

CITY OF ARLINGTON

LEOFF 1

DISABILITY BOARD

RULES 2023



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CITY OF ARLINGTON LEOFF 1 DISABILITY BOARD RULES AND REGULATIONS

PURPOSE: The purpose of these rules is to establish uniform methods of procedure for the conduct of the business of the City of Arlington LEOFF 1 Disability Board. This Board was established pursuant to the authority of RCW 41.26.110 and Chapter 164, Washington Laws passed in 1988 and its powers, duties, and responsibilities are as established by State Law. In the event of any conflict of these rules with State law, the latter shall govern.

SCOPE: These rules and regulations shall be applicable to all LEOFF 1 employees and retirees covered by chapter 41.26 RCW whether firefighter or police officer, unless specifically provided herein.

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

DEFINITIONS:

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

HIPAA: The Health Insurance Portability and Accountability Act (Pub. L. No. 104-191) and its implementing requirements relating to privacy and security of individually identifiable health information set out at 45 CFR Parts 160 and 164.

MEMBER: A law enforcement officer or firefighter eligible for benefits provided under Chapter 41.26, LEOFF I plan.

NECESSARY MEDICAL SERVICE, MEDICALLY NECESSARY OR MEDICAL NECESSITY: And words of similar import shall mean, as to services or supplies, but not be limited to:

- 1) It is required to diagnose or treat a condition.
- 2) It is consistent with the symptoms or diagnosis and treatment of the condition.
- 3) It is the most appropriate level of service that is essential to the member.
- 4) It is not primarily for the convenience of the member.

The fact that a service or supply is furnished, prescribed, recommended or approved by a physician or other provider will not, of itself, make it medically necessary. A service or supply may be medically necessary in part only.

SECTION 1 -THE BOARD

1.1 Membership - the Board shall consist of five (5) members as follows:

- 1) One member of the City Council.
- 2) One member of the City Council.
- 3) One firefighter representative employed or retired.
- 4) One law enforcement officer representative employed or retired.
- 5) One member from the public at large.

The Board members shall serve a two (2) year term. In the event a vacancy occurs in the membership, a successor shall be elected or appointed as in the original election to serve the remainder of the unexpired term. The members of the Board will appoint their own chairperson. Members shall be selected pursuant to RCW Chapter 41.26.

1.2 Election of the firefighter and law enforcement officer representatives: Both retired and employed members who are subject to the jurisdiction of the Board have both the right to elect and the right to be elected as the firefighter or law enforcement officer representative.

By January 15 of each even numbered year, any retired or employed firefighter or law enforcement officer may submit nominations for the respective representative to the Secretary of the Board. The Secretary will prepare and mail ballots to all members eligible to vote by January 20. Each ballot shall be returned in a sealed, specially marked envelope provided by the Secretary, within two (2) weeks. The ballots shall be opened and counted by the Secretary at specified time, place and date, and may be witnessed by any interested member. Each ballot shall only contain the name of any person nominated in writing to the Secretary and no write-in names shall be allowed. In the event only one name is nominated for a position, no mail out ballot shall be required, and the election shall be concluded.

IT SHALL BE EACH MEMBER'S RESPONSIBILITY TO ADVISE THE SECRETARY OF HER/HIS CURRENT MAILING AND EMAIL ADDRESS.

1.3 Duties of the Board Members and Secretary:

- 1) Chairperson - The chairperson shall preside at all meetings and/or hearings of the Disability Board and 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 a violation of the appearance of fairness doctrine or a conflict of interest. S/he 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) Vice Chairperson - The vice chairperson shall assume the duties and powers of the chairperson in her/his absence.
- 3) Secretary - The Secretary shall be appointed by the Mayor. The Secretary shall keep the minutes and all regular, adjourned and special meetings of the Disability Board. The Board shall approve such minutes and copies shall be distributed to all members of the Board. The Secretary shall prepare the agenda of regular and special meetings, shall give notice of all disability hearings, and shall draft and sign routine correspondence for the Board.

1.4 Meetings

- 1) The regular monthly meeting of the City of Arlington LEOFF 1 Disability Board shall be held on the second Wednesday of each month in an available room in a City facility and/or via Zoom or other approved virtual meeting format at 9:00 A.M. In the event that the second Wednesday is a holiday the meeting shall be held on the following Wednesday. Special meetings of the Board shall be held upon the call of the Chairperson, of which notice shall be given in accordance with RCW 42.30.080. The public may attend regular meetings, provided, however, that 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 request for benefits,

- where the Board finds that such deliberations might be expected to include discussion of sensitive personal information relating to a particular applicant.
- 2) Information relating to any member's claim, may be released only as required by chapter 42.17 RCW, as authorized by federal law (including certain medical information disclosed to medical experts as provided herein), pursuant to court order meeting the requirements of 45 CFR 164.512(e), or upon written authorization of the member. The affected member shall be notified when his/her medical records are released and to whom they were released. All records under the jurisdiction of the Disability Board shall be stored in a locked file cabinet and accessible only by the Board Secretary or his/her designee or other person so authorized by the Board.
 - 3) At no time shall anyone attending be authorized to videotape or tape record closed portions of disability Board meetings unless specifically authorized by the Board.
 - 4) Three (3) members shall constitute a quorum and the same shall have power to transact all business. Each Board member is expected to notify the Secretary three (3) working days prior to a scheduled meeting if that member will be unable to attend the meeting.
 - 5) The LEOFF Board Secretary preceding each regular monthly meeting shall prepare an agenda.
 - 6) "Robert's Rules of Order" shall guide the Board where rules or state law does not otherwise govern the proceedings.
 - 7) If any person(s) on the Board concludes that s/he has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the Board so that s/he cannot discharge her/his duties, s/he shall disqualify her/himself from participating in the deliberations and the decisions making process with respect to the matter.
 - 8) If at a meeting, significant conflicting evidence is presented, the Board will schedule an evidentiary hearing and give twenty (20) days' notice thereof to all parties.

1.5 Hearings

The Board may hold a full hearing on any matter when deemed necessary. To ensure consideration by the Board, all documentary evidence should be submitted to the Secretary of the Board five (5) working days before the hearing.

At such a hearing:

- (a) Any person testifying before the Board may have her/his attorney present.
- (b) Opportunity shall be afforded all parties to respond and present relevant evidence and argument on all issues involved.
- (c) Unless precluded by law, informal dispositions may also be made of any contested case by stipulation, agreed settlement, consent order, or default.
- (d) The record of a hearing shall include:

- 1) All pleadings, motions, intermediate rulings;
- 2) Evidence received or considered;
- 3) A statement of matters officially noticed, if any;
- 4) Questions and offers of proof, objections, and ruling thereon, if any;
- 5) Prepared findings and exceptions, if any; and,
- 6) Any decisions, opinion, or report by the Board.

(e) All oral proceedings in a Board hearing may be recorded. The Board, under RCW 42.30.140(2), may close those portions of meetings relating to consideration of specific claims where consideration of the claim may include discussion of sensitive or protected information. If a hearing is 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 cost thereof.

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

(g) The Disability Board may:

- 1) Administer oaths and affirmations, examine witnesses, and receive evidence;
- 2) Issue subpoenas as provided in subsection (h) below;
- 3) Rule upon offers of proof and receives relevant evidence;
- 4) Take or cause depositions to be taken pursuant to rules promulgated by the Board; and,
- 5) Regulate the course of the hearing.

(h) The Board may compel the attendance of a witness at any hearing as follows:

- 1) The Board may issue a subpoena on its own motion or on the request of any party.
- 2) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the Board may petition the Superior Court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the Board.
- 3) Witness subpoenaed to attend such a hearing shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by RCW 2.40 and by RCW 5.56.010, as now or hereafter amended, as to Courts. Such fees and allowances, and the costs of producing records required

to be produced by its subpoena, shall be paid by the Board or, by the party requesting the issuance of the subpoena.

SECTION II - PROCESSING CLAIMS GENERALLY

- 2.1 Claims shall be submitted by the member not the provider unless otherwise approved or requested by the Board. All material to be considered in connection with any claim must be submitted to the Board at least ten (10) calendar days prior to the Board meeting at which such claim is to be considered. Material submitted after such time may be considered at the discretion of the Board.
- 2.2 The Board's decision to approve or deny 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 require a member to appear before the Board before deciding on the member's claim.
- 2.3 Any decision of the Board regarding medical claims made in the manner provided in Rule 2.3 may be appealed to the Board for a hearing and reconsideration of its decision. Notice of such a hearing must be filed with the Board no more than thirty (30) days after notification of the Board's decision.
- 2.4 When the Board receives a notice of appeal, a hearing shall be scheduled before the Board at its next regular meeting or at a special meeting as determined by the Board. The party appealing the decision shall be given at least ten (10) days' notice of the time, place, and nature of the hearing.
- 2.5 Board Appointed Physician.
 1. The Board shall have authority to appoint a duly licensed physician or other related specialist such as physical therapist, occupational therapist etc., who has expertise in the area of evaluation being requested by the Board, to determine if requested medical service is medically necessary.
 2. The Board appointed physician or specialist may make recommendations to the Board as to any other medically necessary services that may be needed by the member.
 3. The Board or member being examined shall provide any information to the physician or specialist that may be deemed necessary in accomplishing the exam requested.

SECTION III - CLAIMS FOR MEDICAL SERVICES

- 3.1 Claims for payment of medical services shall be submitted to the Board after member has made claim to her/his medical insurance company. The member shall submit itemized billings from the physician or provider and explanation of benefits from member's medical insurance company. Payment for services shall be made to the member unless otherwise requested by the member. All claims for medical services provided for by these rules shall be submitted to the Board within one (1) year from the date of service, unless extenuating circumstances substantiate the necessity for late filing.
- 3.2 Payment of claims shall be reduced by any amount received or eligible to be received under Social Security, Medicare, insurance provided by another employer, pension plan, or other similar source.
- 3.3 The Board may not approve payment of medical/dental services in cases where the member could have obtained reasonably equivalent services through a prepaid health plan. The Board will decide which services are reasonably equivalent.
- 3.4 Upon making payment for authorized medical service the 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 employer.
- 3.5 The chairperson or a quorum of the Board may approve, at other than regular Board meetings, payment of claims.
- 3.6 Payment of Claims - Claims for necessary medical services approved by the Board shall be summarized on a list and only the list shall be forwarded to Accounts Payable in the Finance Department for payment. Supporting documentation shall be kept in a secured location in the LEOFF Office

SECTION IV - MEDICAL SERVICES RESOLUTIONS

- 4.1 Each member must obtain medical services through her/his prepaid health plan, if any.
- 4.2 The Board may authorize additional services and providers on a case by case basis upon a showing of medical necessity by the member. The Board may, at its discretion, notify the City's Human Resources Director of the member's request for authorization for additional services and they shall be entitled to respond to that request. In making its determination whether to authorize additional services or providers the Board shall not be bound by rules of evidence and the decision of the Board shall be final.
- 4.3 Medical services obtained in excess of those provided for in subsections 4.1 and 4.2 of this section shall be at the expense of the member unless the Board in its discretion finds that compliance with subsection 4.1 and 4.2 was not possible under the circumstances or unless justice requires.
- 4.4 If a member is seeking medical services in excess of those provided in subsections 4.1 and 4.2; the member must obtain prior approval from the Board to guarantee payment of such claims.
- 4.5 Other than extreme emergency situations, all out of country medical expenses must be pre-approved by the Board.

SECTION V - POLICIES REGARDING CERTAIN CLAIMS

- 5.1 The Board will approve payment of claims for all medical services defined in RCW 41.26.030 under the conditions set forth in RCW 41.26.150. Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability Board shall be the judge, is confined in any hospital or in her/his home, and whether or not so confined, requires medical services, the employer shall pay for such active or retired member the necessary medical services not payable from some other source as provided for in RCW 41.26.150, subsection 2.
- 5.2 Mental Health Services – Payment for psychological services to a member during a continuous 12 month period will be approved only under the following conditions:
- 1) The Psychologist is licensed by the State of Washington pursuant to RCW 18.83 or other state whose certification requirements are, at a minimum, equivalent to the certification requirements set forth by Washington State.
 - 2) The Psychologist submits to the Board upon request an individualized treatment plan which was prepared within one (1) month of commencement of treatment. Updated treatment progress reports to be submitted by the Psychologist every six (6) sessions in order for the Board to determine whether charges for such treatment should continue to be approved for payment.
 - 3) The above rules shall also apply for all mental health treatment provided by the Board.
- 5.3 Dental Expenses:
- 1) Dental charges incurred by a member who sustains an accidental injury to his or her teeth shall be paid.
 - 2) The expense of one (1) general dental checkup each year will be covered for each member.
 - 3) No more than two (2) dental cleanings each year will be covered for a member, unless it is determined, in the discretion of the Board, that a more frequent cleaning schedule is medically necessary in a particular case or for a particular member.
 - 4) Every member shall have at least one (1) dental cleaning and one (1) dental checkup once a year, defined as a 12 month period. Failure to do so shall impact reimbursement and/or authorization for other dental procedures.
 - 5) The dental expenses incurred by a member for routine dental and periodontal work, as may be found by the Board to be medically necessary, will be covered.
 - 6) Dental expenses incurred by a member for dental services or work which is purely cosmetic in nature will not be approved, except in unusual circumstances, and then only with the prior written approval of the Board and based upon medical necessity.
 - 7) Dental expenses incurred by a member for teeth whitening will not be approved.
 - 8) Board authorizes \$25.00 maximum for fluoride treatment once per year.

5.4 Eye Glasses

The Board will approve payment of the expense of eye glasses prescribed by an ophthalmologist or optometrist as follows:

- 1) One (1) eye examination per year less amount payable by insurance.
- 2) One set of frames and lenses every two (2) years. Cost not to exceed \$200.00 for frames and \$300.00 for lenses if purchased separately or \$500.00 per set combined. The \$500.00 shall be less any amount payable by some other source such as insurance.
- 3) Lens and/or frame replacement caused by breakage or loss will only be approved if the breakage or loss occurs through no fault or negligence of the member such as being hit, a vehicle accident, or other type of accident such as a fall, subject to approval of the Board.
- 4) The member may only receive glasses (lenses & frames) OR contacts during a two year period. The Board will not approve payment for both.

The Disability Board, with the receipt of related bills and medical information, may, in its discretion, review individual circumstances not covered above. Pre-approval is required if a member needs glasses more frequently than every two years.

5.5 Health Club Memberships – Health club memberships may be approved by the Board on a case-by-case basis in lieu of physical therapy for rehabilitation purposes only.

5.6 Alcohol/Drug/Substance Abuse Treatment - The Board's policy is to provide for the treatment of substance abuse at a facility licensed by the State to provide that service. The member is to first obtain a referral from the member's physician for the selected facility or organization, subject to review by a Board appointed physician.

Treatment may consist of inpatient or outpatient treatment with the prior approval of the Board. The member shall receive prior approval from the Board whenever possible.

Payment for substance abuse treatment will be subject to a maximum lifetime limit of one single course of treatment. Extenuating circumstances may be reviewed at the discretion of the Board.

5.7 Hearing Aids – Hearing aids may be approved upon showing of medical necessity and may be replaced every five years. Failure to deliver this evidence may result in denial of payment of all or part of the costs of such hearing aid or device. Batteries and maintenance supplies will be provided upon approval of the Board. All hearing devices require Board pre-approval.

5.8 Necessary Procedures – Only services for medically necessary procedures will be considered. The following will not be considered:

- 1) Sterilization;
- 2) Cosmetic surgery or procedures, except those expenses arising from cosmetic surgery or procedures that are directly related to traumatic injury may be covered if approved by the Board prior to being incurred.

5.9 Surgical Procedures - For any surgical procedure which is not performed on an emergency or urgent basis the member shall:

- 1) Advise the Board, one (1) month in advance,
- 2) The Board may elect to require such member to see a Board appointed physician for a second opinion as to the necessity for such surgical procedure.

5.10 Day Care/Nursing Home Care/Assisted Living Care/Independent Living Care for members must receive prior approval of the Board whenever possible. It shall be the policy of the Board to keep members in their own home rather than a care facility when at all possible. Cost of in home care may not exceed the cost of a care facility without Board approval.

5.11 Chiropractic – The Board will approve up to twenty (20) annual visits to a Chiropractor licensed by the State of Washington pursuant to RCW 18.25 or a Chiropractor in another state whose certification requirements are, at a minimum, equivalent to the certification requirement set forth by Washington State provided:

- 1) The Board receives an evaluation and treatment plan for more than four (4) chiropractic visits for the same injury/illness/condition.
- 2) The Board requires a referral and documentation stating the medical necessity from the member's physician if chiropractic visits exceed 20 per calendar year.

Nothing shall prevent the Board from extending the number of allotted visits upon proof of medical necessity.

5.12 Acupuncture/Acupressure/Massage Therapy/Physical Therapy shall be provided under the following conditions:

- 1) Services have been prescribed by a licensed physician stating the medical necessity.
- 2) If treatment is to be continuous (more than four (4) visits for the same illness or condition) an evaluation and proposed treatment plan must be submitted by the prescribing physician to the Board for pre-approval.

5.13 Minor Claims - Claims which individually or when aggregated with other related claims of the member do not exceed ten dollars (\$10), will only be considered by the Board quarterly. Such claims will be accumulated by the Secretary and presented to the Board quarterly

5.14 Reasonable Charge - The Board shall be responsible for determining what is reasonable.

5.15 Medications - Medications will only be covered when prescribed by a licensed medical provider.

- 1) Smoking cessation prescriptions and medication shall be limited to a 90-day lifetime maximum.
- 2) Sexual dysfunction and infertility prescriptions may be approved upon showing of medical necessity, and shall be limited to no more than six (6) doses per month.

5.16 Medicare Coverage - Where, at a member's request the LEOFF 1 Disability Board has authorized payment of members Medicare B premium, the Board shall require that member to seek medical services from a Medicare B Provider, unless, such member can show just cause that necessary medical treatment will not be provided, such as, emergency or out of the area treatment.

- 1) Every member is required to sign up for Medicare Part B when eligible.

SECTION VI - RECONSIDERATION

61 Procedure: The member or employer may petition in writing the Board to reconsider any decision made, if done within thirty (30) days of notice of the Board's decision.

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 misconduct of an adverse party;
- 4) The decision is void;
- 5) Any other reason which, in the Board discretion, justifies relief.

62 Stay: Pending the reconsideration, the decision of the Board may be stayed. The stay shall apply to the next meeting of the Board, at which time the reconsideration will be heard.

63 Terms: If the Board finds that the motion to reconsider was frivolous, without any arguable basis, or in bad faith, the Board may award terms for the prevailing party.

SECTION VII - 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. All members under the jurisdiction of the Board shall be notified or provided with a copy of all rule changes.

SECTION VIII - REVIEW

These rules and regulations shall be reviewed annually in June of each year or whenever the Board deems necessary to assure that:

- (1) Provisions herein remain in conformance with Washington statutory and administrative codes and/or the City of Arlington Municipal Code.
- (2) Provisions herein reflect current philosophy and intent of the Board.
- (3) Rule changes will be introduced at a regular meeting and voted on at the next regular scheduled meeting.

ADOPTED by the City of Arlington LEOFF 1 Disability Board the 9th day of August, 2023.

CITY OF ARLINGTON LEOFF 1 DISABILITY BOARD


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