the ILOD disability, total and permanent ILOD disability, or both, if:
 - a. The application is denied for ILOD disability, total and permanent ILOD disability, or both; and
 - b. Does not meet the service requirements for hazardous disability or total and permanent disability pursuant to Section 7(1) of this administrative regulation; or
 - c. Is approved for hazardous disability or total and permanent disability.

2. The applicant shall receive any approved hazardous disability or total and permanent disability within the time period requirements established by Section 11(1) of this administrative regulation during the pendency of appeal regarding ILOD disability, total and permanent ILOD disability, or both. A denial of the appeal shall not affect the benefits for which the applicant has already been approved or is already receiving.

(b)

1. If the application is approved for ILOD disability, but denied for total and permanent ILOD disability, the applicant shall have until the end of day 180 calendar days from the date the notice of denial is provided to request a formal hearing in accordance with Section 16 of this administrative regulation to appeal the denial of the total and permanent ILOD disability.

2. The applicant shall receive the approved ILOD disability within the time period requirements established by Section 11(1) of this administrative regulation during the pendency of the appeal regarding total and permanent ILOD disability. A denial of the appeal shall not affect the benefits for which the applicant has already been approved or is already receiving.

(c) Except as provided in Section 7(6) of this administrative regulation, if the application is denied for ILOD disability, total and permanent ILOD disability, and hazardous disability, the applicant shall have until the end of day 180 calendar days from the date the notice of denial is provided to request a formal hearing in accordance with Section 16 of this administrative regulation to appeal the following:

1. Denial of the ILOD disability;
2. Total and permanent ILOD disability;
3. Hazardous disability; or
4. All that are applicable.

Section 9. Reapplication for ILOD disability or total and permanent ILOD disability while prior application or reapplication is pending.

(1) If a reapplication for ILOD disability or total and permanent ILOD disability that complies with KRS 16.582 and 78.5524 and Section 5 of this administrative regulation is filed while a prior application or reapplication is pending or within the statutory time periods for appeal, the agency shall process according to the following:

(a) If there is a prior application or reapplication pending a determination, including when the applicant has submitted additional supporting information and such information is pending a determination as prescribed in Section 8 of this administrative regulation, then the subsequent reapplication shall be accepted solely for the purpose of designating a new beneficiary in accordance with KRS 61.542(4) and 78.545, and shall not be reviewed.

(b) If there is a prior denial that is still within the statutory time period to appeal the determination and the applicant has not submitted additional supporting information as prescribed in Section 8 of this administrative regulation or requested an appeal in accordance with Section 16 of this administrative regulation, then:

1. The subsequently filed reapplication shall be found as a notice of intent to not submit additional supporting information or request an administrative hearing to appeal the previous denial determination; and
2. The reapplication shall be processed by the agency in accordance with this administrative regulation unless the applicant files a written statement indicating the subsequently filed reapplication was filed solely for the purpose of designating a new beneficiary in accordance with KRS 61.542(4) and 78.545. The written statement shall be filed by the end of day fifteen (15) calendar days from the date of the notice indicated in subsection (2) of this section.

(c) If there is a prior denial, the applicant has requested an administrative hearing to appeal the denial, and it is prior to a Final Order of the Disability Appeals Committee (DAC), then:

1. The subsequently filed reapplication shall be found as a notice of intent to dismiss the request for an administrative hearing;
2. The reapplication shall be processed by the agency in accordance with this administrative regulation unless the applicant files a written statement indicating the subsequently filed reapplication has been filed solely for the purpose of designating a new beneficiary in accordance with KRS 61.542(4) and 78.545. The written statement shall be filed by the end of day fifteen (15) calendar days from the date of the notice indicated in subsection (2) of this section; and
3. The subsequently filed reapplication shall not be reviewed by the agency until thirty-one (31) calendar days after the entry of a Final Order of DAC dismissing the previously requested administrative hearing to 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.

(d)

1. If there is a prior denial, a Final Order of DAC has been issued affirming the prior denial, and the claimant has requested an appeal of the Final Order or is within the statutory time period to do so, then the subsequently filed reapplication shall be accepted solely for the purpose of designating a new beneficiary in accordance with KRS 61.542(4) and 78.545. The reapplication shall not be reviewed unless the applicant files one of the following by the end of day fifteen (15) calendar days from the date of the notice indicated in subsection (2) of this section:

- a. A written statement that he or she shall not appeal the Final Order of DAC; or
- b. A final unappealable Order of a court with jurisdiction over the matter.

2. If the applicant files the documentation indicated in paragraph (d)1.a. or b. of this subsection, then the subsequently filed reapplication shall be reviewed by the agency thirty-one (31) calendar days after the entry of a Final Order of DAC, or after a final unappealable Order of a court with jurisdiction over the matter has been entered.

(2) If a subsequent reapplication for ILOD disability or total and permanent ILOD disability that complies with Section 5 of this administrative regulation is filed, the applicant may receive notification of how the reapplication shall be administered based on the status of the previously filed application or reapplication and in accordance with subsection (1) of this section.

Section 10. Voiding the Form 6000, Notification of Retirement.

(1) The Form 6000, Notification of Retirement, shall be void if:

- (a) The Form 6000 is invalid or withdrawn;
- (b) The applicant is approved for benefits but fails to complete the requirements of Section 11 of this administrative regulation;
- (c) The applicant died during the pendency of a determination, is approved for benefits after his or her death, and the beneficiary, representative of the deceased applicant's estate, or trustee fails to complete the requirements of Section 14 of this administrative regulation; or
- (d) The Form 6000 does not result in the applicant receiving a retirement benefit and all applicable time periods to appeal as provided in Sections 7-9 of this administrative regulation have expired.

(2)

(a) If an applicant's Form 6000, Notification of Retirement, is void, the beneficiary or beneficiaries and contingent beneficiary or beneficiaries designated on the most

recently filed valid Form 2035, Beneficiary Designation, shall remain in full force and effect, except as provided in paragraph (b) of this subsection.

(b) If the applicant was receiving an ongoing benefit based on a previously filed valid Form 6000, Notification of Retirement, then the beneficiary or beneficiaries and contingent beneficiary or beneficiaries designated on the Form 6000 indicated in this paragraph shall remain in full force and effect.

Section 11. Administration of benefits upon approval of ILOD disability or total and permanent ILOD disability.

(1)

(a) Once an applicant is approved for hazardous disability, total and permanent disability, ILOD disability, or total and permanent ILOD disability, the applicant shall complete all requirements to begin receiving the benefit for which he or she was approved no later than six (6) months from the date the notice of approval was provided in accordance with KRS 61.590(5)(b) and 78.545. Appealing the denial of ILOD disability or total and permanent ILOD disability, or both, does not affect this requirement.

(b) If the applicant does not comply with paragraph (a) of this subsection, the applicant shall forfeit his or her right to the benefit for which he or she was approved, and shall have no right to appeal the forfeiture. This shall not preclude the applicant from:

1. Filing a reapplication for hazardous disability, ILOD disability, or total and permanent ILOD disability in accordance with KRS 16.582 and 78.5524, 105 KAR 1:210, and this administrative regulation; or

2. Filing for or receiving any other benefits that he or she may be eligible to receive.

(2) If the applicant received Social Security or Workers' Compensation benefits during the pendency of a determination, the applicant shall file detailed documentation of the benefits received in accordance with KRS 61.607, KRS 78.5530, and 105 KAR 1:210 Section 9.

(3) The agency shall provide the applicant the monthly payment options, as provided in 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, available on the Form 6010, Estimated Retirement Allowance. An applicant that was awarded Social Security or Workers' Compensation benefits during the pendency of a determination shall not be provided the Form 6010 until he or she complies with the requirements of subsection (2) of this section.

(a) The applicant shall complete and file a valid Form 6010 by the end of day six (6) months from the date the notification of approval for benefits was provided pursuant to KRS 61.590(5) and 78.545.

(b)

1. If the applicant selects an actuarial refund retirement payment option, lump-sum refund of the accumulated account balance, or partial lump-sum retirement payment option, he or she shall complete and file a valid Form 6025, Direct Rollover/Direct Payment Election Form for a Member, or a Spouse Beneficiary of an Eligible Rollover Distribution, selecting the option for payment.

2. If the applicant intends to have the funds rolled over directly into an IRA or other qualified plan, the applicant shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025 certifying that the rollover will be accepted.

(4)

(a) Approved benefits shall be paid retroactive to the first of the month following the month of the applicant's last day of paid employment in a regular full-time position.

(b) Any increases provided under KRS 61.691 and 78.5518 shall be applied to the applicant's ILOD disability or total and permanent ILOD disability, as applicable, in

determining the total retroactive payments owed and the monthly retirement allowance.

(5) Payment for benefits owed during the pendency of approval of ILOD disability or total and permanent ILOD disability shall be calculated accordingly:

(a) If the applicant did not receive any retirement benefits during the pendency of the approval, the applicant shall receive a payment for the retroactive period as prescribed in subsection (4) of this section.

(b)

1. If the applicant received other retirement benefits based on the same last date of paid employment during the pendency of the approval, the agency shall calculate and pay to the applicant the difference between the retirement benefit which was paid to the applicant and the ILOD disability or total and permanent ILOD disability payment owed.

2. The applicant shall not change the beneficiary named or the payment option selected upon early, normal, or any disability retirement benefit, except as provided in KRS 61.542(5)(a), 61.542(5)(b), and 78.545.

(c) If the applicant received Social Security or Workers' Compensation benefits, the agency shall calculate payment in accordance with 105 KAR 1:210 Section 9.

(6) Upon the completion of all requirements of this section and Section 13 of this administrative regulation, the applicant shall receive any applicable backpay and begin receiving the monthly retirement allowance owed.

Section 12. Requirements for dependent child benefits.

(1) If dependent child benefits are payable to a dependent child, each eligible dependent child or his or her parent or guardian shall file the following documents:

(a)

1. If the applicant is approved for ILOD disability, a valid Form 6456, Designation of Dependent Child; or

2. If the applicant is approved for total and permanent ILOD disability, a valid Form 6448, Designation of Dependent Child for Qualifying Total and Permanent Disability.

(b) If the dependent child is age eighteen (18) or over and a full-time student, written verification of full-time student status;

(c)

1. If the dependent child is age eighteen (18) or over and receives federal Social Security disability benefits, a copy of the most recent statement issued by the Social Security Administration indicating the dependent child is disabled; or

2. If the dependent child is being claimed as a qualifying child for tax purposes due to the dependent child's total and permanent disability, a copy of the applicant's most recent tax return showing the dependent child is totally and permanently disabled for tax purposes, or duly appointed order of the court specifying the dependent child is a disabled dependent child of the applicant;

(d)

1. A copy of the dependent child's birth certificate; or

2. A final order or decree of adoption which shall include his or her date of birth or other reliable proof of date of birth that may be used by the courts to verify date of birth; and

(e) If a dependent child is less than eighteen (18) years of age, a valid Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor. If the dependent child has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, the guardian or conservator shall file a copy of the court order appointing the guardian or conservator.

(2)

(a) After the dependent child begins receiving dependent child benefits, the dependent child or the parent or guardian of the dependent child shall:

1. Notify the agency of the death or marriage of the dependent child;
2. If applicable, notify the agency if the dependent child ceases to be a full-time student;
3. If applicable, file a copy of the dependent child's written verification of full-time student status with the agency for each semester of study by the end of day thirty (30) calendar days following the start and by the end of day thirty (30) calendar days following the end of each semester; and
4. If applicable, notify the agency if the dependent child's disability status changes.

(b) The dependent child and the parent or guardian of the dependent child shall be responsible for repaying any dependent child benefits overpaid due to the failure of the dependent child or parent or guardian of the dependent child to provide the information required by paragraph (a) of this subsection.

(5)

(a) Upon the completion of all requirements of this section and Section 13 of this administrative regulation, the dependent child shall begin receiving the benefit owed.

(b) Approved benefits shall be paid retroactive to the first of the month following the month of the applicant's last day of paid employment in a regular full-time position.

(c) Any increases provided under KRS 61.691 and 78.5518 shall be applied to the dependent child's benefits in determining the total retroactive payments owed and the monthly retirement allowance.

(d) Payment for benefits owed during the pendency of approval of ILOD disability or total and permanent ILOD disability shall be calculated accordingly:

1. If the dependent child did not receive dependent child benefits during the pendency of the approval, he or she shall receive a payment for the retroactive period as prescribed in paragraph (b) of this subsection.
2. If the dependent child received other dependent child benefits based on the same last date of paid employment during the pendency of the approval, the agency shall calculate and pay to the dependent child the difference between the dependent child benefit which was paid and the dependent child benefit owed.

Section 13. Distribution of payments.

(1) The agency shall not disperse payment until the requirements of either subsection (2) or (3) of this section are complete and on file.

(2)

(a) Except as provided in subsection (3) of this section, to begin receiving payment, the applicant, beneficiary, representative of the deceased applicant's estate, trustee, dependent child, or parent or guardian of a dependent child, as applicable, shall authorize direct deposit to an account in a financial institution in the following way:

1. File a valid Form 6130, Authorization for Deposit of Retirement Payment, provide direct deposit information on the valid Form 6000, Notification of Retirement, or authorize direct deposit via the Self-Service Web site; and
2. Provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution, including any authorizations or information needed from the financial institution.

(b) At any time while receiving a monthly benefit, a recipient may change the designated institution by completing and filing a new valid Form 6130, Authorization for Deposit of Retirement Payment, or by updating the authorization for deposit of retirement payments on the Self-Service Web site maintained by the agency.

(3) If the applicant, beneficiary, dependent child, or parent or guardian of a dependent child, as applicable, does not currently have an account with a financial institution, or his or her financial institution does not participate in the electronic funds transfer program, the applicant may receive benefits by check. To receive benefits by check, an applicant, beneficiary, dependent child, or the parent or guardian of a dependent child, as applicable, shall file a valid Form 6135, Request for Payment by Check.

(4) The most recently filed valid Form 6130, Authorization for Deposit of Retirement Payment, authorization for deposit of retirement payments on the Self-Service Web site, or valid Form 6135, Request for Payment by Check, shall control the payment or electronic transfer designation of the payable benefits.

Section 14. Death during ILOD disability or total and permanent ILOD disability application process.

(1)

(a) If an applicant who is not receiving any retirement benefit dies prior to being fully approved for ILOD disability or total and permanent ILOD disability; and

(b) A valid Form 6000, Notification of Retirement, that complies with Section 5 of this administrative regulation is on file; and

(c) The time period requirements established in Sections 4-9 of this administrative regulation have not expired; then:

1. In order to proceed with the application or reapplication, the beneficiary named on the valid Form 6000 shall file the following within the time period requirements established by Sections 4-9 of this administrative regulation:

a. Any outstanding forms or documents required by Sections 5-9 of this administrative regulation; and

b. Any additional relevant objective medical evidence and a valid Form 8002, Certification of Application for Disability Retirement and Supporting Medical Information.

2. The beneficiary shall only have the rights specified in subparagraphs (a)-(d) of this paragraph if he or she files a valid Form 6008, Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member.

a. The right to continue the application or reapplication whether or not additional forms or documentation are needed. The beneficiary shall be subject to subsection 4-6 of this section prior to payment of a disability retirement benefit owed;

b. The right to withdraw the application or reapplication whether or not additional forms or documentation are needed. If the Form 6008 is not on file within the time period requirements established in Sections 5-9 of this administrative regulation, the application or reapplication shall be withdrawn automatically. Withdrawal of the application or reapplication may impact the beneficiary as prescribed in Section 10(2) of this administrative regulation;

c. The right to submit additional supporting information in accordance with Section 8 of this administrative regulation if there is a denial of disability retirement benefits of any kind. The Form 6008 shall be on file within the time period requirements to submit additional supporting information as provided in Section 8 of this administrative regulation; and

d. The right to request an administrative hearing if there is a denial of disability retirement benefits of any kind. The Form 6008 shall be on file within the time period requirements to request an administrative hearing as provided in Sections 5-9 of this administrative regulation.

3. If the beneficiary is an estate, then the beneficiary shall file a duly entered or certified court order from a court with jurisdiction appointing the representative of

the applicant's estate within the time period requirements established by this subsection.

4. If the beneficiary does not file the required forms and documentation within the time periods required by this administrative regulation and KRS 61.665 and 78.545, then the application or reapplication for disability retirement benefits of any kind shall not be processed by the agency.

(2)

(a) If an applicant who is receiving a monthly retirement benefit dies prior to being fully approved for ILOD disability or total and permanent ILOD disability;

(b) A valid Form 6000, Notification of Retirement, that complies with Section 5 of this administrative regulation is on file;

(c) Lump sum or monthly benefits are payable to the beneficiary listed on the Form 6000; and

(d) The time period requirements established by Sections 4-9 of this administrative regulation have not expired; then:

1. In order to proceed with the application or reapplication, the beneficiary named on the valid Form 6000 shall file the following within the time period requirements established in Sections 4-9 of this administrative regulation:

a. Any outstanding forms or documentation required by Sections 5-9 of this administrative regulation; and

b. Any additional relevant objective medical evidence and a valid Form 8002, Certification of Application for Disability Retirement and Supporting Medical Information.

2. The beneficiary shall file a valid Form 6008, Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member, to:

a. Continue the application or reapplication whether or not additional forms or documentation are needed. The beneficiary shall be subject to subsection 4-6 of this section prior to payment of a disability retirement benefit owed;

b. Withdraw the application or reapplication whether or not additional forms or documentation are needed. If the Form 6008 is not on file within the time period requirements established in Sections 5-9 of this administrative regulation, the application or reapplication shall be withdrawn automatically.

c. Have the right to submit additional supporting information in accordance with Section 8 of this administrative regulation if there is a denial of disability retirement benefits of any kind. The Form 6008 shall be on file within the time period requirements to submit additional supporting information as provided in Section 8 of this administrative regulation; and

d. Have the right to request an administrative hearing if there is a denial of disability retirement benefits of any kind. The Form 6008 shall be on file within the time period requirements to request an administrative hearing as provided in Sections 5-9 of this administrative regulation.

3. If the beneficiary does not file the required forms and documentation within the time periods required by this administrative regulation and KRS 61.665 and 78.545, then the application or reapplication for disability retirement benefits of any kind shall not be processed by the agency.

(3)

(a) If an applicant who is receiving a monthly retirement benefit dies prior to being fully approved for ILOD disability or total and permanent ILOD disability;

(b) A valid Form 6000, Notification of Retirement, that complies with Section 5 of this administrative regulation is on file;

(c) No monthly or lump-sum benefits are payable to the beneficiary listed on the Form 6000 or the designated beneficiary is the estate or trust; and

(d) The time period requirements established in Sections 4-9 of this administrative regulation have not expired; then:

1. In order to proceed with the application or reapplication, the representative of the deceased applicant's estate or the trustee shall file the following no later than the time period requirements established in Sections 4-9 of this administrative regulation:

a. Any outstanding forms or documentation required by Sections 5-9 of this administrative regulation; and

b. Any additional relevant objective medical evidence and a valid Form 8002, Certification of Application for Disability Retirement and Supporting Medical Information.

2. The representative of the applicant's estate shall file a duly entered or certified court order from a court with jurisdiction appointing the person(s) as representative of the applicant's estate, and a written statement that the application or reapplication for ILOD disability or total and permanent ILOD disability shall continue or be withdrawn as applicable. Both requirements of this paragraph shall be on file to:

a. Continue the application or reapplication whether or not additional forms or documentation are needed. The representative of the applicant's estate shall be subject to subsection 4-6 of this section prior to payment of a disability retirement benefit owed;

b. Withdraw the application or reapplication whether or not additional forms or documentation are needed. If the requirements of this subsection are not on file within the time period requirements established in Sections 5-9 of this administrative regulation, the application or reapplication shall be withdrawn automatically;

c. Have the right to submit additional supporting information in accordance with Section 8 of this administrative regulation if there is a denial of disability retirement benefits of any kind. The requirements of this subsection shall be on file within the time period requirements to submit additional supporting information as provided in Section 8 of this administrative regulation; and

d. Have the right to request an administrative hearing if there is a denial of disability retirement benefits of any kind. The requirements of this subsection shall be on file within the time period requirements to request an administrative hearing as provided in Sections 5-9 of this administrative regulation.

3. The trustee shall file a written statement that the application or reapplication for ILOD disability or total and permanent ILOD disability shall continue or be withdrawn as applicable. The requirements of this paragraph shall be on file to:

a. Continue the application or reapplication whether or not additional forms or documentation are needed. The representative of the applicant's estate shall be subject to subsection 4-6 of this section prior to payment of a disability retirement benefit owed;

b. Withdraw the application or reapplication whether or not additional forms or documentation are needed. If the requirements of this subsection are not on file within the time period requirements established in Sections 5-9 of this administrative regulation, the application or reapplication shall be withdrawn automatically;

c. Have the right to submit additional supporting information in accordance with Section 8 of this administrative regulation if there is a denial of disability retirement benefits of any kind. The requirements of this subsection shall be on file within the time period requirements to submit additional supporting information as provided in Section 8 of this administrative regulation; and

- d. Have the right to request an administrative hearing if there is a denial of disability retirement benefits of any kind. The requirements of this subsection shall be on file within the time period requirements to request an administrative hearing as provided in Sections 5-9 of this administrative regulation.
4. If the representative of the deceased applicant's estate or the trustee does not file the required forms and documentation within the time periods required by this administrative regulation and KRS 61.665 and 78.545, then the application or reapplication for disability retirement benefits of any kind shall not be processed by the agency.
- (4) If the beneficiary, representative of the deceased applicant's estate, or trustee provides all needed forms and documentation as provided in subsections (1)-(3) of this section and Section 11(2) of this administrative regulation, and benefits are approved:
- (a) The agency shall provide the beneficiary with a Form 6810, Certification of Beneficiary. The beneficiary shall complete and file a valid Form 6810.
- (b) If the applicant was not receiving a retirement benefit prior to his or her death, the agency shall provide the beneficiary with the payment options available on the Form 6010, Estimated Retirement Allowance. The beneficiary shall complete and file a valid Form 6010.
1. If the beneficiary, representative of the deceased applicant's estate, or trust is eligible for and selects an actuarial refund retirement payment option, lump-sum refund of the accumulated account balance, or partial lump-sum retirement payment option, he or she shall complete and file a valid Form 6025, Direct Rollover/Direct Payment Election Form for a Member, or a Spouse Beneficiary of an Eligible Rollover Distribution, indicating the payment option elected.
2. If the beneficiary, representative of the deceased applicant's estate, or trustee intends to have the funds rolled over directly into an IRA or other qualified plan, the beneficiary, representative of the deceased applicant's estate, or trustee shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025 certifying that the rollover will be accepted.
- (c) If the applicant was receiving a retirement benefit prior to his or her death, the beneficiary, the deceased applicant's estate, or trust shall receive benefits based on the payment option designated by the applicant.
- (d) Upon the completion of all requirements of this section and Section 13 of this administrative regulation, the beneficiary, the deceased applicant's estate, or trust shall receive or begin receiving the benefit owed.
- (5)
- (a) If the applicant received any retirement benefits while awaiting a disability determination of any kind, the beneficiary is not eligible to receive the difference between what the applicant already received and the disability back payments owed for the time period from the applicant's disability retirement date through the end of the month in which the applicant died. When this occurs, the deceased applicant's estate or trust shall receive any back payment owed for the time period indicated in this paragraph.
- (b) If the applicant never received retirement benefits of any kind, the beneficiary is eligible to receive the disability back payments owed for the time period from the applicant's disability retirement date through the date of approval of the disability retirement benefit.

Section 15. Recipient's ILOD disability or total and permanent ILOD disability discontinued upon review. If, upon review in accordance with KRS 61.610, 61.615, 78.5528, or other applicable statute, the agency or its third-party vendor determines:

- (1) A recipient of total and permanent ILOD disability no longer meets eligibility requirements, then the agency or its third-party vendor shall determine if the recipient is qualified and remains eligible for ILOD disability in accordance with KRS 16.582 and 78.5524, and this administrative regulation; or
- (2) A recipient of ILOD disability no longer meets eligibility requirements, then the agency shall determine if the recipient is qualified and remains eligible for early or normal retirement benefits in accordance with KRS 61.592 and 78.5520.

Section 16. Right to appeal.

- (1) In accordance with KRS 61.665 and 78.545, a request for a formal hearing to appeal a denial or discontinuance determination shall be made by filing a written request containing a short and plain statement of the issues being appealed.
- (2) The hearing shall be conducted in accordance with KRS Chapter 13B and 105 KAR 1:215.
- (3) The hearing officer presiding over an administrative hearing shall review the administrative record and any records introduced at the administrative hearing.
 - (a) The determination of other state and federal agencies' approval of benefits including the Kentucky Department of Workers' Claims and the Social Security Administration, may support a final determination if accompanied by underlying objective medical evidence or vocational evidence.
 - (b) Written statements from medical providers within the administrative record shall not themselves be objective medical evidence, but may be relied upon if accompanied by, and reviewed in concert with, other supporting objective medical evidence.
- (4) The final determination shall not be bound by factual or legal findings of other state or federal agencies. The final determination shall be based on objective medical evidence and vocational records, including objective medical evidence and vocational records contained within or that accompany a determination by another state or federal agency.
- (5) Once a final determination is issued, the person who filed the appeal shall be notified of the final order of the Disability Appeals Committee (DAC) in accordance with KRS 61.615(3)(g) and 78.5528(3)(g).
- (6) All evidentiary filings made during an administrative hearing process to appeal the denial of an application or reapplication shall be included in the information reviewed in a subsequently filed reapplication.

Section 17. Incorporation by reference.

- (1) The following material is incorporated by reference:
 - (a) Form 6000, "Notification of Retirement", updated June 2023;
 - (b) Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member", updated November 2023;
 - (c) Form 6010, "Estimated Retirement Allowance", updated April 2021;
 - (d) Form 6025, "Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution", updated June 2023;
 - (e) Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor", updated June 2023;
 - (f) Form 6130, "Authorization for Deposit of Retirement Payment", updated June 2023;
 - (g) Form 6135, "Request for Payment by Check", updated June 2023;
 - (h) Form 6448, "Designation of Dependent Child for Qualifying Total and Permanent Disability", updated November 2023;
 - (i) Form 6456, "Designation of Dependent Child", updated November 2023;
 - (j) Form 6810, "Certification of Beneficiary", updated April 2021;

- (k) Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information", updated November 2023;
- (l) Form 8002, "Certification of Application for Disability Retirement and Supporting Medical Information", updated November 2023;
- (m) Form 8025, "Authorization for Independent Medical or Psychological Examination and Release of Medical Information", updated November 2023;
- (n) Form 8030, "Employer Job Description", updated June 2023;
- (o) Form 8035, "Employee Job Description", updated November 2023;
- (p) Form 8040, "Prescription and Nonprescription Medications", updated November 2023;
- (q) Form 8480, "Certification of Statement of Disability – Act in the Line of Duty", updated November 2023; and
- (r) Form 8846, "Travel Voucher for Independent Examination", updated November 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8:00 a.m. to 4:30 p.m. This material is also available on the agency's Web site at kyret.ky.gov.

DAVID L. EAGER, Executive Director

APPROVED BY AGENCY: December 6, 2023

FILED WITH LRC: December 7, 2023 at 10:20 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing to allow for public comment on this administrative regulation shall be held on February 21, 2024 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, KY 40601, email Legal.Non-Advocacy@kyret.ky.gov, telephone (502) 696-8800 ext. 8570, facsimile (502) 696-8615.