

## WEST VIRGINIA CODE: §5-10-26

### **§5-10-26. Reexamination of disability retirants; reemployment; adjustment of annuity for earnings.**

(a) At least once each year during the first five years following the retirement of a member on account of disability, as provided in section twenty-five of this article, and at least once in each three-year period thereafter, the board may require a disability retirant, who has not attained age sixty years, to undergo a medical examination to be made by or under the direction of a physician designated by the board, or to submit a statement signed by the disability retirant's physician certifying continued disability, or both, and a copy of the disability retirants's annual statement of earnings. If the retirant refuses to submit to the medical examination or provide the certification or statement 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. If, upon medical examination of a disability retirant, the physician reports to the board that the retirant is physically able and capable of resuming employment with a participating public employer, the retirant shall be returned to the employ of the participating public employer from whose employment he or she retired and his or her disability annuity shall terminate: Provided, That the board concurs in the physician's report.

(b) A disability retirant who is returned to the employ of a participating public employer shall again become a member of the retirement system and the retirant's credited service in force at the time of his or her retirement shall be restored.

(c) If a review of the disability retirant's annual statement of earnings or other financial information as required by the board determines that the disability retirant's earned income for the preceding year exceeds the substantial gainful activity amount as defined by the United States Social Security Administration, the disability retirant's annuity shall be terminated by the board, upon recommendation of the board's disability review committee, on the first day of the month following the board's action. Any person who wishes to reapply for disability retirement and whose disability retirement annuity has been terminated by the board may do so within ninety days of the effective date of termination by requesting an examination at the applicant's expense by an appropriate medical professional chosen by the board.