

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of)	AMENDED NOTICE OF PROPOSED
ARM 2.43.2602 pertaining to the)	AMENDMENT
application process for disability)	
benefits)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On October 20, 2023, the Public Employees' Retirement Board published MAR Notice No. 2-43-641 pertaining to the proposed amendment of the above-stated rule at page 1201 of the 2023 Montana Administrative Register, Issue Number 20. The board is amending the rule notice due to the inadvertent omission of sending the notice to the staff of the State Administration and Veterans' Affairs Committee staff for review consistent with 2-4-302(2)(a), MCA.

2. On January 2, 2024, the board proposes to amend the above-stated rule.

3. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 14, 2023, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvlastic@mt.gov.

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.43.2602 APPLICATION PROCESS FOR DISABILITY BENEFITS (1) All forms necessary to apply for disability benefits may be obtained ~~from~~ by contacting MPERA.

(2) through (2)(b) remain the same.

(c) attending physician's statements, including and all medical records specific to the claimed disabling conditions ~~required to substantiate a disability claim;~~

(d) and (e) remain the same.

(3) If MPERA or the board's medical consultant requests that an applicant complete an application package or requests additional medical documentation, all requested information must be received within 90 days or the application may be administratively closed unless the applicant is unable to provide the requested information due to a disabling condition.

(4) MPERA requires documentation from specialists when an applicant alleges certain disabling conditions:

(a) mental or emotional disorders require a report from a psychiatrist or a

minimum of one report each from a psychologist and a medical physician;
(b) orthopedic conditions require a report from a treating or consulting orthopedic specialist or orthopedic surgeon; and
(c) neurological conditions require a report from a treating or consulting neurologist or neurosurgeon.
(3) through (5) remain the same but are renumbered (5) through (7).

AUTH: 19-2-403, 19-3-2104, 19-3-2141, MCA

IMP: 19-2-406, 19-3-1002, 19-3-2141, 19-5-601, 19-6-601, 19-7-601, 19-8-701, 19-9-902, 19-13-802, MCA

REASON: The proposed amendments are intended to address two ongoing issues with the disability retirement application process: 1) incomplete or partial applications where the applicant does not respond to requests for information for long periods of time; and 2) the submission of applications that do not include medical documentation from specialists in the area of the applicant's claimed disabling condition. The proposed amendments seek to make the disability retirement application process more predictable for the applying retirement system member, reduce the overall application processing time, and reduce the number of applications that are initially denied by the board due to insufficient medical evidence.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail mpera@mt.gov, and must be received no later than 5:00 p.m., December 1, 2023.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vladic at the above address no later than 5:00 p.m., December 1, 2023.

7. If the Public Employees' Retirement Board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 7,817 persons based on approximately 78,167 defined benefit retirement plan members as of June 30, 2023.

8. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request

that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Nicholas Domitrovich
Nicholas Domitrovich
Chief Legal Counsel
and Rule Reviewer

/s/ Maggie Peterson
Maggie Peterson
President
Public Employees' Retirement Board

Certified to the Secretary of State October 24, 2023.