

**RCW 41.40.310 Periodical examination of disability beneficiaries**

**—Benefits upon resumption of gainful employment.** Once each year during the first five years following the retirement of a member on a disability pension or retirement allowance, and at least once in every three year period thereafter the department may, and upon the member's application shall, require any disability beneficiary, who has not attained age sixty years, to undergo a medical examination; such examination to be made by or under the direction of the medical adviser at the place of residence of the beneficiary, or other place mutually agreed upon. Should any disability beneficiary, who has not attained age sixty years, refuse to submit to a medical examination in any period, his or her disability pension or retirement allowance may be discontinued until his or her withdrawal of the refusal, and should the refusal continue for one year, all his or her rights in and to his or her disability pension, or retirement allowance, may be revoked by the department. If upon a medical examination of a disability beneficiary, the medical adviser reports and his or her report is concurred in by the department, that the disability beneficiary is no longer totally incapacitated for duty as the result of the injury or illness for which the disability was granted, or that he or she is engaged in a gainful occupation, his or her disability pension or retirement allowance shall cease.

If the disability beneficiary resumes a gainful occupation and his or her compensation is less than his or her compensation earnable at the date of disability, the department shall continue the disability benefits in an amount which when added to his or her compensation does not exceed his or her compensation earnable at the date of separation, but the disability benefit shall in no event exceed the disability benefit originally awarded. The compensation earnable at the date of separation shall be adjusted July 1 of each year by the ratio of the average consumer price index (Seattle, Washington area) for urban consumers, compiled by the United States department of labor, bureau of labor statistics, for the calendar year prior to the adjustment to the average consumer price index for the calendar year in which separation from service occurred but in no event shall the adjustment result in an amount lower than the original compensation earnable at the date of separation. [1991 c 35 § 87; 1984 c 184 § 14; 1965 c 155 § 7; 1963 c 174 § 14; 1955 c 277 § 7; 1951 c 50 § 9; 1949 c 240 § 22; 1947 c 274 § 32; Rem. Supp. 1949 § 11072-32.]

**Intent—1991 c 35:** See note following RCW 41.26.005.

**Severability—1984 c 184:** See note following RCW 41.50.150.

**Severability—Effective date—1982 c 163:** See notes following RCW 2.10.052.