

**SECOND AMENDMENT TO THE  
RULES AND REGULATIONS OF THE  
LABORERS' PENSION FUND**

**Restated and Effective June 1, 2014**

The Board of Trustees of the Laborers' Pension Fund hereby amends the Rules and Regulations of the Laborers' Pension Fund, Restated and Effective June 1, 2014 (the "Plan"), to comply with disability claim procedures issued by the Department of Labor as follows:

- 1. Effective for claims filed on or after April 1, 2018, Section 7.4 of the Plan is revised to read in its entirety as follows:**

**Section 7.4 Claim Review and Right of Appeal**

*Disability Pension Claims.* Claims for disability pensions will be decided within 45 days. The Fund may notify the applicant of up to two 30-day extensions if an extension is needed for reasons beyond the control of the Plan. The applicant will be notified of any extension before expiration of the initial 45-day period or prior extension period (in the event of a second extension period). The applicant shall be provided with at least 45 days to provide any additional requested information and any such time period shall extend the time for a decision on the claim.

*Non-Disability Pensions.* For pensions other than Disability Pensions the decision will be made on a claim within 90 days from receipt of the claim unless special circumstances make additional time necessary (up to an additional 90 days) to investigate or obtain facts concerning the claim. In that event, the Fund shall notify the applicant of the delay and the reason for the delay before the initial 90-day period expires.

A Participant whose application for benefits under this Plan (including Disability Pensions) has been denied, in whole or in part, is to be provided with adequate notice in writing setting forth the specific reasons for such denial, and shall have the right to appeal by written request filed with the Administrator or Trustees. The denial notice shall be plainly worded and contain:

- (a) The specific reasons for denial of the claim;
- (b) The specific reference to provisions in the Plan that relate to the denial of the claim;
- (c) A description of additional information or material the applicant must submit to complete claim, along with an explanation of why the information or material is necessary;

- (d) A statement that the applicant may:
  - (1) Request a review of the denial of the claim,
  - (2) Review pertinent documents,
  - (3) Submit issues and comments in writing; and
- (e) Information about how the applicant may appeal the decision denying the claim.

*Disability Pension Denials.* Effective for disability claims filed on or after April 1, 2018, the written notification of the adverse benefit determination of a Disability Pension will set forth the following, which is in addition to the information required for a non-disability claim denial:

- (a) A discussion of the decision, including an explanation for disagreeing with or not following (as applicable):
  - (1) The views presented by the applicant to the Plan of health care and vocational professionals who treated or evaluated the applicant;
  - (2) The views of medical or vocational experts obtained on behalf of the Plan in connection with the adverse benefit determination, without regard to whether the advice was relied upon in making the adverse benefit determination; and
  - (3) A disability determination regarding the applicant presented by the applicant to the Plan made by the Social Security Administration;
- (b) If the adverse benefit determination is based on a scientific or clinical judgment, either an explanation of the scientific or clinical judgment applied to the applicant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;
- (c) Either the specific internal rules, guidelines, protocols, standards or other similar criteria the Plan relied upon in making the adverse determination or, alternatively, a statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist; and
- (d) A statement that the applicant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the applicant's claim for benefits.

For purposes of this Section 7.4, the term “adverse benefit determination” shall mean a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part) for a benefit provided under the Plan and shall also mean any rescission of disability coverage with respect to a Participant or Beneficiary (whether or not, in connection with the rescission, there is an adverse effect on any particular benefit at that time). For this purpose, the term “rescission” means a cancellation or discontinuance of coverage that has retroactive effect except to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage.

The notification shall be provided in a culturally and linguistically appropriate manner in accordance with the requirements described in DOL Reg. §2560.503-1(o).

*Appeals of Denied Claims.* If a Participant or Beneficiary disagrees with the decision on his claim, he must file a request for review with the Appeals Committee, or any Trustee, established by the Trustees within 60 days for a Regular or Early Pension or within 180 days for a Disability Pension. If the applicant fails to file a request for review within the required time, a decision will be final. A request for review must be in writing and state reasons the applicant is disputing the decision. Copies of any supporting evidence must be attached.

The Trustees’ review shall consider all comments, documents, records and other information submitted or considered in the initial determination. The review shall consider all comments and records submitted by the applicant for the appeal review. The appeal cannot defer to the initial claim determination. If a determination for a Disability Pension is based on whether the applicant is Totally and Permanently Disabled, the Appeals Committee shall consult a medical professional who is not the same individual who consulted on the initial review of the claim or a subordinate of that individual.

The Appeals Committee shall complete its review and notify the applicant of its decision in the case of a Disability Pension within 45 days and in the case of a Regular or Early Pension within 60 days, except that, for such an appeal, if special circumstances arise (such as the need to hold a hearing), the applicant may be notified of an extension and the reason therefore (an additional 45 days in the case of a Disability Pension and an additional 60 days in the case of a Regular or Early Pension). The decision on an Appeal shall be sent to the applicant within five days of the decision of the Appeals Committee.

The Trustees’ written decision on an applicant’s appeal shall:

- (a) Contain the reason or reasons for the decision;
- (b) Refer to specific Plan provisions on which the decision is based;

- (c) Notify the applicant of his right to access and copy (free of charge) all documents, records and other information relevant to the claim;
- (d) Notify the applicant of the right to bring a civil action under ERISA; and
- (e) Notify the applicant of any additional voluntary appeal procedures offered by the Plan, if any.

The determination rendered by the Trustees shall be binding upon all parties.

*Disability Pension Appeals (effective for disability claims filed on or after April 1, 2018).* The written notification of the adverse benefit determination on appeal will set forth the following in addition to the information for a denial notice for a non-disability claim:

- (a) A discussion of the decision, including an explanation for disagreeing with or not following (as applicable):
  - (1) The views presented by the applicant to the Plan of health care professionals and vocational professionals who treated or evaluated the applicant;
  - (2) The views of medical or vocational experts obtained on behalf of the Plan in connection with the adverse benefit determination, without regard to whether the advice was relied upon in making the adverse benefit determination; and
  - (3) A disability determination regarding the applicant presented by the applicant to the Plan made by the Social Security Administration;
- (b) If the adverse benefit determination is based on a scientific or clinical judgment, either an explanation of the scientific or clinical judgment applied to the applicant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;
- (c) The specific internal rules, guidelines, protocols, standards or other similar criteria the Plan relied upon in making the adverse determination or, alternatively, a statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist; and

The notification shall be provided in a culturally and linguistically appropriate manner in accordance with the requirements described in DOL Reg. §2560.503-1(o).

Before the Trustees can issue an adverse benefit determination on appeal of a Disability Pension claim, the Trustees shall provide the applicant, free of charge:

- (a) Any new or additional evidence considered, relied upon, or generated by the Trustees, or other person making the benefit determination in connection with the claim; and
- (b) Any new or additional rationale for an adverse benefit determination, provided that such rationale is a basis for the adverse benefit determination on appeal.

Such evidence or rationale will be provided as soon as possible and sufficiently in advance of the deadline for issuing an adverse benefit determination on appeal so that the applicant has a reasonable opportunity to respond prior to that date.

**2. All other provisions of the Plan, except as hereinbefore amended, shall remain in full force and effect.**

**IN WITNESS WHEREOF**, the Board of Trustees hereby adopts this Second Amendment to the Rules and Regulations of the Laborers' Pension Fund as of this 12th day of March 2018.

**EMPLOYER TRUSTEES**

Robert F. Hopkins, Jr.

Clifton M. Horn

Karen Elin Johnson

Robert G. Krug

David H. Lorig

Gary Lundsberg

**UNION TRUSTEES**

Anthony Cantone

James P. Connolly

Paul P. Connolly

Shawn Fitzgerald

Charles V. LoVerde, III