



City of Bellevue
Human Resources Department

Date: April 26, 2016
To: LEOFF 1 Disability Board members
From: Paula Dillon x 7198, Human Resources
RE: Tuesday, May 3, 2016 Regular Meeting

Please review the attached Agenda packet for the upcoming LEOFF 1 Disability Board meeting on Tuesday, May 3, 2016. The meeting will be held in Room 1E-118.

Attachments

Distribution List

Disability Board Members:

Susan Neiman, Chair
Lynne Robinson, Councilmember
Vandana Slatter, Councilmember
Wayne Bergeron, Fire Department
Bryan Reil, Police Department

Other Copies:

Siona Windsor, City Attorney's Office
Kerry Sievers/Julie Howe, Human Resources
Paula Dillon, Human Resources
Sandra Nunnelee, Council Coordinator
Michelle Luce, Council Coordinator
Mark Risen, Fire Department
Steve Mylett, Police Department
Michelle Cash, Minutes taker – without attachments



City of Bellevue

Disability Board

Agenda Regular Meeting
City Hall, Conference Room 1E-118

Date: Tuesday, May 3, 2016

Time: 5:30 pm Administrative Meeting
6:00 pm Business Meeting

- I. Call to Order**
- II. Roll Call**
- III. Public Comment**
- IV. Approval of Minutes of Regular Meetings, April 5, 2016**
- V. Consideration of Applications for Disability Allowances**
 - A. Applications for Disability Allowances**
 - 1) Fire Department**
 - B. Applications for Disability Allowances Greater than 1 month**
 - 1) Fire Department**
- VI. Consideration of Medical Claims**
 - A. Routine claims**
 - B. Special claims**
 - C. Pre-Approved Recurring Long-Term Care Claims**
- VII. Staff Reports**
- VIII. Unfinished Business - Amendment to Board Policy Manual Related to reconsideration and appeal of Board decision that leave is not duty related**
- IX. New Business**
- X. Announce Date & Time of next meeting: Tuesday, June 7, 2016**
- XI. Adjournment**

**CITY OF BELLEVUE
LEOFF 1 DISABILITY BOARD
Meeting Minutes**

April 5, 2016
5:30 p.m. – Administration
6:00 p.m. – Business Meeting

Conference Room 1E-118
Bellevue City Hall

MEMBERS PRESENT: Chairperson Susan Neiman
Boardmember Wayne Bergeron
Boardmember Bryan Reil
Councilmember Lynne Robinson

MEMBER ABSENT: Councilmember Vandana Slatter

OTHERS PRESENT: Paula Dillon, Human Resources
Siona Windsor, City Attorney’s Office

MINUTES TAKER: Michelle Cash

I. CALL TO ORDER

The meeting was called to order at 6:04 p.m. by Chair Neiman.

II. ROLL CALL

A quorum was present.

III. PUBLIC COMMENT

None.

IV. APPROVAL OF MINUTES

Motion by Boardmember Reil and second by Boardmember Bergeron to approve the March 1, 2016 LEOFF 1 Disability Board meeting minutes as presented. Motion carried unanimously (4-0).

V. CONSIDERATION OF APPLICATIONS FOR DISABILITY ALLOWANCES

A. Applications for Disability Allowances

Motion by Boardmember Bergeron and second by Councilmember Robinson to approve the Disability Allowances as presented. Motion carried unanimously (4-0).

B. Applications for Disability Allowances Greater than 1 month

None.

VI. CONSIDERATION OF MEDICAL CLAIMS

A. Routine Claims

Motion by Boardmember Bergeron and second by Boardmember Reil to approve the Routine Claims as presented. Motion carried unanimously (4-0).

B. Special Claims

Motion by Councilmember Robinson and second by Boardmember Bergeron to approve the Special Claims as presented.

Councilmember Robinson questioned if Member #58 has researched options for in-network physicians. Ms. Dillon clarified that the Member has explained that there are not any in-network physicians that have an office near the Member that meets the Member's needs.

At the question, motion carried unanimously (4-0).

C. Pre-Approved Recurring Long-Term Care Claims

The pre-approved recurring long-term care claims were reviewed and included in the Board packet.

VII. STAFF REPORT

None.

VIII. UNFINISHED BUSINESS

None.

These minutes are in DRAFT form until approved by the LEOFF 1 Disability Board.

IX. NEW BUSINESS

None.

X. ANNOUNCE DATE & TIME OF NEXT MEETING

The next Disability Board meeting will be held on May 3, 2016.

XI. ADJOURNMENT

By general consensus, the meeting was adjourned at 6:19 p.m.

DISABILITY BOARD AGENDA MEMORANDUM

SUBJECT

Proposal to amend the 2014 Restated Disability Board Policy and Procedure Manual (Manual) to add two new paragraphs to Section V. A new Paragraph 11 provides a process for requesting the Board reconsider its denial that disability leave is duty related. A new Paragraph 12 adds that a member has 30 day to appeal to the King County Superior Court (and 30 days to serve the appeal) from the Board's written notice of denial that disability leave is duty related.

FISCAL IMPACT

These proposed amendments have no fiscal impact to the City.

STAFF CONTACT

Siona Windsor 452-4086

Paula Dillon 452-7198

POLICY CONSIDERATION

Should the Disability Board add a new Section V, Paragraph 11 to the Manual to establish that a LEOFF 1 member has the opportunity to ask the Board to reconsider its denial that disability leave is duty related?

Should the Disability Board add a new Section V, Paragraph 12 to the Manual to provide that a LEOFF 1 member has 30 days to appeal (and 30 days to serve the appeal) from a Board's denial that disability leave is duty related?

BACKGROUND

Currently, the Manual does not have a process for LEOFF 1 members to request the Board reconsider its decision to deny that disability leave is duty related. The Manual also does not specify the appeal period to the Superior Court (and time for serving the appeal) from the Board's decision denying that disability leave is duty related. Staff is currently proposing two new paragraphs to the Manual that create a process for requesting reconsideration and specify an appeal period to King County Superior Court and time for serving the appeal on the Board.

New Section V, Paragraph 11:

Paragraph 11 provides that a LEOFF 1 member may request that the Board reconsider its decision denying that disability leave is duty related. The Board must receive the request within 60 days from the date of the written decision denying the leave is duty related. (A LEOFF 1 member may also make the request for reconsideration at a Board meeting held within 60 days of the date of the written decision denying the leave is duty related.) There is only one opportunity for a request for reconsideration.

New Section V, Paragraph 12;

A LEOFF 1 member can appeal to a superior court the Board's denial that disability leave is duty related. The appeal is in the form of a writ of certiorari under RCW 7.16.et. seq. This statute does not provide the timeline for such an appeal. The Disability Board has the authority to establish such an

appeal period. If the Board does not establish the appeal period, the court looks to other analogous statutes having an appeal period. There may be more than one analogous appeal period. This potential ambiguity can be avoided by the Board establishing a reasonable appeal period.

It is suggested that the appeal period be 30 calendar days from the date of written notice of the denial that the disability is duty related. It is also suggested that the policy provide that the member have the same 30 day period to serve the Board with the appeal. In the case of a member requesting reconsideration, the appeal (and service) period should be 30 days from the date of the written notice of the decision denying leave is duty related following the request for reconsideration.

This same 30 day appeal period is applicable to the Board's denial of medical claims. Thirty calendar days is a common appeal period from other administrative actions. It is also suggested that Paragraph 12 require the appeal be filed in King County Superior Court.

Under Section 1, Paragraph 6 of the Manual, proposed amendments to the Manual that are acceptable to the Board are sent to the LEOFF 1 members for their review and opportunity to comment. After the comment period ends, the Board can consider the amendment and comments, if any, for adoption or rejection at its next regular meeting.

EFFECTIVE DATE

If approved, these policy changes become effective immediately upon Disability Board adoption.

OPTIONS

1. Amend the 2014 Restated Disability Board Policy and Procedure Manual (Manual) to add two new paragraphs to Section V. A new Paragraph 11 provides a process for requesting the Board reconsider its denial that disability leave is duty related. A new Paragraph 12 adds that a member has 30 day to appeal to the King County Superior Court (and 30 days to serve the appeal) from the Board's written notice of denial that disability leave is duty related.
2. Provide alternative direction to staff.

RECOMMENDATION

Adopt Option 1.

MOTION

I move the LEOFF 1 Disability Board amend the 2014 Restated Disability Board Policy and Procedure Manual (Manual) to add two new paragraphs to Section V. A new Paragraph 11 provides a process for requesting the Board reconsider its denial that disability leave is duty related. A new Paragraph 12 adds that a member has 30 day to appeal to the King County Superior Court (and 30 days to serve the appeal) from the Board's written notice of denial that disability leave is duty related.

ATTACHMENTS

Proposed Section V, Paragraphs 11 and 12 of the Manual

PROPOSED AMENDMENT TO DISABILITY BOARD POLICY MANUAL ADDING NEW PARAGRAPH 11 AND 12 TO SECTION V

10. Determination of Duty or Non-Duty Related Disability Leave

Disability leave will be considered duty related when, to the satisfaction of the Disability Board, the LEOFF I active member presents information that allows the Disability Board to reasonably conclude that the injury or illness was a result of work related activity. The burden of proof shall be upon the applicant. The LEOFF I active member may either appear personally or submit written evidence to support the disability leave request. Essential information would include, but not be limited to, any relevant dates or incident numbers, physician statements, or an explanation of contributing work conditions. The explanation of "public contact" is too general to allow a finding of duty relatedness. An LEOFF I active member should be able to identify relevant public or co-worker contacts or work conditions that the member believes justify a duty related finding.

11. Request For Reconsideration

If the Disability Board denies a request that disability leave be duty related, a written notice of that denial shall be mailed to the LEOFF 1 member. A LEOFF 1 member may request the Disability Board reconsider its claim denial. The request for reconsideration must be received by the Disability Board within 60 calendar days from the date on the written notice denying leave is duty related. The request may be made in writing to the Disability Board, or at a Disability Board meeting, within the 60 day reconsideration period. The request for reconsideration should include any information that will assist the Disability Board in reconsidering the request. The Disability Board shall consider all information presented, make a determination and mail a written response to the LEOFF 1 member. The Disability Board's decision following the request for reconsideration is not subject to any further requests for reconsideration.

12. Appeal To Superior Court

A. Appeal To Superior Court – No Request For Reconsideration The decision of the Disability Board denying that leave was duty related may be appealed to the King County Superior Court (Appeal). The Appeal must be filed with the King County Superior Court and served on the Disability Board within 30 calendar days from the date of the written notice of the Disability Board's decision or is thereafter barred.

B. Appeal To Superior Court Following Request For Reconsideration - If the LEOFF 1 member requests reconsideration of the Disability Board's denial, the 30 calendar day time to appeal to the King County Superior Court begins to run from the date of the written notice of the Disability Board's decision on the request for reconsideration. If the Appeal is not filed with the King County Superior Court and served on the Disability Board within 30 calendar days from the date of the written notice of the Disability Board's decision on reconsideration, it is barred.