



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

Thursday, December 7, 2006

MEMORANDUM FOR: Human Resources Directors

FROM: Nancy H. Kichak, Associate Director, SHRP

Subject: OPM Adjudication of Medical Disqualifications of Preference Eligibles

This is a reminder that in accordance with 5 U.S.C. 3312 and 3318 and 5 CFR 339 *Medical Qualification Determinations*, any disqualification, non-selection, or pass over of a veterans' preference eligible for medical reasons must be adjudicated by the Office of Personnel Management (OPM) before the position can be filled.

Additionally, in a reduction in force if an agency determines a preference eligible employee with a 30 percent or more service-connected disability is unable to fulfill the physical requirements of a position to which he or she would otherwise have been assigned, the agency must notify OPM of the proposed disqualification. OPM must make a determination before the agency may select any other person to the position (5 U.S.C. 3504; 5 CFR 351.702(d); and 5 CFR 339.306).

An agency must waive a medical standard or physical requirement when there is sufficient evidence that an individual, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others (5 CFR 339.204). At a minimum, a decision to waive a medical standard or physical requirement should involve the following:

1. Analysis of relevant employment history;
2. Assessment of the individual's success in performing similar functions; and
3. Examination of the risks associated with waiving the standard to the agency, the individual, and/or others.

A decision to disqualify, not select, or pass over an individual for medical reasons or for failing to meet physical/functional requirements must be based on the individual's inability to meet the performance requirements of the position and should be based on a case-by-case, fact-based, individualized assessment.

It is not sufficient to simply cite the existence of a medical (including mental health) or physical condition(s) or service-connected disability as the basis for a medical objection. An individual also may not be disqualified for any position solely on the basis of medical history (5 CFR 339.206).

The agency must determine whether a medical (including mental health) or physical condition(s) will have an impact on an individual's capacity to perform the full range of essential duties and

responsibilities of the position safely and efficiently. Additionally, the agency is required to assess whether reasonable accommodation can be provided to permit performance of the job despite the condition(s). Thorough documentation is necessary to: (1) establish that there are tasks or duties which cannot be performed, with or without reasonable accommodation, and/or (2) establish the extent to which the medical or physical condition(s) presents an unacceptable risk of harm to the individual or to others.

An agency must submit any disqualification, non-selection, or pass over of a preference eligible for medical reasons, with supporting documentation, to:

U.S.
Office of Personnel Management
Strategic Human Resources Policy
Center for Talent and Capacity Policy –Medical
1900 E Street, NW., Room 6500
Washington, DC 20415-9500

To expedite processing the request, please include the following documentation:

- Standard Form (SF) 62 (*Medical Reasons for Passing Over a Preference Eligible or Rejecting a CPS Eligible*), and a statement outlining the specific medical and safety reasons why the individual would be unable to perform the full range of duties required for the position;
- As applicable, (i) applicant's resume and complete application for Federal employment, or (ii) the qualifications update that the employee provided to the agency for consideration in determining the employee's possible assignment right(s) to other positions in a reduction in force;
- Supporting medical documentation, such as Standard Form (SF) 78 (*Certificate of Medical Examination*), signed by a licensed physician or State licensed and certified practitioner. A nurse or physician's assistant may assist in performing a medical examination, however, the licensed physician or State licensed and certified practitioner must certify the results of that medical examination;
- Copy of applicable medical standards;
- Position description of the job in question; and
- Copy of the disqualification letter to the applicant advising him or her of appeal rights to OPM. To appeal to OPM, the preference eligible must submit evidence that he or she can perform the duties of the position in spite of the medical or physical condition(s).

An agency has the authority to medically disqualify non preference eligibles. Such individuals have a right to a higher level of review of the medical disqualification within the agency (5 CFR 339.306(a)). Specific steps for the pass over procedures are outlined in OPM's *Delegated Examining Operations Handbook, 2003*, Chapter 6, Section D, *Object to Eligibles*.

If you have questions, please contact J.C. Phillip Spottswood, J.D., M.P.H., Medical Program Specialist, by telephone (202) 606-1389, fax (202) 606-2329, or email phil.spottswood@opm.gov.