

**LEWIS COUNTY  
LAW ENFORCEMENT OFFICERS  
AND  
FIRE FIGHTERS BOARD**

*(L.E.O.F.F.)*

**RULES AND REGULATIONS  
MANUAL**

**2017**

# LEWIS COUNTY LEOFF BOARD POLICIES AND PROCEDURES

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## LEWIS COUNTY DISABILITY BOARD RULES AND REGULATIONS

**PURPOSE:** The purpose of these rules and procedures is to establish uniform methods to conduct the business of the Lewis County Disability Board (“Board”). This Board was established pursuant to the authority of RCW 41.26.110 and its powers, duties and responsibilities are as established by state law. In the event of any conflict of these rules with state law, the latter shall govern.

**SCOPE:** These rules and regulations shall be applicable to all LEOFF I employees and retirees covered by RCW 41.26, hired before October 1, 1977.

**EFFECT OF RULES AND REGULATIONS:** All law enforcement officers and firefighters and retired members covered by the aforementioned chapter shall be subject to the rules and regulations contained herein. A member’s failure to follow these procedures may subject such member to the loss of benefits otherwise due under the acts. Upon adoption of these rules, a copy will be distributed to the appropriate agencies and members.

### **DEFINITIONS:**

**Accident/accidental Injury:** a personal bodily injury to the employee effected solely through external violent and unintentional means.

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**Application:** A request by a member for Board approval of disability leave or retirement.

**Claim:** A request by a member for Board approval of payment for medical services or expenses.

**Conditional return:** A return to duty by a member for the purpose of determining whether the member’s disability persists.

**Disability:** The existence of a physical or mental condition which renders the member unable to discharge, with average efficiency, the duty of the grade or rank to which the member belongs, or the position in which the member regularly serves. If, after an assessment by the designated medical expert, a member is able to perform all of the duties of any available position to which a member of his/her grade or rank is normally assigned, the member is not considered disabled.

**In the line of duty:** The member’s disability occurred as a direct result of the performance of the member’s duties as an active Firefighter or Law Enforcement Officer.

**Medically Necessary -** Medical services and/or supplies which are absolutely needed and essential to diagnose or treat an illness or injury of a covered employee while covered by this Plan. The following criteria must be met. The treatment must be:

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- Consistent with the symptoms or diagnosis and treatment of the participant's condition.
- Appropriate with regard to standards of good medical practice.
- Not solely for the convenience of the participant, family members or a provider of services or supplies.
- The least costly of the alternative supplies or levels of service which can be safely provided to the participant. When specifically applied to a medical facility inpatient, it further means that the service or supplies cannot be safely provided in other than a medical facility inpatient setting without adversely affecting the participant's condition or the quality of medical care rendered.

*Member:* A law enforcement officer or fire fighter, pursuant to RCW 41.26.030, hired before October 1, 1977, for whom benefits are provided under RCW 41.26 Law Enforcement Officers and Firefighter's Retirement Plan.

## SECTION I – THE BOARD

### 1.01 Membership

- (1) The Board shall consist of five (5) members, as follows:
  - (a) One (1) member of the legislative body of the County, selected by the legislative body;
  - (b) One (1) member of the legislative body of a city or town, selected by a majority of the mayors of such cities and towns located within the County;
  - (c) One (1) active or retired fire fighter to be elected by the fire fighters employed by or retired from the jurisdictions represented by the Board.;
  - (d) One (1) active or retired law enforcement officer to be elected by the law enforcement officers employed by or retired from the jurisdictions represented by the Board;
  - (e) One (1) member from the public at large who resides within the County to be appointed by the other four members described above.
- (2) The Board members shall serve a two- (2) year term. In the event a vacancy occurs in the membership, a successor shall be elected or appointed as in the original elections, to serve the remainder of the unexpired term. The members of the Board will appoint their own chairperson and Chairperson Pro Tem.

### 1.02 Election of the Fire Fighter and Law Enforcement Officer Representatives

- (1) Nominations are submitted every two (2) years, on the even year, in January, to the secretary of the Board and representatives are elected by prepared ballots by fire fighters and law enforcement officers under LEOFF I.

### 1.03 Duties of Board Members

- (1) Chairperson – The chairperson shall preside at all meetings and public and/or disability hearings of the Disability Board and call special meetings. The chairperson shall have the privilege of discussing all matters before the Board of voting thereon, except where to do so would constitute a violation of an appearance of fairness or present a conflict of interest. He/she shall have all the duties normally conferred by parliamentary procedures on such officers and shall perform such other duties as may be requested by the Disability Board.
- (2) Chairperson Pro Tem – The chairperson pro tem shall assume the duties and powers of the chairperson in his/her absence.
- (3) Secretary– The secretary shall keep the minutes of all regular, adjourned and special meetings of the Disability Board. Such minutes shall be approved by the Board and copies shall be distributed to all members of the Board and to representatives of those cities and towns represented by the Board. . The secretary shall prepare the agenda of regular and special meetings, shall give

notice of all disability hearings and shall draft and sign routine correspondence of the Board.

#### 1.04 Meetings – Agendas

- (1) The regular monthly meeting of the Lewis County Disability Board shall be held on the second (2nd) Thursday of each month, in the available room of the historic courthouse, at 9:00 a.m. Special meetings of the Board shall be held upon the call of the chairperson, of which notice shall be given in accordance with RCW 42.30.080. Meetings are open to the public, however, that pursuant to RCW 42.30.140(2), the Board reserves the right to close those portions of the meetings in which the Board is deliberating upon quasi-judicial matters relating to specific requests for benefits, where the Board finds that such deliberations might be expected to include discussion of sensitive personal information relating to a particular member's claim or application.
- (2) Information relating to any member's claim or application should be released only as required by RCW, or any other court order, or upon written permission of the member, except certain medical information disclosed to medical experts as provided herein.
- (3) At no time shall anyone attending be authorized to videotape or tape record portions of Disability Board meetings unless specifically authorized by the Board.
- (4) Three (3) members shall constitute a quorum and the same shall have the power to transact all business. Each Board member is expected to notify the secretary three (3) working days prior to a scheduled meeting if that member will be unable to attend the meeting.
- (5) An agenda shall be prepared by the secretary and items may be added up until one hour prior to the time the meeting is called to order.
- (6) *Robert's Rules of Order* shall guide the Board where the proceedings are not otherwise governed by rules or state law.
- (7) 'If any person(s) on the Board concludes that he/she has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the Board so that he/she cannot discharge his/her duties, he/she shall disqualify him/herself from participating in the deliberations and the decision-making process with respect to the matter.
- (8) The Board may hold a full hearing on any matter when deemed necessary.
- (9) If any person(s) on the Board concludes that he/she has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the Board so that he/she cannot discharge his/her duties, he/she shall disqualify him/herself from participating in the deliberations and the decision-making process with respect to the matter.

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At such a hearing:

- (a) Any person testifying before the Board may have his/her attorney present;
  - (b) Opportunity shall be afforded all parties to respond and present relevant evidence and argument on all issues involved;
  - (c) Unless precluded by law, information dispositions may also be made of any contested case by stipulation, agreed settlement, consent order or default;
  - (d) The record of a hearing shall include:
    - 1) all pleadings, motions and intermediate rulings;
    - 2) evidence received or considered;
    - 3) a statement of matters officially noted, if any;
    - 4) questions and offers of proof, objections and rulings thereon, if any;
    - 5) prepared findings and exceptions, if any; and
    - 6) decisions, opinions or reports by the Board, if any.
  - (e) All oral proceedings in a Board hearing shall be recorded. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefore, and payment of the reasonable costs thereof;
  - (f) Findings of fact shall be based exclusively on the evidence and on matters officially noted;
  - (g) The Disability Board may:
    - 1) administer oaths and affirmations, examine witnesses and receive evidence;
    - 2) issue subpoenas;
    - 3) rule upon offers of proof and receive relevant evidence;
    - 4) take or cause to be taken depositions pursuant to rules promulgated by the Board; and
    - 5) regulate the course of the hearing.
- (10) The Board may compel the attendance of a witness at any hearing as follows:
- 1) The Board may issue a subpoena on its own notion or on the request of any party;
  - 2) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at a hearing, the Board may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service and shall set forth in what specific manner the subpoena has not been complied with and shall ask for an order of the court to compel the witness to appear and testify before the Board;
  - 3) Witnesses subpoenaed to attend such a hearing shall be paid the same fees and allowances, in the same manner and under the same conditions, as

provided for witnesses in the courts of this state, by RCW 2.40 and by RCW 5.56.010, as now or hereafter amended; provided that the Board shall have the power to fix the allowance for meals and lodging in like manner as provided by RCW 5.56.010, as now or hereafter amended, as to courts. Such fees and allowances, and the costs of producing records required to be produced by its subpoena, shall be paid by the Board or by the party requesting the issuance of the subpoena.

## SECTION II – PROCESSING APPLICATIONS AND CLAIMS GENERALLY

- 2.01 All applications and claims shall be submitted to the secretary of the Board. All material to be considered in connection with any application or claim must be submitted to the Board at one hour prior to the Board meeting at which such claim or application is to be considered. Material submitted after such time may be considered at the discretion of the Board.
- 2.02 The Board's decision to approve or deny applications or claims will ordinarily be based on the written information submitted by the member as well as any information provided to the Board by representatives from represented cities or towns and/or its designated examining Board of physicians. The Board may, however, require a member to appear before the Board deciding on the member's application or claim.
- 2.03 Every order of the Disability Board granting or denying a disability retirement allowance shall contain the following, presented in clear, concise terms:
- (1) Findings of fact supported by evidence in the record supporting the granting or denying of the disability retirement allowance. When a disability retirement is granted, findings of fact shall include:
    - (a) Whether or not the disability was incurred in the line of duty;
    - (b) Whether or not the disability was incurred in other employment;
    - (c) Dates encompassing disability leave and/or dates relating to authorized trial-basis return to duty, and in the case of return to duty on a trial basis, the factual basis for such decision;
    - (d) Dates encompassing waiver of disability leave, if applicable, and that applicant established that such disability will be in existence for a period of six (6) months.
  - (2) Conclusions of law in accordance with law on the basis of the facts in the case.
  - (3) Decision and order.
- 2.04 Any decision of the Board regarding medical claims made in the manner provided in Rule 2.02 may be appealed to the Board for a hearing and reconsideration of its decision. Notice of such an appeal must be filed with the Board no more than thirty (30) days after notification of the Board's decision.
- 2.05 When a notice of appeal is received by the Board, a hearing shall be scheduled before the Board. The party appealing the decision shall be given at least ten (10) calendar days notice of the time, place and nature of the hearing.

- 2.06 If the Board denies disability leave or disability retirement or cancels a previously granted disability leave or retirement, the applicant shall be immediately notified and advised of the right to appeal such decision or order to the Director of the Department of Retirement Systems, pursuant to RCW 41.26.200. Such notification shall be in writing and served by personal service or mail; provided that written notice need not be given if applicant or his/her duly authorized representative is in attendance at the meeting or hearing and is advised of the decision and of the right of appeal.
- 2.07 Any decision of the Board denying disability leave or disability retirement or cancelling a previously granted disability leave or retirement may be appealed to the Director of the Department of Retirement Systems. This appeal must be filed with the director within thirty (30) days following the rendition of the order by the Board.
- 2.08 Examination By a Physician Designated By the Board
- (1) A duly licensed and practicing physician or physicians, or a designated examining board, shall be appointed by the Board. No disability retirement shall be approved by the Board without prior examination of the claimant by the board doctor or a designated examining physician on or near the expiration of the disability leave period. The board doctor or designated examining board shall render such other medical service as may be requested by the Board.
  - (2) In order to carry out the duties of this position, each physician appointed or approved by the Board is required to be knowledgeable concerning the duties, functions and general demands required of the employee being examined. The Disability Board shall furnish to the examining physician the job and/or position description of the applicant.
  - (3) Re-examination of any member on disability retirement shall be conducted by a Board-appointed or approved physician.

## SECTION III – DISABILITY LEAVE

### 3.01 Application

- (1) Following receipt of an application for disability benefits, the Board shall review all relevant information pertaining to the question of the applicant's fitness for duty and if, in the opinion of the majority of the Board, the evidence supports the proposition that the member is unfit for duty, such member shall be granted disability leave – unless such leave is waived pursuant to RCW 41.26.120(4). In considering such application, the Board shall consider the duties of the position and any other evidence that is relevant.
- (2) The burden of proving the existence of a disabling condition and whether or not the condition was incurred in the line of duty shall be upon the applicant.
- (3) The minimum medical and health standards previously promulgated by the state retirement Board for entry or re-entry into LEOFF system membership were provided only to safeguard the fiscal integrity of the pension system and are not the applicable standards for any other purposes.
- (4) Each application shall be accompanied by a list identifying, by name, any physician who had been contacted within the last six (6) months for the illness or injury for which disability is claimed.
- (5) In the event the Board finds that insufficient information is available to make a determination, the matter may be continued to the next regular Board meeting or be set for consideration at a special meeting. The Board shall also advise the member of the additional information needed, of the member's obligation to provide additional information and the deadline date by which such information must be provided.
- (6) The Board shall be authorized to demand the appearance of the member and to request the appearance of such other persons as it deems appropriate. It shall be incumbent upon each member obtaining medical evaluations, to be used in connection with such disability leave and subsequent evaluations, to advise each and every examining physician that: such evaluation is being conducted at the direction of the Board; any reports relating thereto are for the benefit of the Board; the doctor-patient privilege may not be invoked with respect thereto; and the physician may be called upon by the Board to testify as to his/her findings.
- (7) All applications for disability retirement shall be submitted on a form provided by the Board, together with statements from two (2) doctors and the employer's statement and report on the application for disability retirement, and;
  - (a) If the disability claimed is the result of an accident, a detailed statement, including date, time and place, shall be submitted with the application;
  - (b) If the disability claimed was incurred in the line of duty, proper evidence must be submitted substantiating this claim.

3.02 Where the duration of a disability leave is uncertain, the Board will estimate the duration of the leave when considering the application. In such cases, the Board may later act to modify the duration of the leave allowed.

3.03 Disability Leave Allowance

- (1) Such leave may encompass a period of from one (1) day to a maximum of six (6) months.

3.04 Physician's Report

- (1) The law enforcement or fire fighter agency which employs the member may request a physician's evaluation report at the time the member makes application for disability leave if the disability is one which reasonably appears may lead to a disability retirement. The agency which requests the evaluation will compensate the evaluating physician.

3.05 Return to Active Service from Disability

- (1) It shall be incumbent upon all members granted disability leave to ask authorization to return to active service at the earliest possible time. In the event the Board finds that a member has not sought authorization to return to active service immediately upon cessation of disability, the Board may determine the date at which the disability ceased and may retroactively cancel the member's disability leave allowance for the period between the cessation of disability and the date at which the member actually returned to service.
- (2) Authorization to return to work may be issued by written order of the member's physician or by written order of the Board or a Board-appointed physician. In the event the medical evidence is inconclusive, the Board may specify, in a written order, a reasonable period to determine the member's fitness for active duty. The reasonable length and conditional return to service shall be supported by medical evidence. Such a conditional return to service does not entitle the member to a second (2<sup>nd</sup>) six- (6) month period of service if he/she is then found to still be disabled.
- (3) Unless the member receives authorization to return to work and returns to work following an absence of fourteen (14) working days or more, it shall be automatically deemed a conditional return for a two- (2) month period.

3.06 Member Cooperation in Board Evaluation

- (1) While on disability leave, the member shall be obligated to comply with directives of the Board. Such directives may include, but are not limited to, requests for medical or psychological evaluation or testing, requests for submittal of other relevant reports or orders to appear before the Board. If the Board finds compliance with such a request was within the control of the member and he/she failed to comply, it will presume compliance with the request would have shown

the member to have recovered. This presumption can be overcome by competent medical evidence.

- (2) The member shall comply with the requirements of any Board-approved physician service regarding procedures for examinations, including the setting or cancelling of appointments. This includes examinations, pursuant to Rules 3.04, 4.03 and 4.09 of these guidelines. If a member is unable to keep an appointment for an examination and fails to provide the approved-physician service with the proper notice required by them for cancellation of the appointment, any charges associated with the missed appointment shall be the responsibility of the member, unless the member may show just cause to the Board for failure to comply with cancellation requirements.

### 3.07 Activities of Member While on Disability Leave

- (1) A member who engages in any activity while on disability leave, and incurs any injury or illness as a result thereof, may needlessly confound the issue of whether or not his/her disabling condition was incurred in the line of duty. No member should engage in any activity while on disability leave which is contrary to the directives of the Disability Board or which otherwise would be detrimental to his/her return to active service.
- (2) If a member in receipt of disability leave allowance moves, of his/her own volition, to a location more than one hundred (100) miles from the location of the Disability Board, any travel expense incurred to appear before the Board or its designated physician shall be borne by the member. Such member shall keep the Board advised of his/her current address.

### 3.08 Determination of Fitness

It is the finding of the Board that the medical standards promulgated by the state retirement Board for entry into the LEOFF system have been provided to safeguard the fiscal integrity of the pension system and are not the applicable standards for determining eligibility for disability leave or retirement benefits.

### 3.09 Obligation to Comply With Rehabilitation Directives

During the period of disability leave, the Board may ask any examining physician what treatments might be employed to rehabilitate the member. Based upon such evaluation, the Board may direct that the applicant participate in any reasonable rehabilitation program.

## SECTION IV – DISABILITY RETIREMENT

### 4.01 Application

- (1) All applications for disability retirement shall be submitted on a form provided by the Board, together with statements from two (2) doctors, the employer's statement and report on the application for disability retirement, and a list identifying, by name, any physician who had been contacted within the last six (6) months for the illness or injury for which disability is claimed, and;
  - (a) If the disability is asserted to be the result of an accident, a detailed statement including date, time and place shall be submitted with the application;
  - (b) If the disability is asserted to have been incurred in the line of duty, proper evidence must be submitted substantiating this assertion;
  - (c) No member shall be allowed to request disability leave once said member has been paid sick leave by his/her employer during that pay period. Disability leave requests should be sent to the Disability Board for approval at the next regular meeting following the start of disability.

4.02 Each application for disability retirement shall be deemed to include an application for six (6) month's disability leave, unless otherwise provided.

4.03 When the Board receives an application for a disability retirement where the applicant voluntarily waives his/her right to disability leave, arrangements shall be made to have the applicant examined as soon as practicable by a physician designated by the Board.

### 4.04 Re-Examination During Fifth or Sixth Month of Disability

- (1) Applicants for disability retirement shall be re-examined during the fifth (5<sup>th</sup>) or sixth (6<sup>th</sup>) month of disability leave in order to determine their eligibility for disability retirement, with the following exceptions:
  - (a) If the Board doctor assures the Board that the applicant's condition has not been and will not be corrected before the end of the sixth (6<sup>th</sup>) month;
  - (b) If the applicant establishes that the disabling condition will be in existence for a period of at least six (6) months and he/she voluntarily waives disability leave. No applicant will be granted a disability retirement allowance unless the conditions imposed by this subsection are met.
- (2) In the event the medical and other relevant evidence is inconclusive, the Board may specify in written order a reasonable trial service period to determine the member's fitness for active duty. The reasonable length of such conditional return to service shall be supported by medical evidence. Such a conditional return to service does not entitle the member to a second (2<sup>nd</sup>) six- (6) month period of disability leave for the same disability if, based upon this trial period of service, the member is found to be disabled.

- 4.05 The Board will not act on any application for disability retirement before the fifth (5<sup>th</sup>) month of the applicant's disability leave, unless such leave is waived as provided in Board rule 4.04(1)(b). The Board may, in its discretion, postpone any decision and request additional information or a hearing under Board rule 1.04(8).
- 4.06 Written Decision and Order
- (1) If the evidence shows to the satisfaction of the Board that the member is physically or mentally disabled from further performance of duty and that the disability has been continuous from the date of commencement of disability leave for a period of six (6) months, the Board shall enter its written decision and order, accompanied by appropriate findings of fact and conclusions of law, in compliance with RCW 41.26.120. Such written decision and order with supporting documentation shall thereafter be forwarded to the Director of the Department of Retirement Systems for review. In the event a regular meeting of the Board precedes by no more than forty (40) days the date at which the full six (6) months will conclude and the evidence is clear that the disability can be expected to continue through the full six- (6) month period, the Board may make a finding of six- (6) month's continuance disability prior to the actual conclusion of the six- (6) month period, so as to eliminate unnecessary delay of receipt of retirement benefits.
  - (2) In order to qualify to receive a disability retirement allowance, the applicant will be required to prove that he/she is physically or mentally disabled to such extent that he/she is unable to discharge, with average efficiency, the duty of the position held at the time of discontinuance of service; provided that no member shall be entitled to a disability retirement allowance if the appropriate authority advises that there is an available position for which the member is qualified and to which one of such grade or rank is normally assigned, and the Board determines that the member is capable of discharging, with average efficiency, the duties of the position.
- 4.07 Any member may sign a written waiver of his/her rights to all or part of the six- (6) month's disability leave in order to have his/her disability retirement application acted on at an earlier date than would otherwise be permitted.
- 4.08 If an application for disability retirement is denied, the applicant and employer will be promptly notified of the decision and the applicant's right of appeal to the Director of the Department of Retirement Systems.
- 4.09 Re-Examination and Return to Duty
- (1) In the event a member is placed on disability retirement, the Board shall determine whether or not the member is so disabled that no possibility exists for return to duty or that there is no possibility that rehabilitation could restore the member to fitness for duty. Further, the Board may, at any point subsequent to retirement, make such a determination. A copy of all such determinations shall be sent to the Department of Retirement Systems. Unless the Board has made such a

finding, the Board's representative shall order a re-examination at six- (6) month intervals and advise the Board of the results thereof with a copy to the Department of Retirement Systems; provided that such re-examination need not be conducted on a member over 49.5 years of age. In the event the retired member is residing at a location more than one hundred (100) miles from his/her former place of employment, the member may be authorized to be examined by a physician in his/her immediate area; provided however, such physician shall be first approved by the Board and prior to such evaluation the examining physician shall be apprised of the basis upon which the examination is to be conducted and the issues to be addressed in the physician's evaluative report.

- (2) In the event such evaluation discloses fitness to perform duties of the rank or position held by the member at the time of disability retirement, the member shall be entitled to a hearing before the Board, and further consideration of the matter. Such notice and hearing shall comply with RCW 34.04.
- (3) The hearing provided by RCW 41.26.140(2) is to be held, unless the retiree waives such hearing prior to actual cancellation of a disability retirement allowance.
- (4) The retirement allowance of any member who fails to submit to medical examination as provided herein shall be discontinued and in the event such refusal continues for one (1) year, his/her retirement allowance shall be cancelled. Failure of the member to affirmatively respond to the request for re-examination shall be deemed a continuing refusal.
- (5) In order for the Board to cancel a previously granted retirement, the Board must find that a changed circumstance exists and that the member is now able to substantially perform job duties with average efficiency.

4.10 Where a periodic re-examination determines that a retired member may no longer be disabled, the member shall be notified by certified mail. The notification shall contain notice of the time, place and nature of a hearing to be held under Board rule 1.04. The purpose of the hearing will be to determine whether the member continues to be disabled.

4.11 Every decision and order revoking a disability retirement shall be in writing or stated in the record and shall be accompanied by finding of fact and conclusion of law. The appellant shall be notified of the decision and order in person or by certified mail.

## SECTION V – CLAIMS FOR MEDICAL SERVICES

### Claims Procedure:

- 5.01 Subsequent to the member ensuring that all benefits payable under insurance policies, health care plans, Workers' Compensation, Medicare or any other such sources have been claimed, claims for payment of medical ~~services~~ expenses shall be submitted to the ~~board secretary~~ member's employer, together with itemized billings and any explanations of benefits from member's medical insurance provider.
- 5.02 All claims must be submitted to the member's employer within ~~one (1) year~~ a 12 month period of the ~~member's receipt of original billing~~ date of service. Claims submitted after this period of time may not be approved by the Board.
- 5.03 Payment of claims shall be reduced by any amount received or eligible to be received under Workmen's Compensation, Social Security, Medicare, insurance provided by another employer, pension plan or other similar source, ~~including amounts received or eligible to be received under insurance plans.~~
- 5.04 The Board will not approve payment of medical services in cases where the member could have obtained reasonable equivalent services at no additional charge through a prepaid health plan. The Board will decide which services are reasonably equivalent.
- 5.05 Upon making payment for authorized medical services, the Disability Board and/or employer shall be subrogated to all rights of the member against any third (3<sup>rd</sup>) party who may be held liable for the member's injuries or for the payment of the cost of medical services in connection with a member's sickness or disability. Such subrogation shall be to the extent necessary to recover payments made to the member by the Disability Board and/or employer.
- 5.06 The chairperson or a quorum of the Board may approve, at other than regular Board meetings, payment of claims. Decisions approving or denying claims for medical services may be approved or ratified by the Board at regular or special meetings of the Board.

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## SECTION VI – MEDICAL SERVICES RESOLUTIONS

- 6.01 Each member must obtain medical services through his/her prepaid health plan, if any.
- 6.02 The Board may authorize additional services and providers on a case-by-case basis upon a showing of need by the member. The law enforcement or fire fighting agency employing the member shall be entitled to notice of the member's request for authorization for additional services and shall be entitled to respond to that request. In making its determination whether to authorize additional services or providers, the Board shall not be bound by the rules of evidence and the Board shall be final.
- 6.03 Medical services obtained in excess of those provided for in Rules 6.01 and 6.02 of this section shall be at the expense of the member unless the Board, in its discretion, finds that compliance with Rules 6.01 and 6.02 was not possible under the circumstances or unless justice requires.
- 6.04 If a member is seeking medical services in excess of those provided in Rules 6.01 and 6.02, prior approval must be obtained by the Board to guarantee payment of such claims.
- 6.05 The Board may authorize payment for elective or cosmetic procedures, on a case by case basis.

## SECTION VII – POLICIES REGARDING CERTAIN CLAIMS

- 7.01 The Board will approve payment of claims for all medical services defined in RCW 41.26.030(22) under the conditions set forth in RCW 41.26.150.
- 7.02 The Board will approve payment of claims for the counseling services of a psychologist only where the psychologist is licensed by the state of Washington, pursuant to RCW 18.83; and
- (1) The member is referred to the psychologist and/or psychiatrist by the appropriate personnel officer of the member's employer.
  - (2) The claim is accompanied by a physician's statement indicating the necessity for psychological and/or psychiatric services.
  - (3) No more than thirty-five (35) visits per calendar year, including any provided through other sources such as workmen's compensation, pre-paid medical, etc., will be approved.
  - (4) All other limitations for counseling will be determined on a case-by-case basis.
- 7.03 Dental expenses will be considered necessary medical services in those circumstances when they are incurred by a member who sustains an accidental injury to his/her teeth and commenced treatment within ninety (90) days after the accident, or when treatment can be justified by way of curing or correcting an existing health problem.
- 7.04 The Board will approve the payment of the expense of eye glasses prescribed by an ophthalmologist or optometrist licensed by the state of Washington pursuant to RCW 18.53. The guidelines for allowed vision claims are as follows:
- (1) New frames with new lenses available every two years, if prescribed by his/her doctor as a medical necessity. The complete cost of frames, lenses and exam not to exceed \$550.00.
  - (2) One (1) eye examination per year less amount payable by insurance.
  - (3) One (1) pair of lenses (contact, ground or plastic), when prescribed by examination in that year.
    - (a) Lenses may be tinted if prescribed by a doctor as a medical necessity;
    - (b) Lenses and frames to be of standard size unless the doctor states oversized is a necessity;
    - (c) New lenses, when prescribed as a medical necessity.
  - (4) Lens and/or frame replacement for breakage or loss caused by the job.

- (5) The Board may authorize additional services on a case by case basis upon a showing of need by the member. The law enforcement or firefighting agency employing the member shall be entitled to notice of the member's request for authorization for additional services and shall be entitled to respond to that request. In making its determination whether to authorize additional services, the Board shall not be bound by rules of evidence and the Board's decision shall be final.

7.05 The Board will not approve payment of claims for expenses of membership in weight loss programs, physical fitness clubs, health spas or other programs of this nature, unless such treatment is prescribed by a physician as a medical necessity and equivalent treatment could not be obtained at less expense.

7.06 Alcohol/Drug Treatment

- (1) The Board adopts, by reference, the WAC Codes 284-53-010. The Board will only approve such funds, when combined with insurance or other sources, that do not exceed by ten (10) percent the average cost for such care in the Lewis County area.

7.07 Hearing Aids

- (1) Prior approval must be obtained from the Board before any active or retired member shall purchase a hearing aid or device. Suitable evidence of medical necessity shall be required. For any purchase, at least two (2) bids from different dealers must be submitted to the Board. The two (2) bids must be for the same style/type of device (example: inner ear, outer, etc.). Failure to comply with this rule may result in denial of payment of all or part of the cost of purchase of such hearing aid or device. Requests for repair should indicate what is wrong with the device, how it became inoperative and a statement from a knowledgeable authority on the advisability of repair vs. replacement. Replacement will be determined on a case-by-case basis, based upon information provided by the audiologist.

7.08 Necessary Procedures

- (1) Only medical services for necessary procedures will be considered.

7.09 Repetitive Procedures

- (1) Chiropractic licensed by the state of Washington, pursuant to RCW 18.25.
  - (a) No more than thirty-five (35) visits per calendar year, including any provided through other sources, such as workmen's compensation, pre-paid medical, etc., will be approved. The Board may approve more if, prior to the added visits, the Board is presented with a report and

recommendation for such added visits from a physician or the chiropractic consultant.

(2) Physical Therapy, Registered PT

- (a) No more than thirty-five (35) visits per calendar year, including any provided through other sources, such as workmen's compensation, pre-paid medical, etc., will be approved. The Board will only approve visits to a duly licensed R.P.T. The Board may approve more if, prior to the added visits, the Board is presented with a report and recommendation for such added visits from a physician.

(3) Massage Therapy

- (a) No more than thirty-five (35) visits per calendar year, including any provided through other sources, such as workmen's compensation, pre-paid medical, etc., will be approved. Such treatment must be prescribed by a physician as a medical necessity. The Board may approve more if, prior to the added visits, the Board is presented with a report and recommendation for such added visits from a physician.

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7.10 Day Care/Nursing Home Care

- (1) Adult day care treatment and nursing home care for members **must receive prior approval from the Board for non-emergency entry**. The Board will only approve such funds, when combined with insurance or other sources, that do not exceed by ten (10) percent the average cost for such care in Lewis County. The Board will consider non-medical charges if deemed necessary by the health care provider.

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7.11 Alternative to Inpatient Admissions

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- (1) Home Health Care, Hospice Care, Skilled Nursing Facility, and Rehabilitation are provided in lieu of and as an alternative to inpatient admissions.
  - (a) They are subject to the concurrent opinion of the attending physician, the Plan Supervisor or the Plan's UR Coordinator that they will be less costly than an inpatient confinement that would have been required.
  - (b) Services are outlined in a written treatment plan.
  - (c) The treatment plan is to be developed and reviewed periodically by the attending physician.
  - (d) The treatment plan should include an estimate of the cost of services, length of stay and treatment, and supplies to be rendered.
  - (e) Services for Hospice and Home Health Care

7.12 Minor Claims

- (2) Claims which individually or when aggregated with other related claims of the member do not exceed ten (10) dollars, will only be considered by the Board biannually. Such claims will be accumulated by the member and presented to the Board annually.

7.13 Reasonable Charge

Reasonable charges or fees shall not be more than an amount approved and promulgated by the Department of Labor and Industries.

7.14 Medical Equipment and Supplies

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- (1) The Board must receive and review a request for pre-approval to purchase durable medical equipment and/or supplies. This will include purchase of wheelchairs, special equipment, medical or surgical equipment, orthotics, etc., which are prescribed by a physician as medically necessary for treatment of member's illness or disability.
- (2) These items are in addition to those considered necessary medical services and supplies under RCW 41.26.030 (22) (iii).
- (3) The Board will not approve any claims for equipment or supplies which have a non-medical use or function.

7.15 Prescription Drugs

- (1) The Board will approve payment of claims for medications prescribed by a physician under the conditions set forth in RCW 41.26.150. The Board will not accept or consider for approval any claim for reimbursement or payment for over-the-counter medications obtained without a prescription.
- (2) Over 400 commonly prescribed drug products are now available in a generic form at an average cost of 50% less than the brand name products. This plan encourages the use of generic prescription drugs. By law, generic and brand name drugs must meet the same standards of safety, purity, strength, and effectiveness. At the same time, brand name drugs are often 2 to 3 times more expensive than generic drugs. We encourage you to ask your physician to prescribe them whenever possible.
- (3) The Board will approve erectile dysfunction medication when prescription by a physician. The complete cost not to exceed \$500 over a 12 month period. The Board may authorize additional expense on a case by case basis upon a showing of need by the member.

SECTION VIII – RECONSIDERATION

8.01 Procedure

- (1) The member or employee may petition the Board, in writing, to reconsider any decision made, if done within seven (7) days of the Board's decision.

8.02 Grounds

- (1) The Board may reconsider its decision if one of the following grounds and supporting facts is alleged:
  - (a) Mistakes, inadvertence, surprise, excusable neglect or irregularity in making the decision;
  - (b) Newly discovered evidence;
  - (c) Fraud, misrepresentation or the misconduct of an adverse party;
  - (d) The decision is void;
  - (e) Any other reason which, in the Board's discretion, justifies relief.

8.03 Stay

- (1) Pending the reconsideration, the decision of the Board will be stayed. The stay shall apply to the next meeting of the Board, at which time the reconsideration will be heard.

## SECTION IX – AMENDMENTS

- 9.01 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.

**SECTION X – REVIEW**

10.01 These rules and regulations shall be reviewed annually, in June of each year, to assure that:

- (1) Provisions herein remain in conformance with Washington statutory and administrative codes and/or the Lewis County code.
- (2) Provisions herein reflect current philosophy and intent of the Board.

ADOPTED by the Lewis County Law Enforcement Officer's and Fire Fighter's Disability Board, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**LEWIS COUNTY LAW ENFORCEMENT OFFICER'S  
AND FIRE FIGHTER'S DISABILITY BOARD**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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Member