

MUNICIPAL FIRE AND POLICE  
RETIREMENT SYSTEM OF IOWA  
7155 Lake Drive, Suite 201  
West Des Moines, IA 50266

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IN THE MATTER OF:

DONALD EUGENE SCHAEFFER,

Applicant.

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DECISION

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Iowa Code § 411.6(3) (2015) and  
Iowa Code § 411.6(5) (2015)

STATEMENT OF THE CASE

Donald Eugene Schaeffer ("Schaeffer") filed his application for an accidental disability pension on or about May 14, 2015. On August 20, 2015, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Schaeffer's disability. An initial decision denying Schaeffer's application was made by the System on September 9, 2015. He filed a timely appeal challenging the denial on September 28, 2015. A hearing was held before the Disability Appeals Committee of the Board (comprised of Michele Weidner, Mary Bilden and Marty Pottebaum, chair) on November 18, 2015 at the offices of the System. Schaeffer appeared and was not represented by counsel. The City of Davenport did not appear. Daniel Cassady, Deputy Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Schaeffer, who waived post-hearing briefs.

FINDINGS OF FACT

The Committee, having reviewed the evidence of record, finds as follows:

1. Schaeffer was born on August 10, 1949 and commenced service as a police officer with the City of Davenport on July 16, 1971. He rose through the ranks and was the police chief when he separated from service on July 31, 2015.
2. Schaeffer filed his application for an accidental disability pension with the System on May 14, 2015 based on the surgical removal of his kidney (nephrectomy) and ongoing medical issues that resulted.
3. Schaeffer was diagnosed with cancer of the left kidney in 1999. His left kidney was removed on July 2, 1999. He recovered and returned to service as a police officer. He has had no reoccurrence of cancer.

4. On August 20, 2015, the System's Medical Board opined that Schaeffer is currently physically able to perform the functional demands of his position.
5. Schaeffer noted in his application that in 2007, medical screening found a "recent rise in BUN and creatine." He directed the committee's attention to medical records including a letter from his family physician, Dr. Dean Bunting, dated February 16, 2007 to Dr. Christopher Dyer, a nephrologist in Davenport. Dr. Bunting noted in the letter that Schaeffer "is now starting to have worsening renal function." Schaeffer also noted a radiology report directed by Dr. Dyer dated April 2, 2007 that noted "Moderately decreased GFR (National Kidney Foundation Stage III)." Schaeffer testified that the GFR is a measure of kidney function.
6. Dr. Lawrence Karniski was the Medical Board nephrologist who examined Schaeffer. In his Clinic Note, he referenced Schaeffer's nephrectomy, subsequent lab reports provided by the member and the results of laboratory tests performed as part of the Medical Board examination. He then commented that, "Taken together, there is no indication that there is an active renal process, and there is low probability that progressive renal insufficiency from his nephrectomy will occur.
7. Schaeffer noted the second paragraph of the Medical Board's Report to the System, which stated:

Mr. Donald E. Schaeffer is a 66-year-old law enforcement officer with a history of kidney disease. He underwent a left nephrectomy for renal cell carcinoma in 1999. He has had no tumor recurrence. His serum creatinine has fluctuated from 1.2 – 1.5, with his current creatinine 1.2 and an estimated GFR of 61. These values are appropriate for someone his age with a single kidney. He has borderline hypertension, for which he is on an ACE inhibitor. In the opinions of the evaluating physicians, following review of the available medical records and evaluation of Mr. Schaeffer, he is not disabled by renal disease or hypertension, and could perform the full duties of a police chief.

Schaeffer took exception to those comments, noting that his "factors have been that way for over ten years" and questioning what "age" the Medical Board was referring to. He also argued that Dr. Dyer didn't think that the values were appropriate, and noted again that his GFR had been classified in the 2007 report as a "stage III."

8. Schaeffer further argues that kidney cancer meets the definition of a "disease" under chapter 411, and that his condition meets the permanence requirement of chapter 411 because he has had kidney issues for more than ten years.

#### CONCLUSIONS OF LAW

1. Iowa Code section 411.6(5) states (in relevant part) as follows:

5. *Accidental disability benefit.*

a. Upon application to the system, of a member in good standing or of the chief of the police or fire departments, respectively, any member in good standing who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A medical condition shall be deemed to have been known to exist on the date that membership commenced if the medical condition is reflected in any record or document completed or obtained in accordance with the system's medical protocols pursuant to section 400.8, or in any other record or document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

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c. (1) Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases.

(2) Disease under this subsection shall also mean cancer or infectious disease and shall be presumed to have been contracted while on active duty as a result of that duty.

2. Iowa Code section 411.1(6) states:

Cancer" means prostate cancer, primary brain cancer, breast cancer, ovarian cancer, cervical cancer, uterine cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, colorectal cancer, multiple myeloma, testicular cancer, and kidney cancer.

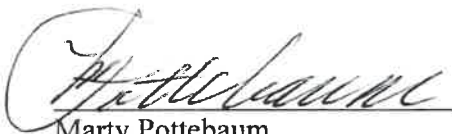
3. Kidney cancer meets the definition of "disease" under Iowa Code § 411.6(5)(c). It is thus presumed to be job-related. Nothing in the statute provides that a "disease" is presumed to be disabling, however.

4. Schaeffer's kidney cancer was successfully treated surgically in 1999 and he has had no reoccurrence. Although his treating physicians have noted some renal insufficiency since at least 2007, there is no medical evidence that he is unable to perform the duties of his position. The only medical evidence that addresses his ability to work is from the System's Medical Board, which found that he is currently able to perform the duties of his position.

#### DECISION

The appeal for a disability pension on behalf of Donald Eugene Schaeffer under chapter 411 is hereby denied.

Dated this 19 day of November, 2015.

  
\_\_\_\_\_, Chair  
Marty Pottebaum

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#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at such attorney's address as disclosed by the pleadings of record herein on the 20 day of November, 2015.

By: ☐ U.S. Mail ☐ Facsimile  
☐ Hand Delivered ☒ Overnight Courier  
☐ Federal Express ☐ Other

Signature 