

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

IN THE MATTER OF:

SHAWNA ISAAC,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2017) and
Iowa Code § 411.6(5) (2017)

STATEMENT OF THE CASE

Shawna Isaac (“Applicant”) filed her application for an accidental disability pension on November 30, 2021. She subsequently amended her application on May 26, 2022. On or around June 16, 2022, the Medical Board of the University of Iowa Hospitals and Clinics reported to the System its findings regarding Applicant’s disability. The System made an initial decision on August 1, 2022. It awarded Applicant: (1) an accidental disability pension due to heart and lung disease; and (2) an ordinary disability pension due to vertigo and post-traumatic stress disorder (“PTSD”). It denied Applicant’s application for a disability pension due to injuries to Applicant’s left knee, left hip, and jaw. On August 25, 2022, Kellie Paschke, counsel for Applicant, filed a timely appeal challenging the award of an ordinary, rather than accidental, disability pension with respect to Applicant’s vertigo and PTSD and the denial of a disability pension with respect to Applicant’s knee, hip, and jaw injuries. A hearing was held before the Disability Appeals Committee of the Board (comprised of Marty Pottebaum, Laura Schaefer, and Mary Bilden) on March 1, 2023 at the offices of the System. Marty Pottebaum served as Chair. Applicant appeared and was represented by attorney Kellie Paschke. Carol Moser, attorney for the City of Des Moines, appeared, but the City took no position on the appeal. Daniel Cassady, Director, appeared on behalf of the System. Cynthia Boyle Lande was present as counsel to the Committee. Testimony was received from Applicant. The parties waived the filing of post-hearing briefs.

FINDINGS OF FACT

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

1. Applicant was born on January 3, 1981. She commenced service as a police officer for the City of Des Moines on July 14, 2008.

2. On or around June 16, 2022, the System's Medical Board opined that Applicant was unable to perform the full duties of a police officer as a consequence of her vertigo, heart (pericarditis and POTS (postural orthostatic tachycardia syndrome)), PTSD, lungs (reversible airways disease), left knee (lateral meniscal tear s/p meniscectomy), and left hip (labral tear/interstitial tear of rectus femoris). The Medical Board further opined that the vertigo, cardiac, mental health, and pulmonary conditions are permanently disabling, that the disability due to the left knee and left hip injuries was temporary, and that the jaw pain was not disabling.
3. The System issued an award decision on August 1, 2022. The System awarded Applicant an accidental disability pension due to heart and lung disease and an ordinary disability pension due to vertigo and PTSD. The System denied Applicant's application for disability pension as a result of Applicant's knee, hip, and jaw injuries. Applicant's appeal was timely filed with the System on August 25, 2022. The City did not appeal the decision. On appeal, Applicant argued that her vertigo was associated with her POTS and, accordingly, should serve as the basis for an accidental disability pension under the heart and lung presumption of Iowa Code Chapter 411.

CONCLUSIONS OF LAW

1. Iowa Code § 411.6(3) states:

3. *Ordinary disability retirement benefit.* Upon application to the system, of a member in good standing or of the chief of the police or fire departments, respectively, any member shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member 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 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. The member-in-good-standing requirement of this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.

2. 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.

3. Thus, if the member meets the requirements for ordinary disability retirement benefits, the member must show that his or her incapacity is 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* to qualify for an accidental disability benefit. See, Branson v. MFPRSI, 591 N.W.2d 193, 197 (Iowa 1999) (emphasis added).

4. Iowa Code §411.6(5)(c) provides:

(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. (3) However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease, disease of the lungs or respiratory tract, cancer, or infectious disease would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph "c" shall not apply.

5. In October of 2020, Applicant tested positive for COVID-19 after responding to a call at a homeless camp. Ex. 3-50. Among other symptoms, Applicant reported feeling dizzy or unsteady. Ex. 3-53. At the hearing, Applicant testified that Applicant's

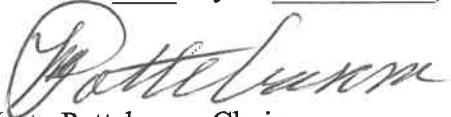
dizziness has persisted since that time and prevents her from returning to work as a police officer.

6. In Applicant's disability retirement application, she reported the following disabling medical conditions (among others): Vertigo: R-42 Dizziness; Vertigo: R26.81: Unsteadiness on Feet; Vertigo: M54.2 Cervicalgia; Vertigo: Z86.16 Patient. Ex. 1-11.
7. On June 7, 2022, Applicant was evaluated by Dr. Michael Robert Muellerleile, MD, a cardiologist with the Medical Board. Dr. Muellerleile diagnosed Applicant with POTS, chronic viral pericarditis, and autonomic dysfunction. Ex. 5-26.
8. At the hearing, Applicant testified that her listing of vertigo on her initial disability retirement application may have been in error because Applicant was not aware of her specific POTS diagnosis until she was evaluated by the Medical Board. Applicant further testified that she used the term "vertigo" to describe the symptoms of dizziness, imbalance, and unsteadiness she experienced following her COVID-19 diagnosis.
9. Applicant previously sought vestibular rehabilitation therapy from Fyzical Therapy & Balance. Ex. 3-67. Applicant testified that it is her understanding that the vestibular balance issues treated by Fyzical are one cause of her symptoms of dizziness, unsteadiness, and vertigo unrelated to her POTS diagnosis. Applicant reported that the treatment provided by Fyzical improved some symptoms associated with vestibular imbalance, but not similar symptoms of dizziness associated with POTS and her heart conditions.
10. Applicant testified about the March 2022 fall that resulted in the injuries to her left knee and hip. The fall occurred while traveling on a family vacation. Applicant testified that she has now had surgeries on both her knee and hip. While her symptoms have improved, she has some remaining pain and activity limitations associated with her hip injury and subsequent surgery.
11. The City did not offer any evidence or testimony and stated that it took no position in the appeal proceedings.
12. Following its review of the Exhibits in this appeal and consideration of Applicant's testimony, the Committee unanimously concluded that it would be appropriate to clarify the original disability award.

DECISION

The award of accidental disability pension to Applicant due to heart and lung disease (including POTS and related symptoms of dizziness and vertigo) is upheld. Applicant shall continue to receive the accidental disability benefits associated with Applicant's heart and lung disease (inclusive of Applicant's POTS diagnosis by the Medical Board) as awarded by the System on August 1, 2022. The award of ordinary disability pension due to PTSD and vertigo symptoms not caused by any heart or lung disease, and the denial of disability benefits due to Applicant's left knee, left hip, and jaw injuries, are similarly upheld.

Dated this 2 day of March, 2023.



Marty Pottebaum, Chair
Disability Appeals Committee

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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 6th day of March, 2023.

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

Signature

