

Chapter 415-04 WAC

PETITION PROCEDURE

WAC

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WAC 415-04-010 Definitions. Good reason means a strong reason for failing to respond to a request for information by the petition examiner. A good reason you may need more time to respond to the petition examiner's request for information may include, but is not limited to, the following examples:

(1) You could not provide information within the requested time period because you were in the hospital, which prevented you from responding; or

(2) The information that you need to submit is not readily accessible and requires additional time to obtain. If this is the case, you must explain why it will require more time to obtain this information.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-010, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-04-010, filed 7/29/96, effective 7/29/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. WSR 93-11-079, § 415-04-010, filed 5/18/93, effective 6/18/93; Order 4, § 415-04-010, filed 7/27/77.]

WAC 415-04-015 When can I use the petition process? You may use the petition process to request review of administrative decisions that address the following matters, including, but not limited to:

- (1) Service credits;
- (2) Service retirement benefits;
- (3) Membership in the retirement systems;
- (4) Disability benefits, except as otherwise provided by law;
- (5) Survivor benefits; and
- (6) Benefit increases provided by RCW 41.16.145 or 41.18.104.

(7) Deferred compensation accounts, except that review of decisions regarding payments due to unforeseeable emergency, are governed by WAC 415-08-015.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-015, filed 8/24/01, effective 9/24/01.]

WAC 415-04-017 What is not covered by this chapter? You may not use the petition process to request review of administrative decisions that address the following matters, including, but not limited to:

(4/14/04)

(1) Overpayments if the procedures in RCW 41.50.135 or 41.50.138 apply.

(2) Deferred compensation plan payments because of an unforeseeable emergency (see WAC 415-08-015).

(3) Law enforcement officers' and firefighters' (LEOFF) Plan 1 appeals of disability board decisions that the LEOFF administrator reviews. For more information about LEOFF Plan 1 disability board appeals, please refer to RCW 41.26.-140 (reexaminations of disability beneficiaries), RCW 41.26.200 (right to appeal); WAC 415-104-035 (jurisdiction), WAC 415-104-045 (who can appeal, and deadline), WAC 415-104-050 (how DRS will handle the appeal), and WAC 415-104-060 (records reviewed on appeals).

[Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42. WSR 02-12-084, § 415-04-017, filed 6/4/02, effective 7/5/02. Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-017, filed 8/24/01, effective 9/24/01.]

WAC 415-04-020 How do I file a petition for review?

(1) You may request administrative review of an administrator's decision by filing a petition with the petition examiner.

(2) You must file the petition within one hundred twenty days from the date you received the administrator's decision.

(3) If you fail to file the petition within one hundred twenty days, you lose the right to judicial review, because of your failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-020, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-04-020, filed 7/29/96, effective 7/29/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. WSR 93-11-079, § 415-04-020, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050. WSR 91-19-064, § 415-04-020, filed 9/16/91, effective 10/17/91; Order 4, § 415-04-020, filed 7/27/77.]

WAC 415-04-025 Who may file a petition? You may file a petition if you are a member, current or former spouse, designated beneficiary or employer, and have a sufficient stake in the outcome of the petition proceeding.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-025, filed 8/24/01, effective 9/24/01.]

WAC 415-04-030 What should my petition include?

Your petition should include:

(1) A statement of what you want the department to do (relief requested) after considering the petition;

(2) An explanation of why your request has merit;

(3) All facts relating to the petition, including any relevant documents or sworn statements;

(4) The name and address of your attorney, if applicable; and

(5) Your name, address, phone number, fax number, e-mail address, and signature.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-030, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-04-030, filed 7/29/96, effective 7/29/96.]

WAC 415-04-035 How much information do I need to provide in support of my petition? You bear the burden of convincing the petition examiner that you are entitled to the relief requested. You must provide sufficient information to outweigh the information that the plan administrator used in making the administrative determination that is being reviewed.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-035, filed 8/24/01, effective 9/24/01.]

WAC 415-04-037 If I petition for disability retirement benefits, who pays the cost of obtaining additional medical data? If you petition the department for a disability retirement benefit and you need to provide additional medical data in support of your petition, you must pay any cost involved.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-037, filed 8/24/01, effective 9/24/01.]

WAC 415-04-040 What will the department do after receiving my petition? (1) A petition examiner will review your petition.

(2) Within fourteen days from the date that you file a petition with the department, the petition examiner will determine whether you have a sufficient stake in the outcome of the proceeding to have the department consider the issues in your petition.

(a) If the petition examiner determines that you **do not** have a sufficient stake in the outcome, the petition examiner:

(i) May refer the matter back to the plan administrator for further investigation.

(ii) Will notify you of this decision within fourteen days of the date you file the petition. You may appeal this decision to the presiding officer under WAC 415-04-050.

(b) If the petition examiner determines that **you do** have a sufficient stake in the outcome, the petition examiner:

(i) Will notify interested parties, such as the member, current or former employer(s), designated beneficiaries, former spouse or the department, that you filed a petition;

(ii) Will request that the interested parties submit any written response to the petition no later than twenty days from the date of receipt of the notice;

(iii) May extend the time limit for response if the interested party shows a good reason to need more time.

(3) The petition examiner may request additional information at any time.

(4) The petition examiner will forward a copy of an interested party's response to you.

(a) You will have ten days to reply.

(b) The petition examiner may extend your time to respond if you demonstrate that you need more time for good reason.

(c) If an extension is not granted and you do not reply within ten days, you waive the right to reply.

(5) The petition examiner will issue a written decision within sixty days of:

(a) The end of your final period to reply under subsection (4) of this section; or

(b) Receipt of additional information from the department or the office of the attorney general necessary to make a decision.

(6) In the written decision, the petition examiner will state facts and sources of law used to make the decision. The petition examiner will send a copy to you and to the other parties.

(7) The petition examiner may refer the petition back to the plan administrator for an administrative determination without issuing a petition decision if:

(a) The petition adds new issues or facts that have not been addressed in the plan administrator's final determination; or

(b) The plan administrator did not have access to a petition decision or final order of the department that would have changed the outcome of the administrative determination.

[Statutory Authority: RCW 41.50.050(5). WSR 04-09-042, § 415-04-040, filed 4/14/04, effective 5/15/04. Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-040, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-04-040, filed 7/29/96, effective 7/29/96.]

WAC 415-04-050 How do I appeal a petition decision? (1) You may file an appeal of the petition decision with the department's director no later than sixty days after you receive the petition decision.

(2) You must follow the procedures in chapter 415-08 WAC in filing your appeal.

(3) If you fail to file your appeal within sixty days, you lose your right to judicial review, because of your failure to exhaust administrative remedies as required by RCW 34.05.-534.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. WSR 01-18-018, § 415-04-050, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-04-050, filed 7/29/96, effective 7/29/96.]