

422A.18 DISABILITY ALLOWANCES.

Subdivision 1. **Expert examination.** (a) Upon the application of the head of the department in which a contributing employee is employed, or upon the application of the contributing employee or of one acting in the employee's behalf, the retirement board shall place the contributor on disability and pay the person a disability allowance under this section if the medical board, after an expert examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the retirement board that the contributor is physically or mentally incapacitated for the performance of further service to the city and recommend that the contributor be placed on disability.

(b) The medical board shall consist of the city physician, a physician, chiropractor, or licensed psychologist to be selected by the retirement board, and a physician, chiropractor, or licensed psychologist to be selected by the employee.

(c) Disability of an employee resulting from injury or illness received in the performance of the duties of the city service shall be defined as duty disability.

(d) Disability incurred as a result of injury or illness not connected with the performance of such service shall be defined as nonduty disability. In order to be entitled to a retirement allowance for a nonduty disability, an employee shall have rendered five or more years of service to the city.

Subd. 2. **Disability allowance amount.** (a) The amount of disability allowance under this section shall be the amount of service allowance to which the employee would be entitled under section 422A.15, notwithstanding the age requirements expressed therein; or the lesser of the following amounts: 50 percent of the final average compensation, or an amount equal to two percent of final average compensation for each year of allowable service for the first ten years, and thereafter 2.5 percent of final average compensation per year of allowable service, including in the latter assumed service between the date the disability occurred and the 60th birthday of the employee.

(b) Annuities payable under this section shall be adjusted at the same time and rate as retirement annuities in the retirement benefit fund.

Subd. 3. **Payment.** Payment of any disability allowance authorized by sections 422A.01 to 422A.25, shall commence three months after date of application provided that the applicant has not been restored to duty. Such payment shall be retroactive to date of application and shall continue throughout the full period of the disability subject to the same optional selections as are provided for service allowances; provided that when a disability beneficiary shall have attained the minimum age for retirement on a service allowance the disability allowance shall be discontinued only as provided by the terms of the option selected. Any employee eligible for a

disability allowance who is also entitled to an allowance under a workers' compensation act and/or resumes a gainful occupation shall be entitled to receive during the period of such compensation only that portion of the retirement allowance provided by this chapter which when added to such additional compensation does not exceed the salary of the employee at the time of disability.

Subd. 4. **Additional medical examinations.** (a) Once each year, the retirement board may require any disability beneficiary while still under the established age for retirement to undergo an expert examination by one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the retirement board. The examination must be made at the place of residence of the beneficiary or other place mutually agreed upon.

(b) If the medical board certifies to the retirement board that the disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, the beneficiary's allowance must be discontinued and the head of the department in which the beneficiary was employed at the time of retirement shall, upon notification by the retirement board of the report of the medical board, reemploy the beneficiary at a rate of salary not less than the amount of the disability allowance.

(c) After the expiration of five years subsequent to the retirement of the beneficiary, the restoration to duty, notwithstanding the recommendation of the medical board, is optional with the head of the department. If any disability beneficiary, while under the established age for retirement, refuses to submit to at least one expert examination in any year by one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the medical board, the allowance must be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all the beneficiary's rights in and to any retirement or disability allowance are forfeited.

Subd. 5. **Return to active service.** Upon application of any beneficiary under the established age for retirement drawing a pension or a disability allowance under the provisions of this chapter, approved by the retirement board, the beneficiary may be restored to active service by the head of the department in which the beneficiary was employed at the time of disability. Upon the restoration of a beneficiary to active service the disability allowance shall cease.

Subd. 6. [Repealed, 1975 c 152 s 4]

Subd. 7. **Rules.** The board shall establish rules and regulations for the determination of earnings for purposes of this section.

History: *1973 c 133 s 18; 1973 c 770 s 12; 1974 c 74 s 1,2; 1974 c 76 s 12; 1975 c 152 s 2; 1975 c 359 s 23; 1977 c 399 s 17; 1980 c 607 art 14 s 45 subd 2; s 46; 1984 c 574 s 13; 1986 c 444; 1999 c 222 art 17 s 4; 2004 c 267 art 8 s 34,35; 1Sp2005 c 8 art 10 s 80*