

Disability Appeals Fact Sheet

All Tiers



NYC EMPLOYEES'
RETIREMENT SYSTEM

May 2024

PREPARATION

For members represented by a union, if you have not already done so, please contact your union. In addition, brochures and fact sheets for your specific Tier and Plan are available at nycers.org/forms-and-publications.

Please review the Medical Board Report before attending the appeal.

If the Medical Board Report indicates that **you are disabled but there is no causality**, this means that the Medical Board does not find that the incident or accident you specified on your application was the cause of the disability.

If the Medical Board Report indicates that **you are disabled but the incident was not an accident**, this means that the incident specified on your application was not "sudden, fortuitous or unforeseen in nature." An accident is something that occurs that is out of the ordinary. See the following pages for additional information on disability benefit types.

NYCERS suggests that you consult with your union representative or an attorney who is well-versed in the laws prior to your appearance, and that you also consider allowing that person to accompany you to your appeal.

ARRIVAL

Please arrive on time and sign the attendance sheet. You will be called to appear in order of your arrival time.

If you are represented by an attorney, your attorney may attend the appeal.

You may also choose to be accompanied by a non-attorney, such as a relative or a union representative. Your representative(s) may attend the appeal.

You may bring additional documentation to the appeal, such as photographs or videos. However, it is preferable to submit any new documentation prior to the appeal.

Please let NYCERS know two weeks prior to your appeal date if you require the services of a language interpreter.

APPEARANCE

The Board of Trustees is made up of 11 members representing elected officials and unions. Board members will be identified by placards where they are seated.

NYCERS staff, NYC Law Department staff, alternate trustees, and actuarial staff may also be present at the appeal.

A stenographer will be present to record all statements. The record is confidential and will not be shared with anyone except the Board of Trustees and staff unless you provide authorization for its release.

The Chairperson will begin by asking you to identify yourself for the record. Your representative(s), if any, will also be asked to identify themselves for the record.

You may then present any information you choose in support of your application. The Board of Trustees may or may not ask questions.

FOLLOW-UP

Upon your departure, the Board of Trustees will deliberate on the matter. NYCERS staff will notify you in writing as to the outcome of your case.



DISABILITY BENEFITS

Social Security Dependent Accident Disability Retirement Benefits – RSSL §507

Tier 3 Uniformed Correction Force, Tier 4 with Tier 3 Rights, 22-Year Plans (does not include 22-Year Enhanced Plans)

A qualifying member must be found eligible to receive primary Social Security Disability benefits for the claimed body part, **and** found by the NYCERS Medical Board to be disabled from performing the duties of their job title due to a physical or mental impairment. The disability must be the natural and proximate result of an accidental injury sustained in City service, not caused by their own willful negligence.

Accidental Disability Retirement Benefits – RSSL §507

22-Year Correction and Sanitation Enhanced Disability Benefit Plan

A qualifying member must **either** be eligible to receive primary Social Security disability benefits **or** found by the NYCERS Medical Board to be disabled from performing the duties of their job title due to a physical or mental impairment, and the disability must be the natural and proximate result of an accidental injury sustained in City service, not caused by their own willful negligence.

Disability as the Result of an Accident – RSSL §507-a

Tier 3 Uniformed Correction Force and 22-Year Correction Enhanced Disability Benefit Plan

A qualifying member must have less than 10 years of Credited Service and be found disabled by the NYCERS Medical Board as a natural and proximate result of an accidental injury sustained in City service, not caused by their own willful negligence.

Performance of Duty Disability Retirement – RSSL §507-c

Tier 3 Uniformed Correction Force and 22-Year Correction Enhanced Disability Benefit Plan

A qualifying member must be found disabled by the NYCERS Medical Board as a natural and proximate cause of an act of an inmate. A qualifying member may also apply under §507-c if they have contracted HIV (through the bodily fluids of an inmate), tuberculosis, or hepatitis while in the performance of duties. A presumption is then applied that the disease was contracted in the performance or discharge of duties unless the contrary can be proven by competent evidence.

Heart Law GML §207-o

Tier 3 Uniformed Correction Force and 22-Year Correction Enhanced Disability Benefit Plan

The Heart Law provides a presumption that certain diseases of the heart were incurred in the performance of duty. The presumption may be rebutted by competent medical evidence. Correction officers who are approved for disability under the Heart Law are entitled to a Performance-of-Duty Disability Benefit.

Disability as the Result of an Accident – RSSL §605

Tier 4 and Tier 6

A qualifying member must have less than 10 years of Credited Service and be found disabled by the NYCERS Medical Board as a natural and proximate result of an accidental injury sustained in City service, not caused by their own willful negligence.

Uniformed Sanitation Accidental Disability – RSSL §605-b

Tier 4

A qualifying Uniformed Sanitation member must be found by the NYCERS Medical Board to be disabled for the performance of duty as a natural and proximate result of an accidental injury sustained in service while a Uniformed Sanitation member, not caused by their own willful negligence.

Deputy Sheriffs Accidental Disability – RSSL §605-c

Tier 4 and Tier 6

A NYC Deputy Sheriff must be found by the NYCERS Medical Board to be physically or mentally disabled for the performance of duties as the natural and proximate result of an accident, not caused by their own willful negligence.



EMT Uniformed Force Performance-of-Duty Disability – RSSL §607-b*Tier 4 and Tier 6*

A qualifying member of the EMT Uniformed Force must be found by the NYCERS Medical Board to be disabled for the performance of duties on or after March 17, 1996 as the natural and proximate result of an injury sustained while employed as a member of the EMT Uniformed Force. A member may also apply under this section if they have contracted HIV (through the bodily fluids of a person under care), tuberculosis, or hepatitis while in the performance of duties. A presumption is then applied that the disease was contracted in the performance or discharge of duties unless the contrary can be proven by competent evidence.

EMT Heart Law – GML §207-q*Tier 4 and Tier 6*

The Heart Law provides a presumption that certain diseases of the heart were incurred in the performance of duty. The presumption may be rebutted by competent medical evidence. EMTs who are approved for disability under the Heart Law are entitled to a Performance-of-Duty Disability Benefit.

Uniformed Sanitation Heart Law – GML §207-r*Tier 4 and 22-Year Sanitation Enhanced Disability Benefit Plan*

The Heart Law provides a presumption that certain diseases of the heart were incurred in the performance of duty. The presumption may be rebutted by competent medical evidence. Uniformed Sanitation members who are approved for disability under the Heart Law are entitled to an Accidental Disability Benefit.

World Trade Center (WTC) Disability Law

The World Trade Center (WTC) Disability Law provides a presumption of accidental disability for NYCERS members who participated in WTC Rescue, Recovery or Clean-Up Operations and are found by the NYCERS Medical Board to be disabled from a Qualifying Condition or Impairment of Health. Benefits are paid according to the provisions that cover accidental disability for the member's tier and title.

