TITLE 18

DISABILITY BOARD RULES AND REGULATIONS

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18-04: SCOPE

SECTION:

18-04-010: Purpose
18-04-010: Scope
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18-04-010: Purpose: The purpose of these rules is to establish uniform methods of procedure for the conduct of the business of the City of Kennewick Disability Board (“Board”). This Board was established pursuant to the authority of RCW 41.16.020 and Chapter 294 which was passed in 1981, 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.

18-04-020: Scope: These rules and regulations shall be applicable to all LEOFF I employees and retirees covered by RCW 41.26, whether fire fighter or police officer, unless specifically provided herein.

18-04-030: Effect of Rules and Regulations: All fire fighters, law enforcement officers and retired members covered by RCW 41.26 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.

18-08 DEFINITION OF TERMS

SECTION:

18-08-010: Definitions

18-08-010: Definitions:

(1) Application. A request by a member for Board approval of disability leave or retirement.

(2) Claim. A request by a member for Board approval of payment for medical services or expenses.

(3) Disability. The existence of a physical and/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 a member is able to perform all of the duties of any available position to which a member of his grade or rank is normally assigned, the member is not considered disabled.

(4) In the line of duty. The member's disability occurred as a direct result of the performance of the member's duties.

(5) Member. A law enforcement officer or fire fighter eligible for benefits provided under RCW 41.26, LEOFF I plan.

18-12 BOARD MEMBERSHIP & DUTIES

18-12-010: Membership
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18-12-030: Selection of Member-at-Large
18-12-040: Duties of Board Members
18-12-050: Meetings – General Information
18-12-060: Hearings – General Information
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18-12-010: Membership:

(1) The Board shall consist of five (5) members as follows:

(a) Two representatives from Kennewick City Council.

(b) One fire fighter representative.

(c) One police officer representative.

(d) One member from the public at large.

(2) The Council members shall serve a two-year term, and Non-Council members shall serve a two-year term expiring on March 31, or until such time as their successor is selected. A Member, Council or Non-Council, shall be removed if they have two or more unexcused absences in any calendar year.

(3) The members of the Board will appoint their own chairperson.

18-12-020: Election of Fire Fighter and Police Representatives:

(1) Nominations are submitted to the Secretary every two years, on the odd year. The nomination and election process is coordinated by the Board Secretary during January.

(2) Representatives will be elected by LEOFF I members from amongst all LEOFF I members (active and retired) as well as active LEOFF II members.

(3) For the sake of transition, both the incoming and outgoing members are encouraged to attend the February meeting, with the outgoing member voting and the incoming member observing. The incoming member will take over duties as of the close of that meeting.

18-12-030: Selection of Member-at-Large:

(1) Applications will be accepted every two years, on the even years. The interview and selection process is coordinated by the Board Secretary during January.

(2) The member-at-large will be selected by the Law Enforcement Representative, Fire Fighter Representative, and both City Council Representatives currently serving on the Disability Board.

(3) For the sake of transition, both the incoming and outgoing members are encouraged to attend the February meeting, with the outgoing member voting and the incoming member observing. The incoming member will take over duties as of the close of that meeting.

18-12-040: Duties of Board Members:

(1) Chairperson - The chairperson shall preside at all meetings, public hearings and disability hearings of the Disability Board and may call special meetings. The chairperson shall

have the privilege of discussing all matters before the Board and voting thereon except where to do so would constitute violations of an appearance of fairness of doctrine or a conflict of interest. The chairperson 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 or 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, all members of City Council, the City Manager and the Administrator for the Department of Retirement Systems. 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. The Secretary shall coordinate the elections of Fire and Police Representatives and the selection of member-at-large to the Board.

18-12-050: Meetings - General Information:

(1) The regular monthly meeting of the City of Kennewick Disability Board shall be held on the first Tuesday of each month. Meetings will be held in an available room at City Hall at 1:00 p.m. Rescheduled meetings shall be held within seven days prior to or seven days following the regularly scheduled meeting, provided that the day falls within the same month as the originally scheduled meeting. Special meetings of the Board shall be held upon the request of the Chairperson, of which notice shall be given in accordance with RCW 42.30.080.

(2) Three 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 at least three working days prior to a scheduled meeting if that member will be unable to attend the meeting.

(3) "Robert's Rules of Order" shall guide the Board where the proceedings are not otherwise governed by rules or state law.

(4) The Board shall allow the public to attend regular meetings. However, pursuant to RCW 42.30.140(2), the Board reserves the right to close those portions of meetings in which the Board is deliberating upon quasi-judicial matters relating to specific benefits, where the Board finds that such deliberations might be expected to include discussion of sensitive personal information relating to a particular applicant.

(5) Information relating to any member's claim or application should be released only as required by RCW 42.17, or any court order, or upon written permission of the member, except certain medical information disclosed to medical experts as provided herein.

(6) The Board may hold a full hearing on any matter when deemed necessary.

(7) If any person(s) on the Board concludes that he has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the Board so that he cannot discharge his duties, he shall disqualify himself from participating in the deliberations and the decision-making process with respect to the matter.

18-12-060: Hearings - General Information: At such a hearing as referred to in Section 18-12-050(6), the following statements shall apply:

(1) Any person testifying before the Board may have their attorney present.

(2) Opportunity shall be afforded all parties to respond and present relevant evidence and argument on all issues involved.

(3) Unless precluded by law, information dispositions may also be made of any contested case by stipulation, agreed settlement, consent order or default.

(4) The record of a hearing shall include:

(a) All pleadings, motions, and intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed, if any;

(d) Questions and offers of proof, objections and rulings thereon, if any;

(e) Prepared findings and exceptions, if any; and

(f) Any decisions, opinions or reports by the Board.

(5) 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.

(6) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(7) The Disability Board may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence;

(b) Issue subpoenas as provided in Section 18-12-070;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Take or cause depositions to be taken pursuant to rules promulgated by the Board; and

(e) Regulate the course of the hearing.

18-12-070: Hearings – Witnesses: Subpoenas will be issued in accordance with KMC 2.16.950. The Board has the power to issue subpoenas and compel the attendance of witnesses without the intervention of Superior Court.

18-16 PROCESSING MEDICAL CLAIMS AND DISABILITY APPLICATIONS AND ANNUAL MEMBER UPDATES

18-16-010: Presenting to the Board
18-16-020: Medical Claims Appeals
18-16-030: Application for Disability Retirement
18-16-040: Right to Appeal
18-16-050: Local Board Physician
18-16-060: Out-of-Area Physicians
18-16-070: Annual Member Updates and Privacy Policy Statements

18-16-010: Presenting to the Board:

(1) All claims and applications shall be submitted to the Secretary via the appropriate representative of the Board on forms approved by the Board. All material to be considered in connection with any application or claim must be submitted to the Board by the 15th of the month 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) The Board's decision to approve or deny applications or claims will ordinarily be based on the forms and other written information submitted by the member and on information provided to the Board by its own doctors. The Board may, however, require a member to appear before the Board before deciding on the member's application or claim.

18-16-020: Medical Claim Appeals:

(1) Any decision of the Board regarding medical claims made in the manner provided in Section 18-16-010(2) 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 30 days after notification of the Board's decision.

(2) 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 10 calendar days notice of the time, place, and nature of the hearing.

18-16-030: Application for Disability Retirement: Every order of the Disability Board granting or denying a disability retirement allowance shall contain the following items 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 while in other employment.

(c) Dates encompassing waiver of disability leave, if applicable; and that applicant established that such disability will be in existence for a period of six months.

(2) Conclusions of law in accordance with law on the basis of the facts in the case.

(3) Decision and Order.

18-16-040: Right to Appeal: 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 within 30 days, 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 the applicant or his duly authorized representative is in attendance at the meeting or hearing and is advised of the decision and of the right of appeal.

18-16-050: Local Board Physician:

(1) A duly licensed and practicing physician or physicians shall be appointed by the Board. No disability retirement shall be approved by the Board without prior examination of the claimant by the Board physician or a specialist of his selection who has been approved by the Board, on or near the expiration of the disability leave period. The Board physician 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 position description of the applicant.

(3) Re-examination of any member on disability retirement shall be conducted by a Board-appointed or approved physician.

18-16-060: Out-of-Area Physicians:

(1) After applying for a disability leave, all out-of-area medical referrals must be approved by the local Board physician.

(2) Authorization for such referrals must also be given by the Board.

(3) All appointments will be scheduled through the Board Secretary.

18-16-070: Annual Member Updates and Privacy Policy Statements:

(1) Each member will be required on a yearly basis to update their personal information and sign a privacy policy statement at the request of the Board.

(2) The Board Secretary will mail an information worksheet and privacy policy statement to each member who will be required to respond in the time frame given. If the member fails to respond within that time frame, further claims submitted will not be processed until the information is received by the Board Secretary.

18-20 DISABILITY LEAVE

18-20-010: Application
18-20-020: Review of Application
18-20-030: Physician's Report
18-20-040: Length of Disability Leave Allowance
18-20-050: Member Cooperation
18-20-060: Rehabilitation Directives
18-20-070: Activities of Members on Disability Leave
18-20-080: Determination of Fitness
18-20-090: Return to Active Service

18-20-010: Application:

(1) All applications for disability benefits shall be submitted on forms provided by the Board. Applications shall include statements from at least one physician, the employer, the employee and the report on the application for disability retirement. Each application shall be accompanied by a list identifying by name, any physician who had been contacted within the last six months for the illness or injury for which disability is claimed; and

(2) If the disability claimed is the result of an accident, a detailed statement, including date, time and place shall be submitted with the application; and

(3) If the disability claimed was incurred in the line of duty, proper evidence must be submitted substantiating this claim.

18-20-020: Review of 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) 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, and of the member's obligation to provide additional information, and the deadline date by which such information must be provided.

(4) 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. Prior to the examination and evaluation, the Board Secretary shall advise each and every examining physician: that such evaluation is being conducted at the direction of the Board; that any reports relating thereto are for the benefit of the Board; and that the physician may be called upon by the Board to testify as to his findings. The member shall notify the physician that the doctor-patient privilege may not be invoked with respect to the above examinations and evaluations.

18-20-030: Physician's Report: 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 that requests the evaluation will compensate the evaluating physician.

18-20-040: Length of Disability Leave Allowance: Such leave shall encompass a period of not less than two regular work shifts and not more than six calendar months.

18-20-050: Member Cooperation: 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; and orders to appear before the Board.

18-20-060: 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 evaluations, the Board may direct that the applicant participate in any reasonable rehabilitation program.

18-20-070: Activities of Members 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 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 would otherwise be detrimental to his return to active service.

(2) If a member in receipt of disability leave allowance, moves of his own volition, to a location more than 100 miles from the location of the Disability Board, any travel expenses 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 current address.

18-20-080: Determination of Fitness: The minimum medical and health standards previously promulgated by the state retirement board for entry or re-entry into the LEOFF System membership, were provided only to safeguard the fiscal integrity of the pension system and are not the applicable standards for any other purpose.

18-20-090: Return to Active Service:

(1) It shall be incumbent upon all members granted disability leave to seek authorization to return to active service at the earliest possible time.

(2) When a member has been disabled, a "Return to Work" slip from the Board-approved physician is required. Board authorization must be given prior to the member's return to duty.

18-24 DISABILITY RETIREMENT

18-24-010: Application
18-24-020: Disability Leave Inclusive
18-24-030: Disability Leave Waived
18-24-040: Examination and Evaluation by Board Physician
18-24-050: Review of Application
18-24-060: Board Approval of Disability Retirement
18-24-070: Board Denial of Disability Retirement – Right to Appeal
18-24-080: Re-Examination and Return to Duty
18-24-090: Member Disability Ceases – Notice of Hearing
18-24-100: Decision and Order Revoking Retirement Allowance

18-24-010: Application:

(1) All applications for disability retirement shall be submitted on forms provided by the Board. Applications shall include statements from at least one physician, the employer, the employee and the report on the application for disability retirement. Each application shall be accompanied by a list identifying by name, any physician who had been contacted within the last six months for the illness or injury for which disability is claimed; and

(2) If the disability claimed is the result of an accident, a detailed statement, including date, time and place shall be submitted with the application; and

(3) If the disability claimed was incurred in the line of duty, proper evidence must be submitted substantiating this claim.

18-24-020: Disability Leave Inclusive: Each application for disability retirement shall be deemed to include an application for six months' disability leave, unless otherwise provided.

18-24-030: Disability Leave Waived:

(1) Any member may sign a written waiver of his rights to all or part of the six months disability leave in order to have his disability retirement application acted on at an earlier date than would otherwise be permitted.

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

18-24-040: Examination and Evaluation by Board Physician:

(1) Applicants for disability retirement shall be re-examined during the fifth or sixth 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 and will not be corrected before the end of the sixth month; or

(b) If the applicant establishes that the disabling condition will be in existence for a period of at least six months and he 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 six-month period of disability leave for the same disability if, based upon this trial period of service, the member is found to be disabled.

18-24-050: Review of Application: The Board will not act on any application for disability retirement before the fifth month of the applicant's disability leave, unless such leave is waived as provided in Section 18-24-030. The Board may, in its discretion, postpone any decision and request additional information or a hearing as provided in Section 18-12-050(7).

18-24-060: Board Approval of Disability Retirement:

(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 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, Department of Retirement Systems, for review. In the event a regular meeting of the Board precedes, by no more than 40 days, the date at which the full six months will conclude and the evidence is clear that the disability can be expected to continue through the full six-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 is physically or mentally disabled to such extent that he 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.

18-24-070: Board Denial of Disability Retirement - Right to Appeal: If an application for disability retirement is denied, the applicant and employer will be notified of the decision and the applicant's rights of appeal to the Director of the Retirement Systems. Notification must be given within 30 days in accordance with RCW 41.26.200.

18-24-080: 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-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 100 miles from his former place of employment, the member may be authorized to be examined by a physician in his 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 evaluation 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 the Administrative Procedure Act, Chapter 34.05 RCW.

(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 year, his 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, it must find that a changed circumstance exists and that the member is not able to substantially perform job duties with average efficiency. A new diagnosis based on the unchanged medical condition, unchanged job duties and unchanged adaptation to the medical condition is not sufficient to cancel the previous Board order.

18-24-090: Member Disability Ceases - Notice of Hearing: 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 Section 18-12-050(1). The purpose of the hearing will be to determine whether the member continues to be disabled.

18-24-100: Decision and Order Revoking Retirement Allowance: 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 conclusions of law. The appellant shall be notified of the decision and order in person or by certified mail.

18-28 CLAIMS FOR MEDICAL SERVICES

18-28-010: Claim Forms
18-28-020: Six-Month Limit
18-28-030: Coordination of Benefits
18-28-040: Subrogation of Claims

18-28-010: Claim Forms: Claims for payment of medical services shall be submitted on forms provided by the Board. In order to maintain privacy, members are required to submit all claims in a sealed envelope addressed to the Disability Board. Explanation of benefits from member's medical insurance provider(s), if any, shall be submitted in addition to the statement of claims form provided by the Board for all claims.

18-28-020: Six-Month Limit: All claims must be submitted to the member's board representative or Secretary within six months of the date of service or the date of processing by the insurance carrier. Claims submitted after this period of time may not be approved by the Board.

18-28-030: Coordination of Benefits: Pursuant to RCW 41.26.150(2), payment of claims shall be reduced by any amount received or eligible to be received under Workman's Compensation, Social Security, Medicare, insurance provided by another employer, pension plan, or any other similar source.

18-28-040: Subrogation of Claims: Upon making payment for authorized medical services, the Board and employer shall be subrogated to all rights of the member against any third 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 City of Kennewick. RCW 41.26.150(3).

18-32 MEDICAL SERVICES RESOLUTIONS

18-32-010: Health Plans
18-32-010: Additional Service

18-32-010: Health Plans: If a member currently has a prepaid health plan, they are required to obtain medical services through that prepaid health plan.

18-32-020: Additional Service: On a case-by-case basis, the Board may authorize additional services to a member. The member will be required to show a need for such additional services prior to authorization by the Board. In making its determination whether to authorize additional services, the Board shall not be bound by the rules of evidence, and the Board's decision shall be deemed final.

NOTE: Approval of additional services is at the discretion of the Board. For any member seeking additional medical services, prior approval must be obtained by the Board in order to be reimbursed for such claims.

18-36 SPECIFIC CLAIMS INFORMATION

18-36-010: General Statements
18-36-020: Dental
18-36-030: Psychiatric Care
18-36-040: Optical Exams, Eyeglasses, and Contact Lenses
18-36-050: Diet Programs/Fitness Clubs
18-36-060: Alcohol and Drug Treatment
18-36-070: Hearing Aids
18-36-080: Chiropractic Care
18-36-090: Physical Therapy
18-36-100: Surgical Procedures
18-36-110: Acupuncture Treatments
18-36-120: Restorative Care Programs
18-36-130: Vaccinations and Immunizations
18-36-140: Impotency Medication
18-36-150: Premiums
18-36-160: Long-Term Care

18-36-010: General Statements:

(1) 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. Services do not include late fees or charges.

(2) No case allowing payment of claims for services shall stand as binding precedent for future similar claims.

(3) Anyone needing special medical equipment or devices must first get approval from the Kennewick Disability Board and if recommended, from the Board Physician. If there is immediate need for the device, the Secretary can obtain phone authorization from members prior to the next regularly scheduled Board meeting.

(4) Medical equipment and devices include any item other than normal medical treatment and prescription.

18-36-020: Dental:

(1) Dental expenses will be considered necessary medical services in those circumstances when they are incurred by a member who sustains an accidental injury resulting in damage to his teeth or gums and commences treatment within 90 days following the accident, or when treatment is justified by way of curing or correcting an existing health problem.

(2) Routine dental care and normal wear or adjustment of dentures are not covered.

18-36-030: Psychiatric Care:

(1) Prior to seeking psychiatric therapy or treatment, members requesting psychological aid are required to see a Board-approved physician (up to three visits) for evaluation. At the conclusion of the physician's evaluation, the physician will provide a report to the Board on the recommended length and type of treatment, if any.

(2) The attending physician must submit an initial treatment plan within 30 calendar days of commencement and treatment, and if the treatment continues, report member progress at least once every three months. If the member's treatment is expected to exceed 12 months, a second treatment plan must be submitted. The Board will review the progress reports and treatment plans to determine whether treatment should continue, or if the patient should be re-evaluated.

(3) Failure to seek evaluation from the Board physician prior to incurring expenses for that treatment may result in the Board's rejection of a member's claim for payment.

(4) Only services deemed necessary will be paid, provided those services are not a result of member dissipation and abuse. Such determination will be made by the Board after considering medical evaluation by the Board physician.

18-36-040: Optical Exams, Eyeglasses, and Contact Lenses: Each LEOFF I member is entitled to the services of a participating physician or a participating optometrist for an eye examination once each year. Note: A year is defined as that 12-month period following the purchase date of the eyeglasses or contact lenses.

(1) Claims for eyeglasses, frames and eye exams will be paid; however, there will be a limit of $100 per year on the cost of frames.

(2) Contact lenses claims will be paid up to a limit of $200 per year.

(3) Members will be reimbursed once a year for either one pair of glasses or contact lenses, but not both.

(4) Benefits are paid for necessary services only and shall exclude tinting, coloring, photo-gray, photo-sun, or other options. Tinting of glasses or contacts will not be paid for, unless such request is required for the line of duty, or is accompanied by a physician's prescription.

(5) Progressive lenses are not considered a covered expense.

(6) Glasses or contacts broken or damaged in the line of duty will be replaced regardless of other reimbursement in the same calendar year. An explanation from the employee and confirmation from one or more witnesses will be required. Replacement of eyeglasses or contacts due to breakage, loss, or theft while off duty (active members) or for retirees will not be paid for by the Board; provided the replacement would be reimbursement for a second set of glasses or lenses within a calendar year.

(7) Radial/laser keratotomy and blepharoplasty surgical procedures will be evaluated by the Board on a case-by-case basis.

18-36-050: Diet Programs/Fitness Clubs: The City of Kennewick's Disability Board encourages and supports physical fitness for its members and is aware of the importance physical fitness provides in the prevention of injury and disease. The Board will pay for all necessary medical costs but will not pay for any food supplement, membership in weight loss programs, physical fitness clubs, health spas or other such programs. The Board will pay for counseling services if prescribed by a physician and performed by a licensed psychologist, psychiatrist, or Dietician/Nutritionist.

18-36-060: Alcohol and Drug Treatment:

(1) All claims submitted for alcohol and drug treatment must have a letter from the Board physician recommending the individual seek treatment.

(2) Any member needing or being requested to go to an inpatient facility for drug or alcohol treatment is required to have Board approval prior to admission. This approval is in

addition to a recommendation from the Board physician. The Board reserves the right to designate the treatment facility.

(3) Payment for inpatient treatment facilities will be made one time only. If problems should reoccur, the patient is responsible for the cost of treatment.

18-36-070: Hearing Aids:

(1) After receiving suitable evidence of medical necessity for hearing aids, the City of Kennewick Disability Board will authorize a payment for hearing aid(s) up to an amount determined by the Board and their designated hearing aid provider. The Board will consider authorization for a hearing aid device every five (5) years. Any claim submitted by a member who chooses not to use the Board designated hearing aid provider or lives outside the service area will be limited to reimbursement up to the amount the designated hearing aid provider would charge. Hearing aids prescribed due to injury, disease or other unusual circumstances will be considered on a case-by-case basis by the Board. The Board will also authorize the cost of necessary repairs, however, routine maintenance and batteries shall be the member's responsibility.

(2) The member may bring recommendations from their hearing specialists before the Board, which shall be reviewed on a case-by-case basis.

18-36-080: Chiropractic Care:

(1) No more than 12 visits per calendar year, including any provided through other sources such as workers' compensation, pre-paid medical, etc., will be approved. The Board may approve additional visits if prior to the added visits, the Board is presented with a report and recommendation for such added visits from a Board-approved physician.

(2) When treatment exceeds 12 visits per year, the Board may require an evaluation of the affected member's chiropractic conditions and prognosis, or a plan for continued chiropractic care from a physician.

(3) A member shall notify the Board, as soon as it is known, that chiropractic treatments may exceed the 12-visit limit in order to allow timely Board action and preclude any hardship on the member.

18-36-090: Physical Therapy:

(1) No more than 12 visits per calendar year, including those provided through other sources such as workers' compensation, pre-paid medical, etc., will be approved. The Board will only approve visits to a duly licensed R.P.T.

(2) When treatment exceeds 12 visits per year, the Board may require an evaluation of the affected member's physical conditions and prognosis, or a plan for continued physical therapy care from a physician.

(3) A member shall notify the Board as soon as it is known that the physical therapy treatments may exceed the 12-visit limit. This will allow timely Board action and preclude any hardship on the member.

18-36-100: Surgical Procedures: For any surgical procedure, the member shall:

(1) Advise the Board no less than one month in advance, unless emergency circumstances do not provide for such notification.

(2) The Board may elect to require a member to consult with a Board-appointed physician to obtain a second opinion regarding the necessity for the surgical procedure.

18-36-110: Acupuncture Treatments: No more than 12 visits per calendar year, including those provided through other sources such as workers' compensation, pre-paid medical, etc., will be approved. The Board may approve additional visits if a report and recommendation for the added visits are presented by a Board-approved physician.

18-36-120: Restorative Care Programs: Due to the generality of restorative care programs, the Board will consider each restorative care program on a case-by-case basis.

18-36-130: Vaccinations and Immunizations:

(1) Flu/Pneumonia vaccinations are considered approved expenses.

(2) Allergy shots, Antigens and supplies for Antigens are considered approved expenses.

18-36-140: Impotency Medication:

(1) Prescription drugs for the treatment of impotency or any type of erectile dysfunction including Viagra, Levitra and Cialis will only be eligible for reimbursement if there is a medical diagnosis for an existing medical condition which causes the impotency or dysfunction being treated, i.e., prostate cancer, high blood pressure, diabetes, vascular disease, or other similar medical condition.

(2) Regardless of the circumstance for which the prescription drugs are deemed medically necessary and the number of doses prescribed by a physician, the Board will only provide reimbursement for a maximum of eight (8) doses per month of any combination of these drugs. Anything over this amount will be the responsibility of the member.

(3) Proper documentation to support the medical necessity of the drug shall be required prior to approval of reimbursement.

18-36-150: Premiums:

(1) Insurance premiums for Medicare Part B and supplemental Medicare Part B are eligible for reimbursement. At the beginning of each calendar year, members must provide a copy of their letter from the Social Security Administration to the Board that delineates their monthly insurance premium amount. Individual monthly requests for insurance premium reimbursement are not required. Reimbursements will be processed on a monthly basis.

(2) Eligible members must apply for Medicare Part B coverage to avoid the potential reduction of medical benefit payments. RCW 41.26.150(2) states that payments for medical services will be reduced by any amounts the member receives or is eligible to receive under workers' compensation, Medicare, insurance provided by your LEOFF employer or another employer, other pension plan or any other similar source.

(3) Members who become eligible after January 1, 2009, but elect not to enroll during their initial sign-up period will not be reimbursed for penalties or surcharges assessed by the Social Security Administration if coverage begins at a later date. The Board, or their designee, will notify members by certified mail prior to the date they become eligible for Medicare benefits to ensure timely enrollment. However, retirees are responsible for their own enrollment.

(4) Members who became eligible for Medicare Part B coverage prior to January 1, 2009, shall be eligible for full reimbursement of their premiums, including any penalty or surcharge associated with late enrollment, as long as the member enrolls for coverage by the completion of the next open enrollment period commencing on January 1, 2010, and running through March 31, 2010. If these members fail to enroll by March 31, 2010, they will no longer be eligible for reimbursement of penalties or surcharges assessed by the Social Security Administration should coverage begin at a later date.

18-36-160: Long-Term Care: The City of Kennewick LEOFF 1 Disability Board establishes the following long-term care policy pursuant to its authority to designate the medical services available to any sick or disabled member under RCW § 41.26.150(b).

(1) **Definitions**:

(a) Activities of Daily Living (ADLs): Daily self-care activities such as eating, dressing, bathing, toileting, transferring, grooming, and continence.

(b) Assisted Living: Generally, a state-licensed program offered at a residential community (not in the member's home) with services that include meals, laundry, housekeeping, medication reminders, and assistance with activities of daily living for individuals who can otherwise live independently. Assisted living facilities do not provide skilled nursing care or medical services.

(c) Custodial care: Custodial care provides in-home assistance in performing activities of daily living. Custodial care is personal care that does not require the continuing attention of trained medical or paramedical personnel, and may also include a component of companionship.

(d) Home health care: Home health care encompasses skilled services such as nursing, and physical and occupational therapies prescribed by a physician and administered in the patient's home.

(e) Hospice care: Care designed to give supportive care to an individual in the final phase of a terminal illness. Hospice care focuses on comfort and quality of life rather than cure.

(f) Nursing home care: Also known as an extended care facility, a nursing home is a licensed facility which provides general long-term nursing care to those who are chronically ill or unable to handle their own necessary daily living needs due to medical limitations or advanced age.

(g) Skilled nursing care: Skilled nursing and skilled rehabilitation services are services prescribed by a physician that: 1) require the skills of qualified technical or professional health personnel such as registered nurses, licensed practical (vocational) nurses, physical therapists, occupational therapists and speech pathologists or audiologists; and 2) must be provided directly by or under the general supervision of these skilled nursing or skilled rehabilitation personnel to assure the safety of the individual and to achieve the medically desired result; and 3) are not custodial in nature.

(2) **Reasonable long-term care expenses authorized**: Reasonable expenses related to long-term care that is determined to be medically necessary and is prescribed by a physician shall be reimbursed by the Board as required by RCW § 41.26.150(1) in an amount not to exceed the median daily or monthly rate for a semi-private room for the specific type of long-term care in the regional area within which the services will be provided, as reported in the most current

Genworth State-Specific Cost of Care Survey; provided, however, that reimbursement shall not be made for long-term care that becomes necessary as the result of dissipation or abuse. In this context, long-term care includes home health care, nursing home care as provided in RCW § 41.26.030(19)(I), skilled nursing care, and hospice care as provided in Section 4 below.

(3) **Custodial Care/Assisted Living:** Custodial care and assisted living, by definition, are not considered medically necessary, and the LEOFF 1 Disability Board need not approve requests for reimbursement for expenses related to long-term custodial care or assisted living. The Board retains the discretion to grant reimbursement under extenuating circumstances as determined on a case-by-case basis. Reimbursement may be appropriate in instances wherein the member's needs could be met by custodial care as opposed to confinement in a nursing care facility. In the event reimbursement for reasonable expenses related to custodial care or assisted living is authorized pursuant to this Section, the Board will pay up to the median daily or monthly rate based on a one bedroom occupancy for the specific type of long-term care in the regional area within which the services will be provided, as reported in the most current Genworth State-Specific Cost of Care Survey. Any decision to authorize reimbursement for custodial care or assisted living shall not set precedent or entitle any other member to reimbursement for similar expenses.

(4) **Hospice Care:** Reasonable expenses related to hospice care for a terminally ill member will be reimbursed under the following circumstances:

(a) The member is admitted to a DSHS-certified or Medicare-approved program; and

(b) The care provided is part of a written plan of continuous care that has been prescribed and is being periodically reviewed by a physician; and

(c) If eligible for Medicare, the member has applied for and is receiving both Part A and Part B of Medicare coverage, whether paid for by the employer or the member.

(5) **Independent Examination**: Pursuant to RCW § 41.26.150(1)(a), the LEOFF 1 Disability Board may, at any time, require the member seeking reimbursement for long-term care to submit to an examination by the Board's appointed physician for the purpose of ascertaining the nature and extent of the sickness or disability and the appropriateness of the recommended long-term care prescribed. The Board may also require periodic reports from the facility or treating physician to justify continued reimbursement of reasonable expenses related to long-term care.

(6) **Procedures for reimbursement:**

(a) All requests for reimbursement related to long-term care must be pre-approved by the City of Kennewick LEOFF 1 Disability Board.

(b) Expenses must be reasonable and related to medically necessary services in order to qualify for reimbursement. "Medically necessary services" are those prescribed by a physician. To determine whether expenses are reasonable, the Board may consider factors such as the cost of similar services, the availability or exclusiveness of a particular service, and the duration of time the service will be required, in addition to any other relevant information. In no circumstance shall the reimbursement exceed the median daily or monthly rates outlined in sections (2) and (3) above.

(c) To initiate the claim process, the member or his/her designee shall complete the Medical Report and Request for Long-Term Care Form. When reimbursement for expenses related to in-home care is requested, the member or his/her designee

shall also complete the Home Care Services Assessment Form. Failure to complete the required forms will result in denial of any request for reimbursement. Incomplete forms will be returned to the member for further information.

(d) Before reimbursement will be made, the member or his/her designee must provide documentation indicating that coordination of benefits has occurred and that all other entities legally obligated to pay a portion of the expenses related to long-term care have satisfied their financial obligation. Pursuant to RCW § 41.26.150(2), the legal financial obligation of the LEOFF 1 Disability Board is to make up the difference between the actual cost of reasonable necessary medical expenses and the amount paid by other forms of coverage (i.e., Medicare, private insurance, other pensions, workers' compensation, etc.).

(e) Itemized statements or billings must be submitted that adequately identify and/or describe the expenses incurred. Services that are not deemed to be medically necessary are not covered. Such services shall include, but are not limited to, house cleaning, laundry services, cooking, companionship, cable, telephone services, etc.

(f) All off-site facilities providing medically necessary services for which a member seeks reimbursement of reasonable expenses shall be licensed by the state in which they are located. In the event the Board approves reimbursement of expenses related to assisted living under Section 3 above, the assisted living facility must also be state-licensed. The member or his/her designee is responsible for providing documentation of the applicable state license.

(g) All individuals providing medically necessary services for which a member seeks reimbursement of reasonable expenses shall be state-licensed and bonded. The Board shall not provide coverage for a caretaker who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse, unless such individual is also a licensed and bonded care provider. The member or his/her designee is responsible for providing documentation proving the care provider's license and bond requirements.

(h) The Board shall only reimburse for qualified expenses related to services rendered. The Board will not make advance payment of any charges.

18-40 TRAVEL REIMBURSEMENT

18-40-010: General Information
18-40-020: Allowance Rates
18-40-030: Procedures

18-40-010: General Information:

(1) All out-of-town referrals must be pre-approved by the Board physician.

(2) The Board will reimburse travel costs for out-of-area medical referrals when a medical problem cannot be diagnosed or corrected by the local Board physician or any other approved local physician. When a medical problem can be corrected locally, those members wishing to be treated by an out-of-area physician must pay their own expenses to and from the physician or treatment facility.

(3) Travel expense is for the member only.

(4) Travel reimbursement will be for the diagnostic trip only. Subsequent trip expense will be evaluated by the Board.

18-40-020: Allowance Rates:

(1) Travel reimbursement will be based upon the current City of Kennewick Travel Policy and Procedures.

(2) Travelers using private vehicles for City business must maintain adequate insurance coverage consistent with the laws of the State of Washington.

18-40-030: Procedures: Travel reimbursement forms for out-of-area referrals can be obtained from the Board Secretary. Upon return, this form should be completed and returned to the Secretary. As outlined by current City of Kennewick policy, receipts are required for all expenditures, including meals, and must be attached to the completed travel allowance form.

18-44: RECONSIDERATION

18-44-010: Procedure
18-44-020: Grounds
18-44-030: Stay

18-44-010: Procedure: The member may petition, in writing, the Board to reconsider any decision made, if done within 14 days of the Board's decision.

18-44-020: Grounds: The Board may reconsider its decision if one of the following grounds and supporting facts are alleged:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in making the decision;

(2) Newly discovered evidence;

(3) Fraud, misrepresentation, or the misconduct of an adverse party;

(4) The decision is void;

(5) Any other reason, which, in the Board's discretion, justifies relief.

18-44-030: Stay: 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.

18-48 AMENDMENT AND REVIEW OF POLICY

18-48-010: Amendments
18-48-020: Review

18-48-010: Amendments: 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.

18-48-020: Review: These rules and regulations shall be reviewed annually to assure that:

(1) Provisions herein remain in conformance with Washington statutory and administrative codes and the City of Kennewick Code.

(2) Provisions herein reflect the current philosophy and intent of this Board.