



RETIREMENT BOARD MEETING CALENDAR SHEET
April 10, 2024

To: Retirement Board
Through: Alison Romano, CEO & CIO
From: Caryn Bortnick,
Chief Operating Officer
Date: April 10, 2024
Agenda Item: Overview of Disability Application Process

Recommendation:

This is a discussion item only.

Background:

SFERS members who suffer an injury of uncertain duration that prevents them from performing their usual work duties may apply for a disability retirement. SFERS receives many questions regarding the disability application process. The accompanying memorandum provides a general overview. Staff is available to answer questions.

Attachment:

Staff Memorandum



Memorandum

To: Retirement Board

From: Caryn Bortnick
Chief Operating Officer

Date: April 10, 2024

RE: Overview of Disability Application Process

Introduction

Under the Charter, a SFERS member who is substantially incapacitated from the performance of their duties for an extended or uncertain duration may apply for and receive a disability retirement allowance. If the cause of the disability is work-related, a safety member may receive an industrial disability allowance. An ordinary disability allowance is available for disabilities regardless of cause for all members.

This memorandum provides an overview of the application process for SFERS members. SFERS also processes disability applications for City and County employees who are CalPERS members. That process is different, and we do not discuss it here.

Overview of the Disability Application Process

As of the end of March 2024, SFERS had approximately 409 pending disability cases, including approximately 128 ordinary disability cases, 217 safety industrial disability cases, and 64 CalPERS disability cases. 28 of these cases have been filed since the beginning of 2024.

Many members who file for disability are eligible for a service or vesting allowance at the time they file the application. Those members have the option to retire with a stipulation that permits them to seek disability retirement while they are in benefit status. This distinction is an important one. It means those members are receiving a monthly allowance while their application is pending. Of the pending applications, 186 safety members are receiving a retirement allowance, and 113 miscellaneous members are receiving a retirement allowance. For those applications where the member is not receiving an allowance, SFERS staff works to move those cases on an expedited basis.

When the member files for disability retirement, they select the date their retirement will become effective. After the retirement date, staff gathers the member's medical records based on the disability (ies) alleged in the application and the treating physicians identified by the member. In many instances, the member moves their initial retirement date into the future. In those cases, staff does not gather the medical records until after the new retirement date has become effective. Staff does not begin to collect the medical records before the retirement date because they must include treatment up to and including the retirement date in order for the applicant to be able to meet their burden of proof at the hearing. Staff sends follow up requests for the medical records every 60 days until received.

As the medical records are received, SFERS staff removes irrelevant information (i.e. duplicative information or information pertaining to an unrelated injury). Once all of the known medical records are received and "verified," staff uploads them to a secure site and they are transmitted to the City Attorney's Office for review and analysis. Staff refers to this stage as "medical ready." As of the end of March 2024, there are 119 "medical ready" cases.

The "medical ready" cases are reviewed and analyzed by the City Attorney's Office. Many of these cases comprise thousands of pages of medical records. Cases are generally reviewed in the order received, unless there is a reason to prioritize them. Catastrophic injury or terminal disease cases are prioritized, as well as cases where the member is not receiving any retirement income during the process. The average waiting time for City Attorney review and analysis is 5 ½ months.

During the review, the City Attorney's Office team will determine whether an IME (independent medical examination) is needed. Sometimes a medical examination is necessary even where the member has submitted workers compensation records with a medical examination. This is because the medical and legal standard to qualify for a SFERS disability retirement is different from the medical and legal standard for a workers' compensation case. In some cases, the workers' compensation medical examination took place many years ago. To streamline the process, in many instances, the City Attorney's Office staff merely sends a letter to the treating workers' compensation physician asking whether the member has met the disability retirement standard based on their medical evidence. In other cases, the City Attorney's Office recommends an independent medical examination.

The San Francisco Charter requires that all disability applications be determined by a hearing officer. SFERS currently engages hearing officers from the State Office of Administration Hearings (OAH) to determine SFERS and CalPERS disability applications.

Once the City Attorney's Office is satisfied it has sufficient medical evidence to proceed to a hearing, they send a Declaration of Readiness (DOR) to SFERS staff along with the list of records to be provided to the hearing officer and to the member. SFERS staff sends the DOR and the records to the member and asks if the member is ready to proceed to hearing. It is not unusual for the member to decide, for one reason or another, not to proceed to hearing at that time. At present, SFERS staff is waiting for 75 members to respond to a DOR notice that we are ready to proceed to hearing.

After SFERS has received the member's DOR, a hearing date is set. The member chooses among the available dates. The time between receipt of the DOR from both sides and a hearing is approximately five weeks. The hearing officer renders his/her decision within about 45 days.