

## §18529. Payment of benefit

**1. Beginning.** Payment of disability retirement benefits shall begin on the first day of the month following the date of termination of active service of the member, but not more than 6 months before the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, unless it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [PL 1989, c. 409, §§11, 12 (NEW).]

B. The application was made as soon as reasonably possible. [PL 1989, c. 409, §§11, 12 (NEW).]

[PL 1989, c. 409, §§11, 12 (NEW).]

**2. Cessation.** Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. The disability retirement benefit ceases and a service retirement benefit begins when the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit.

(1) When calculating the person's service retirement benefit, the average final compensation is the average final compensation at the time that person terminated active service before receiving disability retirement benefits adjusted by the same percentage adjustments, if any, that were applied to the disability retirement benefits under section 18407.

(2) The person is entitled to receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which that person receives disability retirement benefits under this article; and [PL 1991, c. 887, §17 (AMD).]

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 17, the disability retirement benefit ceases:

(1) On the 10th anniversary of that person's normal retirement age, as defined in section 17001, subsection 23; or

(2) When the service retirement benefit of that person equals or exceeds the amount of the disability retirement benefit, if that occurs before the beneficiary's normal retirement age. [PL 1997, c. 384, §15 (NEW).]

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 18526, to determine the person's disability.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 18407. The disability retirement benefit continues if the person can effectively demonstrate to the executive director that the person is actively seeking work. For purposes of this subparagraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed \$20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 18407.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit is discontinued until that person withdraws the refusal.

(3) If the person's refusal under subparagraph (2) continues for one year, all rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examinations or tests under this paragraph, that the disability of a person no longer exists, the payment of the disability retirement benefit ceases.

(5) The executive director shall notify the person in writing of the decision to discontinue the disability retirement allowance under subparagraph (2) or (4).

(a) The decision is subject to appeal under section 17451.

(b) If the person appeals the executive director's decision, the disability retirement allowance may not be discontinued until all appeals have been exhausted. [PL 2021, c. 277, §38 (AMD).]

[PL 2021, c. 277, §38 (AMD).]

#### SECTION HISTORY

PL 1989, c. 409, §§11,12 (NEW). PL 1991, c. 887, §17 (AMD). PL 1995, c. 643, §27 (AMD). PL 1997, c. 384, §15 (AMD). PL 2003, c. 675, §4 (AMD). PL 2021, c. 277, §38 (AMD).

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