

# **AD HOC COMMITTEE ON DISABILITY PENSIONS**

## **AGENDA**

### **Board of Fire and Police Pension Commissioners**

Garrett Zimmon, Chair  
Brian Pendleton, Vice Chair  
Ruben Navarro  
Paul Weber

December 19, 2019  
**10:00 a.m. or as soon thereafter as the  
Board adjourns its regular meeting**

Sam Diannitto Boardroom  
Los Angeles Fire and Police Pensions Building  
701 East 3rd Street, Suite 400  
Los Angeles, CA 90013

An opportunity for the public to address the Board or Committee about any item on today's agenda for which there has been no previous opportunity for public comment will be provided before or during consideration of the item. Members of the public who wish to speak on any item on today's agenda are requested to complete a speaker card for each item they wish to address, and present the completed card(s) to the commission executive assistant. Speaker cards are available at the commission executive assistant's desk.

In compliance with Government Code Section 54957.5, non-exempt writings that are distributed to a majority or all of the Board or applicable Committee of the Board in advance of their meetings may be viewed at the office of the Los Angeles Fire and Police Pension System (LAFPP), located at 701 East 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, Los Angeles, California 90013, or by clicking on LAFPP's website at [www.lafpp.com](http://www.lafpp.com), or at the scheduled meeting. Non-exempt writings that are distributed to the Board or Committee at a scheduled meeting may be viewed at that meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact the commission executive assistant, at (213) 279-3038 or by e-mail at [rhonda.ketay@lafpp.com](mailto:rhonda.ketay@lafpp.com).

Sign language interpreters, communication access real-time transcription, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. Due to difficulties in securing sign language interpreters, five or more business days notice is strongly recommended. For additional information, please contact the Department of Fire and Police Pensions, (213) 279-3000 voice or (213) 628-7713 TDD.

1. [DISCUSSION ON THE DISABILITY RATING WORKSHEET AND POSSIBLE COMMITTEE ACTION](#)
2. [DISCUSSION ON DISABILITY PENSIONS WITH OVERDUE BOARD-ORDERED REVIEWS AND POSSIBLE COMMITTEE ACTION](#)
3. VERBAL DISCUSSION ON DISABILITY HEARINGS AND TESTIMONY
4. GENERAL PUBLIC COMMENTS ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION

# **SPECIAL MEETING**

## **AGENDA**

### **Board of Fire and Police Pension Commissioners**

December 19, 2019

**10:00 a.m. or as soon thereafter as the  
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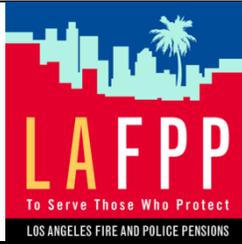
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# **DEPARTMENT OF FIRE AND POLICE PENSIONS**

701 E. 3rd Street, Suite 200  
Los Angeles, CA 90013  
(213) 279-3000

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## **REPORT TO THE AD HOC COMMITTEE ON DISABILITY PENSIONS**

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**DATE:** DECEMBER 19, 2019 **ITEM:** 1

**FROM:** RAYMOND P. CIRANNA, GENERAL MANAGER

**SUBJECT:** DISCUSSION ON THE DISABILITY RATING WORKSHEET AND POSSIBLE COMMITTEE ACTION

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### **RECOMMENDATION**

That the Committee direct staff to meet with the active member bargaining units to discuss the addition of a nonservice-connected disability rating scale to the Disability Rating Worksheet.

### **BACKGROUND**

At the November 7, 2019 meeting, the Ad Hoc Committee heard input from stakeholders involved in the disability pension process. One topic of discussion centered on possible revisions to the Board's Disability Rating Worksheet.

On December 8, 1980, Tier 3 was put into effect by the voters of Los Angeles. With the creation of Tier 3 came the requirement under Charter Section 1506 (c) that, "The Board shall adopt by rule, within a reasonable time, a disability rating schedule to assist in standardizing disability pension awards."<sup>1</sup> Prior plan tiers did not contain a requirement that the Board utilize a standard rating schedule.

The first disability rating schedule was drafted in 1981, and later modified by Deputy City Attorney Mary Jo Curwen after she determined that the rating sheet had serious defects. Ms. Curwen was tasked with developing an alternative to address deficiencies identified in the first rating schedule. Ms. Curwen's version of the rating schedule was adopted in September 1983 and contained two separate categories for rating disabilities: one based on working restrictions and one based on living restrictions. This rating system was intended to emphasize the whole person by focusing on the member's ability to handle the activities of daily living and the ability to work at other occupations.

A third version of the disability rating worksheet was adopted by the Board on May 1, 1986. This version adjusted the values to eliminate overlap and skewed final results.

The fourth version of the disability rating worksheet, which is currently in use, was adopted by the Board in May of 1995 (see Attachment 1). The one-page rating sheet was developed to address

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<sup>1</sup> Tier 4 Charter language includes this same rating schedule requirement. Tier 5 Administrative Code language states that, "The Board shall use the disability rating schedule adopted for Tier 3 to assist in standardizing disability pension awards," whereas Tier 6 Charter language states, "The Board shall use the disability rating schedule adopted for Tier 3 to assist in standardizing disability pension awards or such other disability rating schedule as the Board may thereafter by rule adopt to assist in standardizing disability pension awards."

minor inconsistencies and redundancies present within the two-page rating system, and was developed with input from both the United Firefighters of Los Angeles City (UFLAC) and the Los Angeles Police Protective League (LAPPL). On February 4, 2016, the Board again reviewed the current disability rating worksheet but did not make any changes to the rating sheet at that time.

## **DISCUSSION**

The Disability Rating Worksheet was developed as a guideline or tool for the Board to “standardize disability awards” when assigning a degree of disability. The current worksheet is designed such that applicants’ physical/psychiatric limitations and general living activities are considered under each of four rating strata: Minimal, Moderate, Serious, Severe. This rating structure categorizes the applicant’s physical and/or psychological level of disability based upon their ability to perform certain tasks or functions, as well as continuing care and prescription drug needs. Staff believes this type of structure, which focuses on an applicant’s ability to perform tasks/activities rather than the ability to use specific police or fire equipment is preferred, as the equipment utilized by the departments is likely to change over time with evolving technology and policies.

One change that the Committee may wish to consider is the addition of nonservice-connected disability rating percentages to the current worksheet using the existing rating strata. Nonservice-connected disability percentages can range from 30% - 50% for members of Tiers 3-6, whereas the rating categories on the current worksheet range from 1% to 90%. Based on this, it appears the worksheet was designed with a focus on service-connected disabilities. Despite this limitation, staff has relied on the rating categories in this worksheet as a guideline to recommend nonservice-connected disability percentages by dividing the allowable percentage range (30%-50%) into 5-percent intervals for each category (i.e., Minimal, Moderate, Serious, Severe).

The wide range of numerical possibilities with the four categories of Minimal, Moderate, Serious, and Severe Limitations allows the Board the ability to adjust the disability percentage within each category (excluding Total Disability). The Board has the option to modify the Disability Rating Worksheet should it desire to do so. Should the Board decide to make changes to the worksheet, it is recommended that staff confer with the employee organizations and the City Attorney to develop a revised rating worksheet to be submitted for review and approval by the Board.

## **BUDGET**

No impact at this time.

## **POLICY**

No policy changes at this time.

## **CONTRACTOR DISCLOSURE INFORMATION**

There is no contractor disclosure information required with this report.



## DISABILITY RATING WORKSHEET

Applicant / Pensioner:

Based upon objective evidence, assign a number within a category that most closely reflects the individual's medical limitations.

<b>No Limitations</b>	0
<p><b>Minimal Limitations</b></p> <p><b>GENERAL</b> Can perform most activities with minor limitations. Pain is an annoyance but does not significantly limit the activity causing the pain.</p> <p><b>ORTHO / NEURO ( Back, Neck, Upper &amp; Lower Extremities )</b> Can perform ordinary, normal jobs not requiring extreme levels of physical activity. Can lift, carry, push or pull 26 or more lbs. Must use caution when walking on uneven surfaces. Can hold position, sit, stand, walk or drive as needed up to 60 minutes without a break. Can use stairs or climb ladders.</p> <p><b>INTERNAL ( Cardio, Gastro, Pulm, Oncol )</b> Symptoms can be controlled with modified diet or lifestyle, OTC medication or exercise program. Can handle normal physical / emotional occupational stress. Can control bowel &amp; bladder functions. No end organ damage present.</p> <p><b>PSYCHIATRIC</b> Can follow directions, perform normal tasks &amp; assignments, capable of self initiating, planning &amp; decision making activities. Therapy required on an as-need basis. Does not require psychotropic medication. Can meet the public, work alone or with others. Requires normal supervision. Can handle normal personal or occupational stress.</p>	01-35
<p><b>Moderate Limitations</b></p> <p><b>GENERAL</b> Can perform most activities with some limitation of endurance or physical ability. Pain is tolerated but causes some diminished levels of performance of the activity that causes the pain.</p> <p><b>ORTHO / NEURO</b> Can perform semi sedentary jobs not requiring prolonged physical activity. Can lift, carry, push or pull 21 – 25 lbs. Should avoid walking on uneven surfaces. Can hold position, sit, stand, walk or drive as needed up to 45 minutes without a break. Limited use of stairs or climbing ladders. No altercations. Can squat, kneel, crawl or work above shoulder level for limited periods of time.</p> <p><b>INTERNAL</b> Symptoms can be controlled with prescriptions medication. Limit exposure to environmental irritants i.e. dust or fumes. No unusual or prolonged physical / emotional occupational stress. Requires restroom to be readily available. Avoid abdominal constricting activities. Early stages of end organ damage present.</p> <p><b>PSYCHIATRIC</b> Can follow directions, perform simple tasks &amp; assignments. No planning or decision making responsibility. Therapy required at least twice per month. Requires psychotropic medication on an as-needed basis. No public contact. Requires close supervision. Has difficulty handling normal personal or occupational stress.</p>	36-53
<p><b>Serious Limitations</b></p> <p><b>GENERAL</b> Can perform most activities, but may require occasional assistance. Pain is tolerated but causes significantly reduced performance levels in the activity causing the pain.</p> <p><b>ORTHO / NEURO</b> Can perform semi sedentary jobs with limited physical activity. Can lift, carry, push or pull 11 – 20 lbs. No walking on uneven surfaces. Can hold position, sit, stand, walk or drive as needed up to 30 minutes without a break. No climbing stairs or ladders. Can work with a telephone or computer. No above shoulder work.</p> <p><b>INTERNAL</b> Symptoms only partially controllable with prescription medication. No sudden demands for physical / emotional occupational stress. Requires restrooms in close proximity to workstation. No environmental irritants i.e. dust or fumes. Significant end organ damage present.</p> <p><b>PSYCHIATRIC</b> Can follow only simple directions, performing one task at a time. Therapy required weekly. Requires psychotropic medication daily. Can handle very low levels of personal or occupational stress. Requires constant supervision.</p>	54-71
<p><b>Severe Limitations</b></p> <p><b>GENERAL</b> Cannot perform most activities without assistance. Extremely limited endurance and physical ability. Pain precludes the activity causing the pain.</p> <p><b>ORTHO / NEURO</b> Can perform sedentary jobs requiring very limited physical activity. No lifting, carrying, pushing or pulling more than 10 lbs. Can hold position, sit, stand, walk or drive as needed up to 15 minutes without a break.</p> <p><b>INTERNAL</b> Symptoms uncontrollable. No physical / emotional occupational stress. Immediate access to restroom required. Extensive end organ damage present.</p> <p><b>PSYCHIATRIC</b> Requires daily therapy or institutionalization. Is a danger to self and others.</p>	72-89
<b>Total Disability</b>	90
<b>RATING</b>	

DATE: May 11, 1995

TO: The Board of Pension Commissioners

FROM: The Benefits, Legislative, Budget and Audit Committee  
Thomas A. Dawson, chair  
Sam Diannitto  
Nicholas H. Stonnington

SUBJECT: MODIFICATION OF THE ARTICLE XXXV DISABILITY RATING  
SCHEDULE

#### BACKGROUND

The proposed modifications previously submitted to the Board by the Committee affected two areas of the rating schedule; 1) the descriptors within each disability level and 2) the numeric scale assigned to each level. In discussions with representatives from United Firefighters of Los Angeles City (UFLAC) and the Los Angeles Police Protective League (LAPPL), it was their position that the descriptor changes and augmentations were acceptable. However, correction of the numeric skew at the lower end of the scale represented a potential decrease in the overall level of benefits to be awarded and was unacceptable.

UFLAC requested to meet and confer over the change in the numeric scale. Committee members also indicated concern about decreasing benefits. Unsure of the meet and confer status of this item, the committee decided to recommend that the Board adopt the modifications presented by staff and allow the unions to pursue the issue before the City's Employee Relations Board.

Subsequent to the committee meeting the Employee Relations Division of the City Administrative Officer advised staff that because the Board has the authority to adopt and revise the Rating Schedule, the Department of Pensions would be responsible for meeting and conferring, should it be necessary.

In view of this advice, when the committee recommendations were scheduled for Board consideration at the March 16, 1995 meeting, staff requested that the report be referred back to committee.

#### DISCUSSION

Further discussions have taken place between staff and the unions. They reaffirmed their position regarding the potential reduction in benefits. Staff also evaluated the proposed numeric scale and conducted some tests of its impact.

Modification of Article XXXV  
Disability Rating Schedule -2-

Staff reviewed all Article XXXV ratings completed by the Board and compared results against assumed results using the proposed scale. Twenty five out of the 134 completed ratings could possibly have been rated lower using the proposed scale. Since the Committee is opposed to any reduction in benefits, its recommendation to correct the skew in the Minimal Limitations level is withdrawn.

During discussions with UFLAC and LAPPL, the question arose as to the purpose of dividing the rating schedule into separate "Daily Living" and "Working Capability" components (Attachment I).

Because the separate components contained minor inconsistencies and redundancies, staff explored creating a one page rating schedule to make the transition from pension doctor report to disability rating easier. Neither staff nor the City Attorney could determine a legal requirement or other purpose for the separate components.

Staff developed a one page rating schedule using descriptors from both components, adding a few new descriptors and doubling the numeric scale to total 90 points (Attachment II). The numeric scale retains the skew at the Minimal Limitations level. UFLAC and LAPPL representatives reviewed the one page rating schedule and indicated that it is an improvement over the older version and is acceptable.

RECOMMENDATION

It is the recommendation of the Committee that the Board approve and adopt the modified one page Article XXXV rating schedule.

Attachments

GM:RM:EG

DISABILITY RATING WORKSHEET

Based upon the evidence, assign the number of points for the category which is most applicable to the person being evaluated.

COMPONENT I - DAILY LIVING ACTIVITY CAPABILITY

Criteria	Point Range	Number of Points
NO LIMITATION ON DAILY LIVING ACTIVITIES DUE TO DISABILITY.	0-3	
MINIMAL LIMITATIONS ON DAILY LIVING ACTIVITIES DUE TO DISABILITY. EXAMPLES: <u>Cardiac</u> - Can handle personal needs; can walk reasonable distances; can climb stairs; can drive. Cannot engage in very strenuous physical activity. <u>Orthopedic</u> - Can bathe and dress self; can sit, stand, bend; walk reasonable distances, drive, lift 25-30 lbs. <u>Psychiatric</u> - Can deal satisfactorily with family and community. Can handle personal affairs. Does not require on-going medical treatment.	4-17	
MODERATE LIMITATIONS ON DAILY LIVING ACTIVITIES DUE TO DISABILITY. EXAMPLES: <u>Cardiac</u> - Can handle personal needs. Can walk short distances; can climb short stairways; can drive moderate distances. Cannot engage in any strenuous physical activity. Must rest periodically. <u>Orthopedic</u> - Can bathe and dress self; can sit and stand for limited periods; limited bending; limited walking; can drive short distances; can lift up to 20-25 lbs. <u>Psychiatric</u> - May have some difficulty dealing with family and community. Can handle most of personal affairs. May require periodic medical treatment.	18-26	
SERIOUS LIMITATIONS ON DAILY LIVING ACTIVITIES DUE TO DISABILITY. EXAMPLES: <u>Cardiac</u> - May require some assistance in personal needs. Can walk only short distances; no stairs. Should not drive. Physical activity extremely limited. Requires frequent rest. Must avoid stress. <u>Orthopedic</u> - Requires occasional assistance in bathing and dressing; can sit or stand for short periods; has difficulty in bending; very limited walking; cannot lift more than 10-15 lbs. <u>Psychiatric</u> - Has difficulty dealing with family and community. Has difficulty handling personal affairs. May require regular treatment.	27-35	
SEVERE LIMITATIONS ON DAILY LIVING ACTIVITIES DUE TO DISABILITY. EXAMPLES: <u>Cardiac</u> - Requires some assistance in personal needs. Can walk only in home. No stairs. Cannot drive. No physical activity. Extended rest. No stress. <u>Orthopedic</u> - Must be assisted in bathing and dressing; can sit or stand for only very short periods of time; can bend only slightly; cannot drive, walk, or lift. <u>Psychiatric</u> - Extreme difficulty dealing with family and community. Cannot adequately handle personal affairs. Requires regular medical treatment.	36-44	
SEVERELY RESTRICTED IN DAILY LIVING ACTIVITIES AND REQUIRES ASSISTANCE IN CARING FOR SELF DUE TO DISABILITY. EXAMPLES: <u>Cardiac</u> - Requires assistance in personal needs. Can walk only a few steps. No physical activity. Must spend most of time in bed. No stress. <u>Orthopedic</u> - Must be bathed and dressed; cannot sit, stand, or bend; cannot walk, unable to drive vehicle or lift. <u>Psychiatric</u> - May require heavy medication. May require institutionalization.	45	
TOTAL COMPONENT I POINTS ASSIGNED		

## COMPONENT II - WORKING CAPABILITY

Criteria	Point Range	Number of Points
NO JOB RESTRICTIONS (EXCEPT FOR UNRESTRICTED POLICE/FIRE DUTY).	0-8	
MINIMAL JOB RESTRICTIONS RESULTING FROM DISABILITY. EXAMPLES: <u>Cardiac</u> - Can perform jobs not requiring strenuous physical activity or extensive walking. <u>Orthopedic</u> - Can perform jobs not requiring strenuous physical activity, or extensive standing, bending, walking, or repeated lifting of heavy objects. <u>Psychiatric</u> - Can satisfactorily perform many jobs which are nonstressful to the individual.	9-17	
MODERATE JOB RESTRICTIONS RESULTING FROM DISABILITY. EXAMPLES: <u>Cardiac</u> - Can perform semisedentary type jobs not involving high stressful situations. <u>Orthopedic</u> - Can perform semisedentary type jobs not requiring physical activity, or standing, extended sitting, bending, walking, or lifting. Permits several rest periods. <u>Psychiatric</u> - Can satisfactorily perform some nonstressful jobs. May have some absenteeism.	18-26	
SERIOUS JOB RESTRICTIONS RESULTING FROM DISABILITY. EXAMPLES: <u>Cardiac</u> - Can perform sedentary type jobs with no stress on a part-time or intermittent basis. No stress. <u>Orthopedic</u> - Can perform sedentary type jobs on a part-time or intermittent basis; no physical activity; no standing or sitting for more than a short time, no bending or lifting. Frequent rest periods. <u>Psychiatric</u> - Can perform few jobs satisfactorily. High absenteeism and unreliability on the job to be expected.	27-35	
ABLE TO WORK ONLY AT A SHELTERED JOB DUE TO DISABILITY. EXAMPLES: <u>Cardiac</u> - Could do nonstressful clerical or telephone work for a few hours a day. <u>Orthopedic</u> - Could do clerical or telephone work at home for a few hours a day. <u>Psychiatric</u> - Could work a few hours a day in a supervised workshop.	36-44	
UNABLE TO WORK AT ANY OCCUPATION DUE TO DISABILITY.	45	
TOTAL COMPONENT II POINTS ASSIGNED		

TOTAL COMPONENT I &amp; II POINTS ASSIGNED \_\_\_\_\_

Commissioner's Initials \_\_\_\_\_

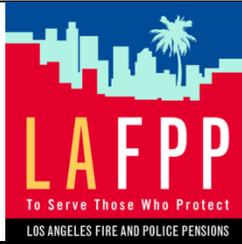
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V 5.0

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<b>Total Disability</b>	90
<b>DATE OF RATING:</b>	<b>RATER'S INITIALS:</b>
	<b>RATING</b>



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# **DEPARTMENT OF FIRE AND POLICE PENSIONS**

701 E. 3rd Street, Suite 200  
Los Angeles, CA 90013  
(213) 279-3000

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## **REPORT TO THE AD HOC COMMITTEE ON DISABILITY PENSIONS**

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**DATE:** DECEMBER 19, 2019 **ITEM:** 2

**FROM:** RAYMOND P. CIRANNA, GENERAL MANAGER

**SUBJECT:** DISCUSSION ON DISABILITY PENSIONERS WITH OVERDUE BOARD-ORDERED REVIEWS AND POSSIBLE COMMITTEE ACTION

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### **RECOMMENDATION**

That the Committee recommend to the Board that the scheduled reviews for the attached list of disability pensioners, which are now overdue, should be cancelled at this time. However, nothing herein will preclude the Board or the disability pensioners from requesting a review of their disability status in the future, pursuant to the Los Angeles City Charter or Administrative Code.

### **BACKGROUND**

Per Section 4.8 of the Board Operating Policies and Procedures, the Board “may, at the time of an award of a disability pension, establish a time for review of the pensioner and cause a re-examination by one or more doctors.” The Board may also initiate a review of a disability pensioner upon request by the pensioner, or if information becomes known that indicates the pensioner’s condition has changed since retirement. When an applicant is granted a disability pension, and it appears that the individual’s condition may not be stable, the Board has the power to order a review.

### **DISCUSSION**

Based upon a recent audit conducted by staff, it has come to the attention of Disability Pensions Section that ten members previously granted service-connected or nonservice-connected disability pensions are overdue for their Board-ordered two-year reviews. The current ages of the affected members range from 50 to 80 years, with disability pensions granted from 1982 through 2006. Historically, no formal mechanism existed to track cases due for Board-ordered review until 1997, when an electronic database was created to archive disability pension case data. Since 1997, staff has relied upon this database to generate reports and store information regarding disability pension and active member survivor applicants. This database generates a “Review Status Report” indicating which members are due for Board-ordered reviews.

Staff has conducted research into the disability pensioners who are overdue for Board-ordered review, consulting archived log notes to assist in gathering information. During the time period in question, it appears that Disability staff would initiate the collection of necessary medical documentation for the pensioner, and then the Disability Pensions Section Manager would determine if the review should go before the Board. For the ten disability pensioners in question, it was decided by staff that reviews were not necessary, and the case files and medical documentation were then archived.

Due to the fact that the ten identified pensioner reviews range from 11 to 33 years overdue, staff recommends that these cases and any others that staff discovers in the future are more than ten years overdue be exempted from the scheduled review. Going forward, staff will continue to generate the Review Status Report on a quarterly basis to monitor those cases that are due for Board-ordered review. This will ensure that pensioners who are due for review will be identified and reviewed by the Board in a timely manner.

**BUDGET**

No impact at this time.

**POLICY**

No policy changes at this time.

**CONTRACTOR DISCLOSURE INFORMATION**

There is no contractor disclosure information required with this report.

This report was prepared by:

Kristen M. Rosauer, Manager  
Disability Pensions Section

RPC:JS:GM:KR

Attachment: 2-Year Review on Disability Pension Cases