WEST VIRGINIA CODE: §20-18-23

§20-18-23. Awards and benefits for disability — Physical examinations; termination of disability.

(a) The board may require any member who has applied for or any retirant who is receiving disability benefits under this article to submit to a physical examination, mental examination or both, by a physician or physicians selected or approved by the board and may cause all costs incident to the examination and approved by the board to be paid from the fund. The costs may include hospital, laboratory, X ray, medical, and physicians' fees. A report of the findings of any physician shall be submitted in writing to the board for its consideration. If, from the report, independent information, or from the report and any hearing on the report, the board is of the opinion and finds that: (1) The member has become reemployed as a law-enforcement officer; (2) two physicians who have examined the member have found that considering the opportunities for law enforcement in West Virginia, the member could be so employed as a Natural Resources Police Officer; or (3) other facts exist to demonstrate that the member is no longer totally disabled or partially disabled as the case may be, then the disability benefits shall cease. If the member was totally disabled and is found to have recovered, the board shall determine whether the member continues to be partially disabled. If the board finds that the member is no longer totally disabled but is partially disabled, then the member shall continue to receive partial disability benefits in accordance with this article. Benefits shall cease once the member has been found to be no longer either totally or partially disabled: *Provided*, That the board shall require recertification for each partial or total disability at regular intervals.

(b) If from the report, or from the report and hearing on the report, the board is of the opinion and finds that the disabled retirant has recovered from the disability to the extent that he or she is able to perform adequately the duties of a law-enforcement officer, the board shall within five working days provide written notice of the finding to the Director of the Division of Natural Resources, who shall reinstate the retirant to active duty as a member of the department at his or her rank or classification and assigned to his or her area of assignment prior to the disability retirement within 45 days of the finding, unless the retirant declines to be reinstated.

(c) A disability retirant who is returned to active duty as a Natural Resources Police Officer for the West Virginia Division of Natural Resources shall again become a member of the retirement system in which he or she was enrolled and the retirant's credited service shall be restored.

(d) If a retirant refuses to submit to a medical examination or submit a statement by his or her physician certifying continued disability in any period, his or her disability annuity may be discontinued by the board until the retirant complies. If the refusal continues for one year, all the retirant's rights in and to the annuity may be revoked by the board.

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