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**Rules of**  
**Retirement Systems**  
**Division 40–Highways and Transportation**  
**Employees and Highway Patrol Retirement System**  
**Chapter 3–Disability Benefits**

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**Title 16—RETIREMENT  
SYSTEMS**

**Division 40—Highways and  
Transportation Employees and Highway  
Patrol Retirement System  
Chapter 3—Disability Benefits**

**16 CSR 40-3.010 Ineligibility for Long-  
Term Disability Benefits Due to Disability  
from War**

*PURPOSE: This rule establishes the policy regarding ineligibility for benefits due to the causation of the disability.*

No member or employee as of August 13, 1986, will be eligible to receive long-term disability benefits for any disability resulting from war, declared or undeclared, or any act of war.

*AUTHORITY: sections 104.110.4., RSMo (Cum. Supp. 1988) and 536.023.3., RSMo (1986).\* Original rule filed Feb. 16, 1988, effective May 12, 1988.*

*\*Original authority: 104.110.4., RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988 and 536.023.3., RSMo (1975), amended 1976.*

**16 CSR 40-3.020 Long-Term Disability  
Benefits Coverage for Employees on Leave**

*PURPOSE: This rule establishes the policy regarding long-term disability benefits coverage for employees on paid sick leave or receiving Workers' Compensation indemnity payments.*

(1) Any employee on paid sick leave or receiving Workers' Compensation indemnity payments is covered for long-term disability benefits and the necessary contribution to fund these benefits shall be paid by the state.

(2) Any other employee off the payroll will be covered for long-term disability benefits if the necessary contribution to fund these benefits is paid by that employee.

*AUTHORITY: sections 104.210.2., RSMo (Cum. Supp. 1988) and 536.023.3., RSMo (1986).\* Original rule filed Feb. 16, 1988, effective May 12, 1988.*

*\*Original authority: 104.210.2., RSMo (1955), amended 1983, 1988 and 536.023.3., RSMo (1975), amended 1976.*

**16 CSR 40-3.030 Use of Compensatory  
Time, Annual Leave, or Both, Before  
Beginning Long-Term Disability**

*PURPOSE: This rule establishes the policy regarding use of compensatory time, annual leave, or both, before beginning long-term disability.*

Employees applying for, and eligible to receive, long-term disability benefits will not be required to exhaust compensatory time or vacation time prior to receiving those benefits.

*AUTHORITY: sections 104.210.2., RSMo (Cum. Supp. 1988) and 536.023.3., RSMo (1986).\* Original rule filed Feb. 16, 1988, effective May 12, 1988.*

*\*Original authority: 104.210.2., RSMo (1955), amended 1983, 1988 and 536.023.3., RSMo (1975), amended 1976.*

**16 CSR 40-3.031 Application for Disability  
Benefits**

*PURPOSE: This rule standardizes the information needed to make application for normal, work-related, or long-term disability benefits.*

(1) Any employee applying for normal disability benefits under section 104.110.1., RSMo, work-related disability benefits under section 104.110.2., RSMo, or long-term disability benefits under section 104.110.8., RSMo, must submit the following forms provided by the retirement system:

(A) Application for Disability Benefits, to be completed by the employee; and

(B) Employer's Statement of Disability, to be completed by the employer; and

(C) Attending Physician's Statement, to be completed by the employee's physician.

*AUTHORITY: sections 104.110, RSMo (Supp. 1995) and 104.210.2. and 536.023.3., RSMo (1994).\* Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*



Form: P-52 (Application)  
(Revised 8-28-95)

**HIGHWAY AND TRANSPORTATION EMPLOYEES' AND  
HIGHWAY PATROL RETIREMENT SYSTEM**

**APPLICATION FOR DISABILITY BENEFITS**

I hereby make application for disability benefits under the provisions of the Highway and Transportation Employees' and Highway Patrol Retirement System.

Name \_\_\_\_\_ Social Security No. \_\_\_\_\_

Address \_\_\_\_\_

Read the provisions on pages 2, 3, and 4 of this form, then select one of the following:

- Normal Disability Benefits** - My physical condition prohibits me from performing the duties of my present position or any other position in the department for which I am suited.
- Work-Related Disability Benefits** - My physical condition prohibits me from performing the essential duties of my normal occupation which is the job or work I performed on the date preceding the date of disability. This disability is a result of an injury incurred during the performance of my duties.
- Long-Term Disability Benefits** - My physical condition prohibits me from performing the essential duties of my normal occupation which is the job or work I performed on the date preceding the date of disability. My disability has been diagnosed as being of such a nature as to exist for more than one year.

I understand that upon the effective date of benefits for normal disability and after monthly benefits have been effective for twelve (12) full months for work-related and long-term disability, I will continue to be eligible for benefits provided I have not regained my earning capacity and I am unable to perform the essential duties of any occupation for which I may reasonably become qualified for by training, education, or experience, including a rehabilitative program, to the extent that I can earn at least fifty percent (50%) of my current annualized rate of pay for the position I held on the date preceding the date of disability.

Are you now totally and continuously unable to engage in any gainful occupation for which you are reasonably qualified by education, training, or experience? Explain fully: \_\_\_\_\_

Name of all physicians who have treated you since the beginning of this disability.  
Dates of Treatment

Name	From	To

- Yes  No      Is this disability work-related?
- Yes  No      If yes, have you applied or do you intend to apply for Workers' Compensation?
- Yes  No      Are you receiving or entitled to receive payments from Workers' Compensation? If yes,
  - Lump Sum      Amount \$ \_\_\_\_\_
  - Weekly Payments      Amount \$ \_\_\_\_\_ for \_\_\_\_\_ weeks

I agree to notify the Highway and Transportation Employees' and Highway Patrol Retirement System or the Division, District, or Troop where I was working immediately prior to my disability should I recover sufficiently to perform the duties of my position or accept employment elsewhere in order that a determination can be made as to whether or not benefits should be terminated.

As a member requesting normal or work-related disability benefits, I am vitally interested in the retirement system and hereby make myself available for such advice and discussion as is necessary to assure the continuation of a sound retirement program for such employees.

I represent that I have provided complete answers to the above questions and that said answers are true and correct to the best of my knowledge.

I herewith authorize any doctor or medical institution, my present or former employer(s), insurance carrier(s), including Workers' Compensation carrier(s), having information concerning me, to release said information to the Highway and Transportation Employees' and Highway Patrol Retirement System and or its designated representative to be used for claims evaluation and auditing purposes only.

Date of Application \_\_\_\_\_ Signature \_\_\_\_\_

THE FOLLOWING INFORMATION MUST BE SUBMITTED WITH YOUR APPLICATION IN ORDER TO PROCESS YOUR CLAIM FOR DISABILITY BENEFITS.

- 1. Employer's Statement of Disability
- 2. Attending Physician's Statement
- 3. Copy of claim filed for Social Security Disability Benefits (work-related and long-term).

If approved, benefits began on \_\_\_\_\_ Amount of Benefit \$ \_\_\_\_\_  
( Month/Year)

**Important -** Attach a copy of the Social Security Award Certificate, Social Security Disability Denial Notice or other correspondence explaining the decision, received from Social Security. If not yet issued, submit a copy when received.

THE FOLLOWING INFORMATION COMPARES THE BENEFITS OF THE THREE TYPES OF DISABILITY AVAILABLE FROM THE MISSOURI HIGHWAY AND TRANSPORTATION EMPLOYEES' AND HIGHWAY PATROL RETIREMENT SYSTEM. PLEASE DATE AND SIGN BELOW TO CERTIFY THAT YOU HAVE READ AND UNDERSTAND THESE PROVISIONS. YOUR SELECTION OF A DISABILITY OPTION IS TO BE MADE ON PAGE 1 OF THIS FORM.

**AMOUNT OF BENEFITS**

**Normal:** Average Compensation based on highest 36 consecutive months times one and six-tenths percent (1.6%) times years of creditable service.

**Work-Related:** Seventy percent (70%) of the compensation you were receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit plus any primary social security benefits received by such member shall not exceed ninety percent (90%) of the monthly compensation such member was receiving on the date preceding the date of disability.

**Long-Term:** Sixty percent (60%) of the compensation you were receiving on the date preceding the date of disability less any primary social security benefits. The minimum monthly benefit shall be the greater of \$50 or fifteen percent (15%) of the monthly benefit before deductions for primary social security benefits and any other employer sponsored income benefits.

**BENEFIT OFFSETS**

1. Workers' Compensation

- Normal: The benefit amount shall be decreased by the amount the applicant is receiving or becomes eligible to receive in weekly temporary total disability benefits or continuous permanent total disability benefits. Any lump sum settlement will not be offset.
- Work-Related: Same.
- Long-Term: Same.

2. Social Security

- Normal: No offset.
- Work-Related: The benefit amount will be reduced if the combined social security benefit plus seventy percent (70%) of the monthly compensation the member was receiving on the date preceding the date of disability exceeds ninety percent (90%) of compensation.
- Long-Term: The benefit amount will be reduced by the amount of primary social security benefits.

**REQUIREMENT FOR APPLICATION FOR SOCIAL SECURITY BENEFITS**

- Normal: Application not required.
- Work-Related: You must submit a claim to the Social Security Administration for disability benefits and *no benefits can be paid until a determination is made on the initial request*. If the *initial claim* is denied, you must request *reconsideration*. If the claim is again denied, you must request an *appeal*. If you do not provide proof to the system that you have made these requests within 30 days of denial, your benefit will be reduced by the amount you would have received from Social Security had your request been approved.
- Long-Term: You must submit a claim to the Social Security Administration for disability benefits and *no benefits can be paid until a determination is made on the initial request*. If the *initial claim* is denied, you must request *reconsideration*. If the claim is again denied, you must request an *appeal*. If you do not provide proof to the system that you have made these requests within 30 days of denial, your benefit will be reduced by the amount you would have received from Social Security had your request been approved.

Note: Should your initial request for Social Security benefits be denied and subsequently approved resulting in overpayment from the Highway and Transportation Employees' and Highway Patrol Retirement System, you are required to reimburse the system the amount of overpayment.

**CREDITABLE SERVICE**

- Normal: None.
- Work-Related: Continue to accrue creditable service in the retirement system until attaining normal retirement age.
- Long-Term: Continue to accrue creditable service in the retirement system until attaining normal retirement age.

**SURVIVOR'S BENEFITS**

- Normal: One-half of the member's benefit at the time of death provided the marriage has continued from the effective date of disability benefits.
- Work-Related: Same as provided for active employees.
- Long-Term: Same as provided for active employees.

**COST-OF-LIVING ADJUSTMENT**

- Normal: Eligible for retiree cost-of-living adjustments of not less than four percent (4%) or more than five percent (5%) each October.
- Work-Related: Eligible for retiree cost-of-living adjustments of not less than four percent (4%) or more than five percent (5%) each October.
- Long-Term: Not eligible for cost-of-living increases.

Note: All disability recipients will be allowed to keep cost-of-living increases granted by Social Security.

**MEDICAL INSURANCE**

- Normal: If eligible, treated like a retiree, monthly premiums to be paid by the individual.
- Work-Related: If eligible, treated like an employee, monthly premium same as for active employees.
- Long-Term: If eligible, treated like an employee off the payroll, full premium to be paid by individual without state participation.

**LIFE INSURANCE**

- Normal: \$5,000 death benefit from retirement system, up to \$10,000 coverage through the optional life insurance state plan, and other life insurance coverages available through MHTD or MSHP.
- Work-Related: \$5,000 death benefit from retirement system, up to \$10,000 coverage through the optional life insurance state plan, and other life insurance coverages available through MHTD or MSHP.
- Long-Term: \$15,000 of state paid life, up to sixty percent (60%) of the optional life insurance state plan, other life insurance coverage available through MHTD or MSHP.

I have read and understand the above statements pertaining to the various categories of disability benefits.

Date \_\_\_\_\_ Signature \_\_\_\_\_



Form: P-52 (Physician)  
(Revised 8-28-95)

**HIGHWAY AND TRANSPORTATION EMPLOYEES' AND  
HIGHWAY PATROL RETIREMENT SYSTEM**

**ATTENDING PHYSICIAN'S STATEMENT**

(Please print or type.)

Name \_\_\_\_\_ Social Security No. \_\_\_\_\_

Title\ Position \_\_\_\_\_ Attached is a copy of the job description and  
appropriate analysis forms.

**HISTORY**

1. When did symptoms first appear or accident happen? \_\_\_\_\_
2. Date patient ceased work because of disability: \_\_\_\_\_
3. Has patient ever had same or similar condition? ( ) Yes ( ) No If yes, state when and describe:  
\_\_\_\_\_  
\_\_\_\_\_

**PRESENT CONDITION**

1. Subjective symptoms: \_\_\_\_\_  
\_\_\_\_\_
2. Objective findings: (Include results of current X-rays, E.K.G.s, or any other special tests) \_\_\_\_\_  
\_\_\_\_\_
3. Is patient:  
( ) Ambulatory ( ) Bed confined ( ) House confined ( ) Hospital confined

**DIAGNOSIS**

1. Primary diagnosis affecting work ability:
2. Secondary diagnosis affecting work ability:
3. Other known injuries or presently active diseases that may affect work abilities:

**TREATMENT**

1. Date of first visit: \_\_\_\_\_
2. Date of last visit: \_\_\_\_\_  
Frequency of visits: ( ) Weekly ( ) Monthly ( ) Other \_\_\_\_\_
4. When did you last examine the patient? \_\_\_\_\_
5. Present and future course of treatment:



6. Does patient's medical condition allow exposure to the following: please check appropriate box and explain any limitation and extent of limitation below.

	No Limitation	Some Limitation	Avoid Completely	Cannot Determine
Dust/Gases/Fumes	_____	_____	_____	_____
Chemicals/Solvents	_____	_____	_____	_____
Temperature Extremes	_____	_____	_____	_____
Noise Levels	_____	_____	_____	_____
Allergenic Agents	_____	_____	_____	_____
Stairs/Ladders	_____	_____	_____	_____
Scaffolds/Heights	_____	_____	_____	_____
Enclosed Spaces	_____	_____	_____	_____
Drafts/Damp Areas	_____	_____	_____	_____
Explanation:	_____			

7. Because of the patient's medical condition, are there any limitations on any of the following activities; please check appropriate box and explain any limitations and the extent of limitation below.

	No Limitation	Some Limitation	Avoid Completely	Cannot Determine
Transportation	_____	_____	_____	_____
Standing	_____	_____	_____	_____
Sitting	_____	_____	_____	_____
Change of Position (sitting/standing)	_____	_____	_____	_____
Assuming Cramped/Unusual Positions	_____	_____	_____	_____
Reaching (forward/overhead)	_____	_____	_____	_____
Pushing/Pulling/Twisting (arm/leg controls)	_____	_____	_____	_____
Grasping/Handling	_____	_____	_____	_____
Finger Dexterity	_____	_____	_____	_____
Repetitive Movement (hands/feet)	_____	_____	_____	_____
Climbing (stairs/ladders/scaffolds)	_____	_____	_____	_____
Balancing (exposure to falling)	_____	_____	_____	_____
Bending/Stooping/Squatting	_____	_____	_____	_____
Operating Truck/Dolly/Small Vehicle	_____	_____	_____	_____
Operating Heavy Equipment	_____	_____	_____	_____
Operating Electrical Equipment	_____	_____	_____	_____
Concentrated Visual Attention	_____	_____	_____	_____
Other	_____	_____	_____	_____
Explanation:	_____			

8. Evaluation of the patient's carrying and lifting abilities. Please provide an explanation below with any additional comments regarding limitations on duration, ability to handle and distance (in front of body and above floor).

\_\_\_\_\_ *Sedentary Work* - Exerting up to 10 lbs. of force occasionally (up to 1/3 of the time) and/or negligible amount of force frequently (1/3 - 2/3 of the time) to lift, push, pull, or otherwise move objects. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time.

\_\_\_\_\_ *Light Work* - Exerting up to 20 lbs. of force occasionally (up to 1/3 of the time), and up to 10 lbs. of force frequently (1/3 to 2/3 of the time), or negligible amount of force constantly (2/3 or more of the time). Can walk or stand for a significant amount of time. Can sit most of the time and perform pushing and pulling of the arms and legs.

\_\_\_\_\_ *Medium Work* - Exerting 20 - 50 lbs. of force occasionally (up to 1/3 of the time), and 10 - 25 lbs. of force frequently (1/3 to 2/3 of the time), and/or up to 10 lbs. of force constantly (2/3 or more of the time) to move objects.

\_\_\_\_\_ *Heavy Work* - Exerting 50 - 100 lbs. of force occasionally (up to 1/3 of the time), 25 - 50 lbs. of force frequently (1/3 to 2/3 of the time), and/or 10 - 20 lbs. of force constantly (over 2/3 of the time) to move objects.

\_\_\_\_\_ *Very Heavy Work* - Exerting in excess of 100 lbs. of force occasionally (up to 1/3 of the time), and/or in excess of 50 lbs. of force frequently (1/3 to 2/3 of the time), and/or in excess of 20 lbs. of force constantly (over 2/3 of the time) to move objects.

Explanation:

9. Is there a past or present psychological problem that might interfere with patient's ability to work? If yes, please list your findings according to the DSM-111 multiaxial classification.

Yes ( ) No ( ) Not Determined ( )

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DISABILITY EVALUATION**

During the waiting period for long-term and the first 12 full months of benefits under work-related and long-term, "disability" means the employee's physical condition prohibits him/her from performing the essential duties of the employee's normal occupation which is the job or work the employee performed on the date preceding the date of disability and is also unable to perform the essential duties of any occupation commensurate with the employee's education, training, or experience.

1. ( ) Yes ( ) No Is the patient now disabled for his/her normal occupation? If yes, please state the date of disability. \_\_\_\_\_. If no, please state the date the patient will be able to return to duty. \_\_\_\_\_.

2. ( ) Yes ( ) No Is the patient now disabled for any occupation commensurate with the patient's education, training, or experience? If yes, please state the date of disability? \_\_\_\_\_. If no, please state the date the employee would be able to return to other employment. \_\_\_\_\_.

3. ( ) Yes ( ) No Is the disability work related? If yes, please state the substantial factors used in your determination.

Four horizontal lines for text entry.

4. ( ) Yes ( ) No Is the patient a suitable candidate for a rehabilitation program? Please indicate any additional information that is relevant to the patient's work ability.

Four horizontal lines for text entry.

EARNING CAPACITY

Disability benefits shall not be paid to any member who retains or regains his/her earning capacity as determined by the Board. This is defined as an employee's ability to perform any occupation for which the employee is or may reasonably become qualified for by training, education, or experience, to the extent that the employee can earn at least fifty percent (50%) of his/her current annualized rate of pay for the position held by the employee on the date preceding the date of the employee's disability. This criteria is applicable upon the effective date of benefits for normal disability and after monthly benefits have been effective for twelve (12) full months for work-related and long-term disability.

1. ( ) Yes ( ) No In your opinion, has the employee retained or regained 50 percent of his/her earning capacity as described? Please explain:

Five horizontal lines for text entry.

Name of Physician Board Certified Specialty

Street Address City or Town State Zip Code

( ) Telephone Number Date Signature



Form: P-52 (Location)  
(Revised 8-28-95)

**HIGHWAY AND TRANSPORTATION EMPLOYEES' AND  
HIGHWAY PATROL RETIREMENT SYSTEM**

**EMPLOYER'S STATEMENT OF DISABILITY**

(To be completed by Division, District, or Troop. Please print or type.)

Name \_\_\_\_\_ Social Security No. \_\_\_\_\_

Last Day Worked \_\_\_\_\_ Job Title \_\_\_\_\_

Date of Disability \_\_\_\_\_ Monthly Salary on  
Date of Disability \_\_\_\_\_

Disability Requested: ( ) Normal Effective Date of Benefits \_\_\_\_\_  
( ) Work-related  
( ) Long-Term

Date accumulated sick leave will be exhausted \_\_\_\_\_

Accumulated vacation and compensatory time will be:  
( ) Paid in Lump Sum  
( ) Used, date on which it will be exhausted \_\_\_\_\_

( ) Yes ( ) No Has the employee applied for Workers' Compensation?  
( ) Yes ( ) No If yes, is the employee receiving weekly payments from Workers' Compensation?

Please provide your own findings and first-hand observations on how the disability affects his/her ability to perform his/her job duties:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Are there other vacancies in jobs which the employee could perform? ( ) No ( ) Yes, specify which jobs \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attach copies of documentation used to determine job eligibility.

Recommendation: ( ) Favorably Considered ( ) Disapproved ( ) Investigated Further

Date \_\_\_\_\_ Location \_\_\_\_\_

Title \_\_\_\_\_ Signed \_\_\_\_\_

**16 CSR 40-3.032 Eligibility for Long-Term Disability Benefits**

*PURPOSE: This rule clarifies when an employee is eligible for long-term disability benefits under section 104.110.8., RSMo.*

(1) For the first twelve (12) full months after the effective date of benefits, an employee will be considered disabled and eligible for long-term disability benefits provided the following conditions are met:

(A) As a result of an injury or illness, the employee is unable to perform the essential duties of his/her normal occupation. Normal occupation is the occupation, job or work performed by the employee on the date preceding the date of disability; and

(B) The employee's disability is expected to continue for at least twelve (12) months; and

(C) The employee has not retained or regained his/her earning capacity. For purposes of this paragraph, earning capacity means the employee's ability to perform the essential duties of any occupation commensurate with the employee's education, training, or experience; and

(D) Upon written request, the board may at its discretion grant an extension of up to an additional twelve (12) months of eligibility under this section provided that all of the conditions in this section are met and information acceptable to the board has been provided to show that the individual is participating in an ongoing educational, vocational, rehabilitative or retraining program.

(2) Unless granted an extension under subsection (1)(D), after monthly long-term disability benefits have been effective for twelve (12) full months, a member will be considered disabled and continue to be eligible for long-term disability benefits provided the member has not regained his/her earning capacity. For purposes of this paragraph, earning capacity means the member's ability to perform any occupation for which the member is or may reasonably become qualified for by training, education, or experience, including a rehabilitative program, to the extent that the member can earn at least fifty percent (50%) of his/her current annualized rate of pay for the position held by the member on the date preceding the date of the member's disability.

*AUTHORITY: sections 104.110, RSMo (Supp. 1995) and 104.210.2. and 536.023.3., RSMo (1994). \* Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996.*

*Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*

**16 CSR 40-3.033 Eligibility for Work-Related Disability Benefits**

*PURPOSE: This rule clarifies when an employee is eligible for work-related disability benefits under section 104.110.2., RSMo.*

(1) For the first twelve (12) full months after the effective date of benefits, an employee will be considered disabled and eligible for work-related disability benefits provided the following conditions are met:

(A) The employee is disabled as a result of injuries incurred during the performance of his/her duties; and

(B) As a result of the injury incurred during the performance of duties, the employee is unable to perform the essential duties of his/her normal occupation. Normal occupation is the occupation, job or work performed by the employee on the date preceding the date of disability; and

(C) The employee has not retained or regained his/her earning capacity. For purposes of this paragraph, earning capacity means the employee's ability to perform the essential duties of any occupation commensurate with the employee's education, training, or experience; and

(D) Upon written request, the board may at its discretion grant an extension of up to an additional twelve (12) months of eligibility under this section provided that all of the conditions in this section are met and information acceptable to the board has been provided to show that the individual is participating in an ongoing educational, vocational, rehabilitative or retraining program.

(2) Unless granted an extension under subsection (1)(D), after monthly work-related disability benefits have been effective for twelve (12) full months, a member will be considered disabled and continue to be eligible for work-related disability benefits provided the member has not regained his/her earning capacity. For purposes of this paragraph, earning capacity means the member's ability to perform any occupation for which the member is or may reasonably become qualified for by training, education, or experience, including a rehabilitative program, to the extent that the member can earn at least

fifty percent (50%) of his/her current annualized rate of pay for the position held by the member on the date preceding the date of the member's disability.

(3) An injury as used in this rule means an injury which the board determines was incurred during the performance of duties and with respect to which the injury arose out of and in the course of the employment, and that work was the substantial factor causing the resulting disability.

*AUTHORITY: sections 104.110, RSMo (Supp. 1995) and 104.210.2., and 536.023.3., RSMo (1994). \* Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*

**16 CSR 40-3.034 Eligibility for Normal Disability Benefits**

*PURPOSE: This rule clarifies when an employee is eligible for normal disability benefits under section 104.110.1., RSMo.*

(1) An employee will be considered disabled and eligible for normal disability benefits provided the following conditions are met:

(A) The employee is found to be wholly incapable of performing the duties of his/her present position or any other position in the employee's department for which the employee is suited; and

(B) The employee has not retained or regained his/her earning capacity.

(2) Earning capacity as used in this rule means the employee's ability to perform any occupation for which the employee is or may reasonably become qualified for by training, education, or experience, including a rehabilitative program, to the extent that the employee can earn at least fifty percent (50%) of his/her current annualized rate of pay for the position held by the employee on the date preceding the date of the employee's disability.

*AUTHORITY: sections 104.110, RSMo (Supp. 1995) and 104.210.2. and 536.023.3., RSMo (1994). Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*

**16 CSR 40-3.035 Benefit Amounts for Disability Benefits**

*PURPOSE: This rule clarifies the manner in which the benefit amount is calculated for normal, work-related, and long-term disability benefits.*

(1) The benefit amount for normal disability benefits equals one and six-tenths percent (1.6%) of the employee's average compensation multiplied by the number of years of creditable service of the employee. The disability benefit amount will be decreased by any periodic disability benefits paid to the employee under Workers' Compensation until such time as the Workers' Compensation benefits are terminated.

(2) The benefit amount for work-related disability benefits equals seventy percent (70%) of the compensation the employee was receiving on the date preceding the date of disability; provided however, that the amount of the disability benefits plus any primary Social Security benefits received by such employee shall not exceed ninety percent (90%) of the monthly compensation the employee was receiving on the date preceding the date of disability. The disability benefit amount will be decreased by any periodic disability benefits paid to the employee under Workers' Compensation until such time as the Workers' Compensation benefits are terminated.

(3) The benefit amount for long-term disability benefits equals sixty percent (60%) of the compensation the employee was receiving on the date preceding the date of disability less primary Social Security benefits and any other employer sponsored income or income benefits, including Workers' Compensation benefits received by the employee. Periodic disability benefits paid to the employee under Workers' Compensation shall be deducted until such time as the Workers' Compensation benefits are terminated. The minimum monthly benefit shall be the greater of fifty dollars (\$50) or fifteen percent (15%) of the calculated monthly benefit amount before deductions for primary Social Security benefits, and other employer sponsored income benefits, including Workers' Compensation benefits.

*AUTHORITY: sections 104.110, RSMo (Supp. 1995) and 104.210.2. and*

*536.023.3., RSMo (1994). \* Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*

**16 CSR 40-3.036 Workers' Compensation Offset**

*PURPOSE: This rule establishes the criteria for offset of disability benefits against Workers' Compensation benefits.*

If an applicant for disability benefits is receiving or may become eligible to receive weekly temporary total disability benefits or continuous permanent total disability benefits, the disability benefits to be received from the retirement system shall be decreased by the amount paid to the employee as Worker's Compensation benefits. If the employee receives a lump sum settlement from Workers' Compensation for loss or injury, this amount will not be offset against any disability benefits received from the retirement system.

*AUTHORITY: sections 104.110, RSMo (Supp. 1995) and 104.210.2. and 536.023.3., RSMo (1994). \* Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*

**16 CSR 40-3.040 Physician's Statement/Medical Certification of Disability**

*PURPOSE: This rule establishes the policy for medical certification regarding normal work-related, or long-term disability.*

As a part of an employee's application for normal disability benefits under section 104.110.1., RSMo, work-related disability benefits under 104.110.2., RSMo, or long-term disability benefits under section 104.110.8., RSMo, an employee must provide a medical certification acceptable to the board which must be completed by his/her

attending physician on the Attending Physician's Statement provided. The medical certification must state the date upon which the disability commenced, the expected duration of the disability, whether the disability is work-related, and that the employee is unable to perform the duties of his/her normal occupation. If the medical certification specifies a disability date of more than six (6) months prior to the date of the certification, it must contain adequate certification that the employee has been examined within the six (6)-month period and that the disability continues. If the board of trustees deems necessary, it may require that the employee submit more recent medical certification or additional information from the physician to support the employee's application for disability benefits.

*AUTHORITY: sections 104.110.9., RSMo (Supp. 1995) and 104.210.2. and 536.023.3., RSMo (1994). \* Original rule filed Feb. 16, 1988, effective May 12, 1988. Emergency amendment filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Amended: Filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority 104.110, RSMo (1955), amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo (1955), amended 1983, 1988; and 536.023, RSMo (1975), amended 1976.*

**16 CSR 40-3.045 Medical Review of Disability Applications**

*PURPOSE: This rule provides for the medical review of an employee's application for disability benefits and other documents necessary for the administration of disability benefits.*

The board has the authority to enter into a formal agreement with a medical review agency for review of disability applications and other documents necessary for the administration of the disability program. The medical reviewer may conduct a medical review of any documentation that the board requests be reviewed and the medical reviewer may make recommendations to the board of trustees as necessary.

*AUTHORITY: sections 104.110.9., RSMo (Supp. 1995) and 104.210.2. and 536.023.3., RSMo (1994). Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*



\*Original authority: 104.110, RSMo 1955, amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo 1955, amended 1983, 1988; and 536.023, RSMo 1975, amended 1976.

### 16 CSR 40-3.050 Application for Social Security Benefits

**PURPOSE:** This rule establishes the policy that an employee applying for work-related or long-term disability must also apply for Social Security disability benefits.

(1) Employees applying for work-related or long-term disability must provide, along with the application for benefits, proof of application for disability benefits to the Social Security Administration. If the Social Security Administration denies disability benefits, the employee must also show proof that s/he has requested reconsideration of that determination and if the disability benefits are denied on reconsideration, that an appropriate appeal is prosecuted.

(2) Any employee applying for, and determined to be eligible to receive work-related or long-term disability benefits, who refuses or fails to apply for disability Social Security benefits, fails to apply for reconsideration if denied disability Social Security benefits, or fails to promptly prosecute an appeal after a denial of disability Social Security benefits on reconsideration will have his/her benefits reduced by the amount which s/he would have received as Social Security primary disability benefits had s/he applied for and been granted these benefits.

(3) Any employee who has applied for Social Security disability benefits and has been denied the benefits will not have his/her work-related or long-term disability benefits reduced by the amount of any Social Security benefits to which the employee is entitled but should, upon reconsideration or appeal, the employee be granted Social Security disability benefits for any period during which the employee received unreduced work-related or long-term disability benefits, the board shall take such action as necessary to recover the appropriate amount of retroactive Social Security benefits.

**AUTHORITY:** sections 104.110.5, RSMo Supp. 1995 and 104.210.2 and 536.023.3, RSMo 1994.\* Original rule filed Feb. 16, 1988, effective May 12, 1988. Emergency amendment filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Amended: Filed Aug. 18, 1995, effective Feb. 25, 1996.

\*Original authority: 104.110, RSMo 1955, amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, 104.210.2, RSMo 1955, amended 1983, 1988 and 536.023.3, RSMo 1975, amended 1976.

### 16 CSR 40-3.060 Election of Disability Benefits

**PURPOSE:** This rule establishes a policy regarding the election of disability benefits by an employee.

Any employee eligible to receive disability benefits may elect to receive long-term disability benefits under section 104.110.8., RSMo, the normal disability benefits under section 104.110.1., RSMo, or the work-related disability benefits under section 104.110.2., RSMo, if fully qualified to receive the benefits under each such section, but must make the election prior to the commencement of any disability benefits.

**AUTHORITY:** sections 104.110, RSMo Supp. 1995 and 104.210.2 and 536.023.3, RSMo 1994.\* Original rule filed Feb. 16, 1988, effective May 12, 1988. Emergency amendment filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Amended: Filed Aug. 18, 1995, effective Feb. 25, 1996.

\*Original authority: 104.110, RSMo 1955, amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210.2, RSMo 1955, amended 1983, 1988 and 536.023.3, RSMo 1975, amended 1976.

### 16 CSR 40-3.070 When Monthly Disability Benefits Begin Except for Long-Term Disability Benefits

**PURPOSE:** This rule establishes the policy as to when monthly disability benefits begin.

Except for long-term disability benefits, payments for disability benefits may be paid from and after the earliest date of positive medical certification of disability or other competent evidence of disability acceptable to the board.

**AUTHORITY:** sections 104.110.1, 104.210.2, RSMo Supp. 1988 and 536.023.3, RSMo 1986.\* Original rule filed Feb. 16, 1988, effective May 12, 1988.

\*Original authority: 104.110.1, RSMo 1955, amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210.2, RSMo 1955, amended 1983, 1988 and 536.023.3, RSMo 1975, amended 1976.

### 16 CSR 40-3.080 Maximum Disability Benefit Period for Employees

**PURPOSE:** This rule establishes the policy regarding the maximum disability benefit for employees.

The maximum benefit period for employees disabled prior to sixty (60) years of age shall be the period beginning from the latter of the 181st day after disability, or the day following the day sick leave benefits are exhausted to the earlier of the end of the month in which the employee becomes sixty-five (65) years of age, or the date the employee begins receiving retirement benefits. The maximum benefit period for employees disabled on or after the attainment of sixty (60) years of age shall be the period commencing on the 181st day after disability, or the day following the exhaustion of sick leave benefits, whichever occurs later, for a maximum of five (5) years and a minimum of one (1) year, in accordance with the following schedule:

Age at Disability	Benefit Period
60	60 months
61	48 months
62	42 months
63	36 months
64	30 months
65	24 months
66	21 months
67	18 months
68	15 months
69 and over	12 months

**AUTHORITY:** sections 104.210.2, RSMo Supp. 1988 and 104.515.3 and 536.023.3, RSMo 1986.\* Original rule filed Feb. 16, 1988, effective May 12, 1988.

\*Original authority: 104.210.2, RSMo 1955, amended 1983, 1988; 104.515.3, RSMo 1972, amended 1976, 1977, 1978, 1979, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1992; and 536.023.3, RSMo 1975, amended 1976.

### 16 CSR 40-3.090 Waiting Periods Regarding Long-Term Disability Benefits

**PURPOSE:** This rule establishes the policy regarding the commencement of a new waiting period for long-term disability benefits.

(1) If an employee returns to work before the 181st day of disability and works for ten (10) working days, then the employee will be required to start a new waiting period. If the employee returns to work and works for less than ten (10) days, then no new waiting period will be required.

(2) If an employee returns to work after long-term disability benefits commence and works for more than six (6) months and again becomes disabled, the employee will be required to wait for a period of one hundred eighty (180) days before again receiving long-term disability benefits. If the employee works for six (6) months or less and then



becomes disabled, the employee will not be required to start a new waiting period.

*AUTHORITY: sections 104.210.2, RSMo Supp. 1988 and 536.023.3, RSMo 1986.\* Original rule filed Feb. 16, 1988, effective May 12, 1988.*

*\*Original authority: 104.210.2, RSMo 1955, amended 1983, 1988 and 536.023.3, RSMo 1975, amended 1976.*

**16 CSR 40-3.100 Recipients of Long-Term Disability Benefits Ineligible for Cost of Living Increases**

*PURPOSE: This rule establishes the policy that employees receiving long-term disability benefits will not be eligible to receive cost-of-living increases.*

Employees receiving long-term disability benefits will not be eligible to receive cost-of-living increases.

*AUTHORITY: sections 104.110.2 and 104.210.2, RSMo Supp. 1988 and 536.023.3, RSMo 1986.\* Original rule filed Feb. 16, 1988, effective May 12, 1988.*

*\*Original authority: 104.210.2, RSMo 1955, amended 1983, 1988 and 536.023.3, RSMo 1975, amended 1976.*

**16 CSR 40-3.110 Change of Beneficiary**

*PURPOSE: This rule establishes the policy that an employee receiving long-term disability benefits may change the designation of beneficiaries.*

Any employee receiving long-term disability benefits shall have the right to change the designation of beneficiaries for the purpose of providing a survivorship the same as an active employee.

*AUTHORITY: sections 104.210.2, RSMo Supp. 1988 and 536.023.3, RSMo 1986.\* Original rule filed Feb. 16, 1988, effective May 12, 1988.*

*\*Original authority: 104.210.2, RSMo 1955, amended 1983, 1988 and 536.023.3, RSMo 1975, amended 1976.*

**16 CSR 40-3.120 Election of Retirement Benefits**

*PURPOSE: This rule establishes a policy regarding the member's election to convert from disability benefits to retirement benefits.*

Upon reaching normal retirement age, any member who continues to receive work-related disability benefits or long-term disability benefits may elect to continue receipt of disability benefits or may elect to begin receiving retirement benefits. Any member who reaches the end of the maximum benefit period for long-term disability or elects to retire before the end of the maximum benefit period must submit an application for retirement benefits in order to begin receiving retirement benefits. Any member who elects to begin receiving retirement benefits must submit an application for retirement benefits on forms provided by the board of trustees and the application shall be filed with the executive director of the retirement system.

*AUTHORITY: sections 104.110, RSMo Supp. 1995 and 104.210.2 and 536.023.3, RSMo 1994.\* Emergency rule filed Aug. 18, 1995, effective Aug. 28, 1995, expired Feb. 23, 1996. Original rule filed Aug. 18, 1995, effective Feb. 25, 1996.*

*\*Original authority: 104.110, RSMo 1955, amended 1961, 1969, 1972, 1976, 1979, 1984, 1986, 1988; 104.210, RSMo 1955, amended 1983, 1988; and 536.023, RSMo 1975, amended 1976.*