
Member's Guide to The Comprehensive Medical Evaluation & Restoration to Service Process

Revised 11.2009



Overview of the Comprehensive Medical Evaluation Process

The Public Employee Retirement Administration Commission (PERAC), in accordance with Chapter 306 of the Acts of 1996, oversees the Comprehensive Medical Evaluation (CME) of disability retirees. The goal is to determine whether or not you are able to perform the essential duties of your former job or a similar position in the same department for which you are qualified. It is important to note that a different procedure has been developed and implemented for state troopers. Any party to the CME process may appeal any decision to Superior Court in the county in which the party resides or in Suffolk Superior Court in the City of Boston.

1. Selection

PERAC schedules disability retirees for a CME each year for the first two years following their retirement and every three years thereafter.

Selection Criteria

- You can be selected on the basis of your date of retirement and the date of your last evaluation.
- Or, upon your written request, but not more often than once in any given year.
- Or, if your *Annual Statement of Earned Income* shows substantial earnings.

2. Request for Medical Information from You

A PERAC Nurse Case Manager will request medical information from you and review your PERAC case file.

If no additional medical records are available, you must notify PERAC in writing and PERAC may schedule you for a CME with a physician.

Possible Outcomes to Initial Records Review Process

- PERAC may find that you are *currently* unable to perform the essential duties of the position from which you retired. You and your retirement board will be notified that the CME process has ended. You may be subject to future evaluations.
- Or, PERAC may find that you are *permanently* unable to perform the essential duties of the position from which you retired. You and your retirement board will be notified that the CME process has ended.
- Or, PERAC may find further information must be assembled before a determination can be made.

3. Request for Information from Your Retirement Board

If additional information is required, the PERAC Nurse Case Manager will request your entire disability retirement file and re-examination file(s) from your retirement board.

Possible Outcomes after a Review of All Available Information

- PERAC may find that you are *currently* unable to perform the essential duties. You and your retirement board will be notified that the CME process has ended. You may be subject to future evaluations.
- Or, PERAC may find that you are *permanently* unable to perform the essential duties. You and your retirement board will be notified that the CME process has ended.
- Or, PERAC may find that you may be able to perform your essential duties. PERAC will schedule you for a CME with a physician to certify your abilities.

4. CME Appointment

The PERAC Nurse Case Manager will obtain a current job description, including essential duties, from your former employer/department head.

Details

The PERAC Nurse Case Manager will schedule you for a CME with a single physician examiner. PERAC will forward your job description and all available medical information to this physician.

The physician will examine you and may order tests or consultations as needed. The evaluation process may extend over several days or weeks.

The physician will complete a narrative report and send it along with test results to a PERAC Case Manager for review.

A PERAC Nurse Case Manager reviews the CME Report.

5. Review of
CME Report

Possible Outcomes

If you are found unable to perform the essential duties, you will be re-evaluated by a PERAC Nurse Case Manager in the future.

- Or, if you are found able to perform the essential duties, with rehabilitation, the physician who conducts your CME will recommend a rehabilitation program.
- Or, if you are found able to perform the essential duties, PERAC's Disability Unit will schedule you for a restoration to service examination (RTS), to be conducted by a three-member medical panel, to certify as to your abilities.

Overview of the Restoration to Service Process

If it is determined, through the CME process, that you are able to perform the essential duties of the position from which you retired or a similar job within the same department, your case will move into the Restoration to Service (RTS) process. It is important to note that a different procedure has been developed and implemented for state troopers.

As mandated by Chapter 306 of the Acts of 1996, the Public Employee Retirement Administration Commission (PERAC) interacts with a retiree's retirement board, his or her former employer, and the Commonwealth's HRD as the RTS process unfolds.

Retirement boards, among their many responsibilities, approve disability retirements and process monthly allowances. PERAC selects retirees for RTS evaluations and schedules all related medical appointments. Your PERAC Nurse Case Manager will contact your former employer to obtain a copy of your job description, including your essential duties. If you are found able to return to your former position, PERAC will notify your former employer. The Human Resources Division plays two roles. First, in situations where the former position, job duties, or department has changed since disability retirement, the Personnel Administrator may determine what constitutes the "same or similar position" within the department. See M.G.L. c. 32, section 8 (2). Second, for those returning disability retirees who have been separated from service for more than five (5) years, the Appointing Authority must submit a retraining program to HRD for approval. See M.G.L. c. 31, section 39.

Any party to the RTS process may appeal any decision to the Superior Court.

PERAC schedules you for RTS examinations with three different physicians. These examinations are not conducted on a joint basis. Each physician will conduct a separate examination.

1. Scheduling
Examinations

At least one of the physicians will be a specialist in the medical field related to the condition for which you retired.

The other physician(s) will specialize in fields whose relevancy is determined by PERAC.

Key Points

PERAC submits your original disability information, CME evaluation report, and updated medical information, along with a job description that includes the essential duties of the position from which you retired, to the physicians who will be conducting your RTS examinations.

If you cancel an appointment within 48 hours of a scheduled examination or do not keep an appointment, you must reimburse PERAC for the costs incurred. PERAC's Disability Unit will reschedule an appointment only when compelling personal reasons are involved.

The principal purpose of the examination is to discuss and evaluate your physical condition or mental health. Attendance at the examination shall be limited to you, the medical panel physician(s), your physician and attorney, and your employer's physician and attorney. You may permit the presence of other individuals, provided their presence will not disrupt the examination.

2. Reports

The physicians will complete the RTS certificates and narrative reports and send them to PERAC within 60 days of conducting their examinations.

Following Steps

You and your retirement board will receive copies of the certificates and narrative reports from PERAC.

If the *unanimous* outcome of the RTS examination is that you should be restored to service, PERAC will notify your retirement board.

Your retirement board must notify your former employer that you must be restored to service.

3. Restoration to Service Time Frames

Within Two Years

If the determination that you should be returned to service is made *within two years* of your date of retirement, there are three possible outcomes.

Possible Outcomes

- If there is a vacancy in the position from which you retired, you are required to be returned to that position. When you are returned, your disability allowance must be revoked.
- Or, if there is no vacancy in your former position, but you are found able to perform the essential duties of a similar job within the same department, as determined by the Human Resources Division (HRD), and that position is vacant, you must be returned to that position. When you are returned, your disability allowance must be revoked.
- Or, if no similar position is vacant, a vacancy must be created for you by reducing the rank and position of the last person promoted to such a position. You must be returned to that position. When you are returned, your disability allowance must be revoked.

After Two Years

If the determination that you should be returned to service is made *more than two years* after the date you retired for disability, there are two possible outcomes.

Possible Outcomes

- If there is a vacancy in the position that you held or a vacancy in a similar position within the same department, as determined by HRD, you must be returned to that position. When you are returned, your disability allowance must be revoked.
- If there is no vacancy, you must be granted a preference for the next available position or similar position for which you are qualified. You will continue to receive your retirement

allowance until reinstatement occurs or until the amount of your potential earnings necessitates a reduction in or revocation of your pension.

When a member is found able to perform the essential duties of his/her former job, PERAC will notify the member, his/her retirement board and employer, and the Commonwealth's Division of Human Resources. Some time may pass before a position becomes available and the member is actually restored to active service. In the interim, a PERAC Nurse Case Manager and a CME physician will monitor the member's medical status. Every six months, the member will be asked to complete and return a health questionnaire to PERAC. The member will also be re-evaluated by a CME physician upon any significant change in his/her medical condition and before returning to work. The goal is to assess the retiree's medical readiness to return to work and minimize the possibility of missing a retraining or academy opportunity.

4. The Restoration Service Re-Evaluation (RTSR) Process

PERAC Q & A

Q: How may I contact PERAC?

A: Public Employee Retirement Administration Commission
Five Middlesex Avenue
Suite 304
Somerville, MA 02145
Ph: 617.666.4446
TTY: 617.591.8917
Web: www.mass.gov/PERAC

Barbara Lagorio, *Director of Disability*, Ext. 952

Q: If the appointing authority does not want me to return, can I be prevented from returning to work?

A: No, the Supreme Judicial Court has ruled that an employer does not have the right to prevent an individual who has been cleared by the medical panel from returning to service.

Q: When I return, will I receive creditable service for the time I was disabled? Cost?

A: When you are returned to service the creditable service you earned before you retired will be restored. When you are ultimately retired, you will receive creditable service for all the time you received a disability retirement. This creditable service is provided without cost to you.

Q: How long do I have to be returned to service before I can retire for superannuation?

A: There is no requirement that you work a certain number of days or years before you are eligible for superannuation retirement. If you do not work for three years after your return to service, the compensation used in computing your retirement allowance for the remainder of the three-year period will be that which you earned immediately before your disability retirement.

Q: If I am on the vacancy list, will I continue to receive my retirement allowance?

A: You will continue to receive your retirement allowance while you are awaiting restoration to service.

Q: What happens if no jobs are available after I successfully complete the CME/RTS process?

A: When a member is found able to perform the essential duties of his/her former job, PERAC will notify the member, his/her retirement board and employer, and the Commonwealth's Division of Human Resources. Some time may pass before a position becomes available and the member is actually restored to active service. In the interim, a PERAC Nurse Case Manager and a CME physician will monitor the member's medical status. Every six months, the member will be asked to complete and return a health questionnaire to PERAC. The member will also be re-evaluated by a CME physician upon any significant change in his/her medical condition and before returning to work. The goal is to assess the retiree's medical readiness to return to work and minimize the possibility of missing a retraining or academy opportunity.

Q: What if years pass and a vacancy does not open up while I am on the vacancy list?

A: Your allowance could be modified based on your actual or potential earnings while you are awaiting restoration to service. Your allowance could also be modified based on your actual or potential earnings if you are found not able to return to service.

Q: Can I be returned to a modified position or a position with reasonable accommodations?

A: You must be returned to the same or similar position from which you retired and you must be able to perform the essential duties of that position.

Q: If I can not do the job after I am returned, can I resume my disability?

A: You can not resume a disability once the medical panel finds you are able to perform the essential duties of the position from which you are retired and you are returned to service.

Q: What if I suffer the same condition as the one for which I was originally retired?

A: If you are injured while on the job, you would need to apply and be approved for a new disability retirement based on a new medical condition or the exacerbation of a preexisting medical condition. There is no automatic return to your previous disability retirement.

Q: Will the retirement presumptions (heart, lung, and cancer) apply after I am restored to service?

A: Once you are returned, the presumptions would apply to you as they would to any other member of a retirement system. You would need to meet the requirements of the presumptions before you could benefit from them.

HRD Q & A

Q: How may I contact HRD?

A: Human Resources Division
One Ashburton Place
Second Floor
Boston, MA 02108
Ph: 617.727.3777
Web: www.mass.gov/HRD

Q: Will I be subject to additional testing or training?

A: Yes. The amount of additional testing or training depends upon the number of years of separation from service as well as the type of position formerly held.

Appointing authorities may require retraining programs for returning disability retirees who have been out for less than five years. For those returning to work after more than five years, the retraining program must be approved by the Personnel Administrator. See M.G.L. c. 31, §39.

Non-public
Safety Positions

For absences of less than one year, the Massachusetts Criminal Justice Training Council (MCJTC) requires compliance with the First Responder Law (CPR and First Aid) and current qualification in Firearms. See M.G.L. c. 111, § 201, 550 CMR 3.03 (6)(a)

Public Safety
Law Enforcement
Positions

For absences of one year to less than five years, the MCJTC requires compliance with the First Responder Law (CPR and First Aid), current qualification in Firearms, as well as successful completion of a training program approved by the MCJTC. See M.G.L. c. 111, § 201, 550 CMR 3.03 (6)(b).

Under Civil Service law those returning disability retirees who have been out for more than five (5) years are subject to a retraining program approved by the Personnel Administrator. These retraining programs include the HRD Physical Abilities Test (PAT) and a MCJTC academy or a satisfactory alternative. Appointing authorities may require additional training in other areas of the job. See M.G.L. c 31, §39, 550 CMR 3.03 (6)(c).

Under Civil Service law those returning disability retirees who have been out for more than five (5) years are subject to a retraining program approved by the Personnel Administrator. These retraining programs include the HRD Physical Abilities Test (PAT). Appointing authorities may also require additional retraining specifically related to firefighting. The Massachusetts Fire Training Council (MFTC) has developed a model retraining program outline for returning disability retirees. The MFTC training program would be in addition to HRD's Physical Abilities Test.

Public Safety
Firefighter
Positions

Municipalities are not required to send returning disability retirees to the MFTC program, but are required to use its retraining outline as a guide in designing the municipality's own retraining program. The MFTC represents the maximum level for a firefighting retraining program.

Q: What will satisfy HRD's requirements for approval of retraining programs for municipal police officers and firefighters?

A: Police and firefighter retraining programs for all returning disability retirees with absences greater than five (5) years must include:

1. A full body medical examination to determine if the returning disability retiree is capable of performing the essential functions of the job and to ensure that the original disability, which required retirement, is no longer present. This full body medical must be within six months of the PAT.
2. Completion of the HRD PAT. Appointing authorities must allow retirees a full sixteen weeks to prepare for the PAT according to the *HRD Physical Ability Test Preparation Guide*. The sixteen-week training period begins upon the returning disability retiree's receipt of the *Test Preparation Guide*. Appointing Authorities should have copies of the *Test Preparation Guide*.
3. Appointing authorities may require a retraining program specifically designed for the returning disability retiree. Both the MCJTC and the MFTC have designed modified

retraining programs for returning disability retirees. MCJTC and MFTC based programs will be approved by the Personnel Administrator.

Q: What happens if I cannot pass the PAT?

A: Police officers and firefighters must take and pass the PAT as part of an approved retraining program. If you cannot pass the PAT, the appointing authority will be notified.

Q: Will I be restored to my non-civil service status?

A: Your restoration to a non-civil service title will be determined by your appointing authority, and must be based upon available vacancies.

Q: Will I have seniority over other employees who were not employed when I was retired?

A: Your civil service seniority will be based on your date of original appointment. Union seniority is based upon the applicable collective bargaining agreement.

Q: When am I entitled to civil service and union contract protection?

A: You will be entitled to any civil service rights you had upon your disability retirement when you are reinstated to your position. Union protection upon your return will be based upon the applicable collective bargaining agreement.

Q: What if the position from which I am retired no longer exists?

A: If your position no longer exists, you would be returned to a similar position. The Human Resources Division/Personnel Administrator determines what is a same or similar position.

Q: Who do I contact with questions concerning the process?

A: You may contact Vivian Lee in the HRD Civil Service Unit at 617.878.9757.