

## **CHAPTER 71-02-09 REVIEW PROCEDURE**

### Section

71-02-09-01      Review Procedure  
71-02-09-02      Formal Review Procedure

#### **71-02-09-01. Review procedure.**

A member who has received notice that the member's benefits have been denied in whole or in part may within thirty days of receipt of such notice secure review by written request addressed to the board in care of the executive director of the public employees retirement system. The applicant has the right to all relevant information available to the board and may submit arguments or comments in writing. The board must render a decision within one hundred twenty days after the request for a review is timely filed. The decision by the board must be submitted to the applicant in writing and include the specific reason or reasons for the decision and the specific references to the provisions of the plan on which the decision is based.

**History:** Amended effective June 1, 1996; April 1, 2012.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-04

#### **71-02-09-02. Formal review procedure.**

If the initial decision is adverse to the applicant after exhausting the administrative procedure under section 71-02-09-01, the applicant may file a request for a formal hearing to be conducted under North Dakota Century Code chapter 28-32. The request for a formal hearing must be filed within thirty days after notice of the initial decision has been mailed or delivered. If an appeal for a formal hearing is not filed within the thirty-day period, the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days prior to the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order. The board shall either accept the administrative law judge's recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law, and order. The applicant may under North Dakota Century Code section 28-32-42 appeal the final decision resulting from this procedure to the district court.

**History:** Effective June 1, 1996; amended effective July 1, 2006.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-04