

KITSAP COUNTY LEOFF 1 DISABILITY BOARD
RULES, POLICIES, and PROCEDURES

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KITSAP COUNTY LEOFF 1 DISABILITY BOARD
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SECTION I – GENERAL

1.1 PURPOSE

The Kitsap County Law Enforcement and Fire Fighters Disability Board (Board) was created pursuant to the Revised Code of Washington (RCW), Title 41, Section 26, to oversee the disability retirement of law enforcement officers and fire fighters who applied for retirement due to injury or illness. Operating guidelines have also been established by the Department of Retirement Systems (DRS) in the Washington Administrative Code (WAC) Chapter 415-105.

Since the formation of disability boards, the part played by the Board in the retirement process has evolved from evaluating disability claims to providing financial support for health care deemed medically necessary by a variety of health care professionals. The purpose of this document is to establish policies and guidelines that aid the Board in authorizing medically necessary services for its members in a consistent, conscientious, and caring manner while remaining in compliance with relevant laws and regulations.

1.2 DEFINITIONS

- **CLAIM:** a filed request by a member to the agency of jurisdiction for approval of reimbursement of expenses incurred for medical services of treatment.
- **MEMBER:** a current or retired law enforcement officer or firefighter eligible for benefits defined in RCW 41.26.030(21).

1.3 SCOPE

The content of this document applies only to law enforcement and firefighters who became members of the Law Enforcement and Fire Fighters Retirement Plan 1 (LEOFF 1) prior to October 1, 1977, pursuant to RCW 41.26.030(21) and who are/were employed by agencies subject to the jurisdiction of the Board in accordance with RCW 41.26.110.

1.4 DISTRIBUTION

Copies of these rules and amendments shall be provided by the Clerk of the Board to each agency subject to the jurisdiction of the Board. Rules, policies, and procedures will be available electronically at Kitsapgov.com.

1.5 JURISDICTION

Any police or fire agency within Kitsap County with full time regularly compensated LEOFF 1 members who are/were not employed in a city with a disability board and who were hired prior to October 1, 1977, fall under the jurisdiction of the Board. The Board serves the following agencies:

- | | |
|----------------------------------|----------------------------------|
| • Kitsap County Sheriff's Office | • Central Kitsap Fire and Rescue |
| • Poulsbo Police Department | • North Kitsap Fire and Rescue |
| • Port Orchard Police Department | • South Kitsap Fire and Rescue |

SECTION II – THE BOARD

2.1 COMPOSITON OF THE BOARD

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The composition of the Board shall consist of five (5) members in accordance with RCW 41.26.110(1)(c):

- One (1) member from the Kitsap County legislative body to be selected by the County Commissioners.
- One (1) member from a city or town legislative body located within Kitsap County, which city or town does not contain a city disability board, to be appointed by a majority of mayors of such cities and towns within the County which do not contain a city disability board.
- One (1) active or retired firefighter from a fire service agency subject to the jurisdiction of the Board, to be elected by the firefighters employed in or retired from agencies who are subject to the jurisdiction of the Board. Elections shall be conducted following the procedures stated in Section 2.7.
- One (1) active or retired law enforcement officer from a law enforcement agency subject to the jurisdiction of the Board to be elected by the law enforcement officers employed in or retired from agencies who are subject to the jurisdiction of the Board. Elections shall be conducted following the procedures stated in Section 2.7.
- One (1) member from the public at large who resides within Kitsap County but does not reside within a city in which a city disability board is established, to be appointed by the other four (4) members described above.

If there are no firefighters under the jurisdiction of the Board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers eligible to vote. If there are no law enforcement officers under the jurisdiction of the Board eligible to vote, a second eligible representative shall be elected by the firefighters eligible to vote.

2.2 BOARD MEMBER TERM AND COMPENSATION

Board members shall serve two-year terms with no limit to the number of consecutive terms served. Board members shall receive no compensation for their service upon the Board but shall be reimbursed for expenses incidental to such service (i.e., travel, training, etc.).

2.3 POWERS OF THE BOARD

The Board shall have the powers granted by the State Legislature or necessarily implied from such grant of powers in chapter 41.26 RCW and chapters 415-104 and 415-105 WAC.

2.4 BOARD OFFICERS

Board Officers shall include a Board Chair and Vice Chair. Officers shall be elected by the members of the Board. The Board Chair shall preside over all meetings of the Board and call special meetings as needed. The Chair shall sign all documents requiring the signature of the Board and the signature of the Chair of the Board shall be as legal and binding as if all Board members had affixed their names. The Vice Chair shall perform the duties of the Chair in the absence of the Chair.

2.5 CLERK OF THE BOARD

The duties of the Clerk of the Board shall include:

- Preparing the agenda for each meeting
- Providing notice of all special meetings
- Keeping an attendance record of the members of the Board for all meetings

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- Taking minutes of the Board meetings
- Distributing agendas, previous meeting minutes, and packets to the Board members five (5) calendar days prior to each meeting
- Ensuring that all benefits under insurance provided by an employer or another source are obtained prior to payments by the Board

The Board may delegate to the Clerk the authority to undertake an investigation of matters before the Board. These matters include, but are not limited to, areas of disability leave, pensions, medical expenses, and activities collateral to them.

2.6 BOARD MEETINGS

Whenever there is business that requires Board consideration the Board Chair shall cause the Clerk of the Board to notify each Board member in writing a minimum of five (5) business days prior to the proposed meeting date. Such notification may include alternate meeting dates, the purpose of the meeting in the form of an agenda, and/or further explanation as needed. Notification may be made by letter; however, electronic mail is considered to be written notification for the purpose of this policy.

All meetings shall comply with the Open Public Meetings Act, Chapter 42.30 RCW, and shall be open to the public. At no time shall the news media or other person be allowed to record in any manner portions of Board meetings unless specifically authorized by the Board.

The Board reserves the right pursuant to RCW 42.30.140(2) to conduct meetings in executive session when deliberating upon quasi-judicial matters relating to specific requests for benefits where the Board finds that such deliberations would be more efficiently concluded in private and/or that such deliberations might be expected to include discussion of sensitive, personal information related to a particular Member.

Each Board member present shall have one (1) vote. Three (3) Board members shall constitute a quorum and shall have power to transact business. Each member is expected to notify the Board Chair or Clerk prior to a scheduled meeting if that member will be unable to attend. All attendance at meetings shall be noted in the meeting minutes. Six (6) consecutive unexplained absences shall constitute abandonment of office and the office shall thereafter be considered vacant.

Meeting minutes shall be taken by the Clerk of the Board and include actions of the Board and a substantive account of the proceedings. A record of the Board members present/absent shall be entered, along with the ayes, nays, and abstentions of each member when voting. The meeting minutes shall be signed by the Board Chair or designee. Copies of the minutes shall be distributed to all members of the Board and to the agency having jurisdiction of the Member(s) whose medical cases were discussed in the minutes.

2.7 ELECTION OF FIREFIGHTER AND LAW ENFORCEMENT OFFICER BOARD MEMBERS

The law enforcement and firefighter members of the Board shall be nominated by and elected in accordance with RCW 41.26.110(1)(c) and the procedures established by the Board.

- During an election year and prior to November 1, the Clerk of the Board will request the names of nominees from each fire and law enforcement agency under the jurisdiction of the Board.
- Nominees must be selected from the ranks of active or retired Members who are subject to the jurisdiction of the Board. Nominee names shall be submitted to the Clerk of the Board prior to November 15 of the election year.

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- The election of the law enforcement and firefighter representatives shall be by secret ballot. Prior to December 15, the Clerk of the Board will send a ballot containing the names of all nominees to all Members under the jurisdiction of the Board. The ballot may contain a self-addressed stamped envelope to facilitate member voting.
- Ballots shall be returned to the Clerk of the Board postmarked no later than January 2. Ballots postmarked after January 2 will not be counted.
- The names of the elected representatives shall be noted in the minutes of the next regular Board meeting along with the term for which elected.

Vacancies in Board positions will be filled for the unexpired term utilizing process outlined in this section, apart from the nomination and election dates established for standard election.

SECTION III – MEDICAL CLAIMS

Any active or retired Member who is subject to the jurisdiction of this Board may request that the agency having jurisdiction pay for or provide reimbursement for the cost of medical treatment for sickness or disability, not caused or brought on by dissipation or abuse, of which the Board shall be judge. The agency having jurisdiction is required to pay reasonable fees for medical services in accordance with RCW 41.26.150(1) which states, "...the employer shall pay for the active or retired member the necessary medical services not payable from some other source as provided for in subsection (2) of this section." RCW 41.26.150(2) requires that any medical services payable be reduced by any amount received or eligible to be received by the Member (i.e., from other parties, additional insurance benefits, social security, or workers' compensation) prior to payment by the agency having jurisdiction.

3.1 FILING A CLAIM

All Claims shall be submitted to the agency having jurisdiction as soon as possible but not more than one (1) year from the date the service was rendered, or the date medical supplies were purchased. The agency having jurisdiction will not approve claims for interest on delinquent accounts or charges for missed appointments.

The agency having jurisdiction will not authorize payment of any member claims for medical services or supplies unless the claim is accompanied by acceptable documentation.

The Member shall certify the claim as being true and correct by providing proof of payment or proof of liability for payment. Acceptable proof of payment or liability for payment may include:

- Receipts and billing invoices – must include member's name, the provider's name, and the date service rendered.
- "Explanation of Benefits" (EOB) – states that the request for payment has been reduced by all other eligible sources.
- To ensure prompt reimbursements Members are encouraged to securely attach small receipts to an 8.5"x 11" piece of paper with adhesive tape. At the request of the Auditor, loose receipts or receipts stapled to invoices or statements will not be processed, but instead returned to the Member.

3.2 DETERMINATION OF PAYMENT

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The agency having jurisdiction shall determine any amounts which the Member has received or may be eligible to receive from another sources. Those amounts shall be deducted to determine the net amount of the claim.

The agency having jurisdiction shall act upon all claims promptly. The Member shall be advised in writing of any claim that is rejected and the reason for rejection.

It is the responsibility of the Member to ensure the physician's office, if directly billing the agency having jurisdiction, is aware of the submitting requirements, i.e., including an "Explanation of Benefits."

3.3 MEDICAL SERVICE PAYMENTS REDUCED BY OTHER SOURCES

As provided in RCW 41.26.150(2), the cost of medical services payable will be reduced by any amount received or eligible to be received under insurance provided by, but not limited to the following:

- Workers' Compensation
- Social Security
- Medicare
- Insurance provided by another employer
- "Other" pension plan
- Any other source, including amounts received or eligible to be received under insurance belonging to a third party

It is the responsibility of the Member to ensure that all benefits payable to the Member are credited to the amount billed prior to submitting a Claim to the agency having jurisdiction for payment.

3.4 MEDICARE

A Member is required to enroll in Medicare parts A and B when he or she becomes eligible. The agency of jurisdiction will not authorize payment for necessary medical services where such services are met by Medicare, pursuant to RCW 41.26.150. Where the necessary medical service exceeds what is paid by Medicare, or other insurance, the agency of jurisdiction will authorize payment of the uninsured amount.

Medicare eligible members are reimbursed for the cost of Part B "*standard*" coverage either monthly or annually in a lump sum payment. The Member is responsible for providing a copy of their annual "Social Security Statement of Benefits" to the agency having jurisdiction no later than the beginning of the benefit year. Any Member with an IRMAA(s) included to their standard Medicare Part B deduction will be reimbursed the "*standard*" deduction defined for that benefit year only.

A Member is not required to enroll in Medicare part D when the Member becomes eligible. Medicare eligible Members will not be reimbursed for the cost of Medicare Part D coverage.

3.5 SUBROGATION

Upon providing reimbursement or payments to any Member, the agency having jurisdiction shall be subrogated to all rights of the Member against any third party who may be held liable for the Member's illness or injuries to the extent necessary to recover the amount of payments made or to be made by the employer. RCW 41.26.150.

3.6 EXAMINATION BY A PHYSICIAN

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Either the agency having jurisdiction, or the Board may, in all cases, have the Member examined at any time by a physician of its choice. Refusal to submit to such examination may mean forfeiture of the Member's right to benefits. RCW 41.26.150(1)(a).

SECTION IV – ELIGIBLE MEDICAL TREATMENT/PROCEDURES/PRESCRIPTIONS

Medical services for Members shall include the "minimum" services defined under RCW 41.26.030(20). Additionally, the Board recognizes the following as medically "necessary" and will authorize the following:

4.1 MEDICAL SERVICES

Medical services performed or prescribed by a licensed physician. Services provided beyond the limits/visits under a Member's primary insurance require prior authorization by the agency of jurisdiction.

4.2 DENTAL

The Board believes that good dental health is essential in maintaining good overall health. In addition to the requirements outlined in RCW 41.26.030(20)(b)(iii)(H), the Board authorizes payment for dental care coverage capped at a maximum of \$1,500.00 per calendar year (i.e., January – December).

4.3 HEARING AIDS

The Board authorizes a maximum of \$5,000.00 toward the purchase of hearing aids every five years. The Board will not pay for maintenance, batteries, or warranties. Hearing aids which are lost or damaged may be replaced at Board expense on a case-by-case basis. Loss or damage incurred due to neglect or abuse is not to be considered a valid cause for replacement by the Board.

4.4 IMMUNIZATIONS

The Board believes that immunizations are a necessary part of a quality, preventive medical plan and will reimburse members for immunizations for the following: shingles (herpes zoster), pneumonia, and influenza. Requests for reimbursement should be accompanied by a receipt from the medical provider bearing the type and cost of the immunization and the patient's name.

4.5 LONG TERM CARE

RCW 41.26.030(20)(b)(iii)(I) defines minimum medical services to include payment of fees for "nursing home confinement or hospital extended care facility." However, the Board believes that providing long term care implies a responsibility to assist Members in maintaining a quality of life by assisting them with expenses beyond minimum medical services.

The Board is aware that the required level of care varies from member to member and is dependent on a Member's medical situation as defined by the professional administering to the Member. The Board recognizes the following levels of care:

- Adult day care and respite care
- In home care, including health aides and housekeepers
- Assisted living or group home care
- Alzheimer or memory care facility
- Nursing home or extended care facility, including rehabilitation stats (semi-private room only)

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- Hospice care

A Member must provide to the agency having jurisdiction, in writing, a finding of medical necessity by a licensed physician, physician's assistant, or nurse practitioner prior to the agency authorizing payment for long term care services. The finding must provide a treatment plan, specify the services that are required including any durable medical equipment, if possible, and an estimate of how long the services may be required.

Services provided to a Member for the listed levels of care shall be capped at 120% (one hundred and twenty percent) of the most current MetLife Long Term Care Market Survey Genworth in the geographic area in which the Member resides. Payments for services of all types are limited to the average "rest of state" amounts, unless the Member resides in a city specified in the survey.

Service upgrades and extras are subject to Board approval on a case-by-case basis upon recommendation of attending health care professionals. Amenities such as computers, televisions, and telephones are the responsibility of the Member.

All payments for long term care services shall be made in compliance with RCW 41.26.150.

Members are encouraged to obtain individual long-term care insurance.

4.6 PRESCRIPTIONS

Members utilizing pharmacies who directly bill the agency having jurisdiction are responsible for informing the pharmacy that some over-the-counter medications are not covered under LEOFF 1 and must not be included in the billing.

- Medication costs must be reduced by insurance
- Sexual Dysfunction medication is limited to six (6) doses per month and must be prescribed by a physician
- Diabetic medication, syringes, insulin metering devices, and testing equipment are covered

4.7 ANNUAL WELLNESS EXAM

The agency having jurisdiction will cover the cost of one annual wellness (physical) examination in each calendar year. The examination must be conducted by a medical doctor, physician's assistant, or nurse practitioner. The maximum benefit is capped at \$350.00. Medical diagnostic tests arising from the wellness examination may be covered on a case-by-case basis.

4.8 VISION

The Board will cover annual wellness examinations performed by an optometrist or other medical professional. The following are also covered:

- Eyeglass frames are covered every two years and capped at a maximum of \$200.00
- Lenses are covered annually for new/changing prescriptions
 - Tinting, anti-reflective coating, and other options are not covered
- Contact lenses are covered annually in lieu of eyeglasses
- Retinal scanning to determine the health of the optic nerve and retina
 - A retinal scan is capped at a maximum of \$50.00

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Laser/refractive procedures are covered in lieu of eyeglasses or contact lenses. Future eye wear benefits are suspended for a period of four years following a laser/refractive procedure.

SECTION V – APPEALS

5.1 APPEAL TO THE BOARD

Any Member feeling aggrieved by any denial of a Claim by the agency having jurisdiction shall have the right to request the Board reconsider the agency's decision. Requests for reconsideration must be filed with the Clerk of the Board within thirty (30) days following the denial of claim by the Member's agency of jurisdiction. The Board will set a date and time for hearing at which time the Member may present such evidence deemed relevant. If the Board sustains the denial of the Claim, the Member has the right to appeal the order or determination to the Director of Retirement Systems.

5.2 APPEAL TO THE DIRECTOR OF RETIREMENT SYSTEMS

Any Member feeling aggrieved by any order or determination of the Board denying disability leave or disability retirement, or canceling a previously granted disability retirement allowance, shall have the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty (30) days following the order of the Board. A copy of the notice of appeal shall be served upon the director and the Board and, within ninety (90) days of receiving the notice, the Board shall certify its decision and order to the director for review. The Board shall include findings of fact, conclusions of law, and a transcript of all proceedings related to the matter. Upon review of the record, the director may affirm the order of the Board or may remand the case for such further proceedings as he or she may direct, in accordance with such rules of procedure as the director shall promulgate. RCW 41.26.200.

The appeal hearing will be held in the county in which the Member resides at a time and place determined by the director. The hearing shall be de novo and shall conform to the provisions of chapter 34.05 RCW, as now or hereafter amended. The Board and the Department of Retirement Systems shall be entitled to appear in all such proceedings and introduce testimony in support of the decision. RCW 41.26.221.

If the director sustains the denial of the Claim, the Member has the right to petition for judicial review.

5.3 PETITION FOR JUDICIAL REVIEW

Any person aggrieved by any final decision of the director must, before petitioning for judicial review, file with the director of the retirement system by mail or personally within sixty (60) days from the day such decision was communicated to such person, a notice for a hearing. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. RCW 41.26.200.

5.4 ACCEPTANCE OF SERVICE OF JUDICIAL REVIEW

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The Clerk of the Board is authorized to accept service of judicial review process on behalf of the Board provided that such process does not include any complaint or request for money damages against the Board or any individual member thereof.

SECTION VI – RECORDS

6.1 MAINTENANCE

The Clerk of the Board shall be responsible for maintaining the record of the Board.

6.2 DISCLOSURE

Requests for public records pursuant to the Public Records Act, chapter 42.56 RCW shall be referred to the Clerk of the Board for processing. The Clerk will exempt and/or provide records consistent with the state and federal laws.

SECTION VII – AMENDMENTS

These rules and regulations may be amended, repealed, or altered in whole or in part by a majority vote of the total membership of the Board.

ADOPTED by the Kitsap County LEOFF 1 Disability Board the 27th day of February 2023.

Donald Lutes

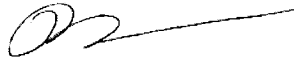
Donald Lutes (Apr 3, 2023 09:20 PDT)

Board Chair, Law Enforcement Representative

Katherine T. Walters

Katherine T. Walters (Apr 3, 2023 10:26 PDT)

Commissioner Representative



City Representative

Edward Boucher

Edward Boucher (Apr 3, 2023 14:49 PDT)

Firefighter's Representative

Tim Anderson

Tim Anderson (Apr 3, 2023 19:57 PDT)

Citizen-at-Large

ATTEST: Jammie Clark
Jammie Clark, Clerk of the Board