

**§17907. Payment of benefit**

**1. Beginning.** If the chief executive officer receives the written application for disability retirement benefits within 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date of termination of active service of the member. If the chief executive officer receives the written application for disability retirement benefits more than 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date 6 months prior to the date of receipt by the chief executive officer of the written application, by or on behalf of the member, for disability retirement, provided that payment of benefits shall begin on the first day of the month following the date of termination of active service of the member if 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 1987, c. 256, §15 (RPR).]

B. The application was made as soon as reasonably possible. [PL 1987, c. 256, §15 (RPR).]  
[PL 1987, c. 256, §15 (RPR); PL 2021, c. 548, §45 (REV).]

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

A. The disability retirement benefit ceases and eligibility for a service retirement benefit begins:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of the beneficiary's disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age. [PL 1997, c. 384, §6 (RPR).]

B. After the disability has continued for 5 years, the disability of the beneficiary must render the beneficiary unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience. For purposes of this paragraph, 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 17806.

(1) The chief executive officer may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 17903, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), the beneficiary's disability retirement benefit is discontinued until the beneficiary withdraws the refusal.

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

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of the beneficiary's disability retirement benefit ceases; [PL 2003, c. 675, §1 (AMD); PL 2021, c. 548, §45 (REV).]

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount of retirement benefit of the beneficiary under section 17806; and [PL 1987, c. 256, §17 (AMD).]

D. A full month's benefit must be paid to the beneficiary or estate of the disability retirement recipient for the month in which the disability retirement recipient dies. [RR 2023, c. 2, Pt. B, §125 (COR).]

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#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 256, §§15-18 (AMD). PL 1991, c. 887, §6 (AMD). PL 1997, c. 384, §6 (AMD). PL 2003, c. 675, §1 (AMD). PL 2021, c. 548, §45 (REV). RR 2023, c. 2, Pt. B, §125 (COR).

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