

RCW 41.37.230 Disability allowance—Actuarial reduction—Total disability in the line of duty—Disposition upon death of recipient.

(1)(a) A member of the retirement system with at least ten years of service in the public safety employees' retirement system who becomes totally incapacitated for continued employment as an employee by an employer, as determined by the department, shall be eligible to receive an allowance under RCW 41.37.190 through 41.37.290. The member shall receive a monthly disability allowance computed as provided for in RCW 41.37.190 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty, except under subsection (3) of this section.

(b) A member of the retirement system with less than ten years of service who becomes totally incapacitated for continued employment by an employer, as determined by the department, shall be eligible to receive an allowance under RCW 41.37.190 through 41.37.290. The member shall receive a monthly disability allowance computed as provided for in RCW 41.37.190 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

(2) Any member who receives an allowance under this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(3)(a) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to 70 percent of the member's final average salary. The allowance provided under this section shall be offset by:

(i) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(ii) Federal social security disability benefits, if any; so that such an allowance does not result in the member receiving combined benefits that exceed 100 percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

(b) A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least 12 months. Substantial gainful activity is defined as average earnings in excess of \$860 a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a disability retirement allowance as provided in subsection (1) of this section.

(c) Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may

be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(4) If the recipient of a monthly allowance under this section dies before the total of the allowance payments equal the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the recipient has nominated by written designation duly executed and filed with the director. If there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative. [2022 c 22 s 1; 2004 c 242 s 29.]