

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

IN THE MATTER OF:

DUSTIN HARRIS,

Applicant.

DECISION

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

STATEMENT OF THE CASE

Dustin Harris (“Applicant”) filed his application for an accidental disability pension on or about August 25, 2023. On February 6, 2024, 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 February 28, 2024: (1) awarding an accidental disability pension due to Applicant’s right shoulder; (2) awarding an ordinary disability pension due to deep vein thrombosis (DVT) and migraines; and (3) denying Applicant’s application for disability benefits due to Applicant’s heart. On March 22, 2024, Applicant filed a timely appeal challenging the award of an ordinary, rather than accidental, disability pension due to Applicant’s migraines. A hearing was held before the Disability Appeals Committee of the Board (comprised of Marty Pottebaum, Laura Schaefer, and Duane Pitcher) on August 14, 2024 at the offices of the System. Marty Pottebaum served as Chair. The only issue on appeal was whether Applicant was entitled to an accidental, rather than ordinary, disability benefit as a result of Applicant’s migraines. Applicant appeared and was represented by attorney Kellie Paschke. The City of Council Bluffs attended the hearing, represented by attorney Graham Jura, but did not present evidence or take a position on the outcome of 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. Applicant and the City waived their rights to file post-hearing briefs.

FINDINGS OF FACT

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

1. Applicant was born on July 6, 1978. He commenced service as a police officer for the City of Council Bluffs on March 13, 2000.

2. Applicant's last working day on the job was February 27, 2023. At that time, Applicant was placed on temporary disability. Applicant's rank at the time he was placed on temporary disability was police officer.
3. Applicant's medical records reveal a history of headaches and migraine diagnoses. Exs. 4A-1; 4H-44; 4N-4.
4. On July 6, 2021, Applicant sustained an injury while working a call (the "Injury"), hitting his head on a screw on a low doorway. He sought medical attention for the injury at the emergency room. Ex. 3-15.
5. On February 6, 2024, the System's Medical Board opined that Applicant was unable to perform the full duties of a police officer as a consequence of migraines, history of pulmonary embolism (PE)/DVT/superficial thrombosis/heterozygous for Factor V Leiden mutation, and right shoulder symptoms. Ex. 5-6. In the opinion of the Medical Board, the incapacity due to these conditions was likely to be permanent based on the impression that it will be of at least one year's duration. The Medical Board concluded that Applicant is not currently disabled as a result of mild three vessel coronary artery disease.
6. The System issued its decision on February 28, 2024. That decision awarded: (1) an accidental disability pension due to right shoulder; and (2) an ordinary disability pension due to DVT and migraines. The decision denied a disability benefit relating to Applicant's heart. Applicant's appeal was timely filed with the System on March 22, 2024. The City did not appeal the decision.
7. Applicant testified that the frequency, severity, nature, and treatment required for his headaches all increased significantly following the Injury. He testified that he experienced new symptoms with his headaches, including bright flashing lights, sharp pain, dizziness, and nausea. Applicant testified that none of these symptoms were present with his headaches prior to the Injury.
8. At the hearing, Applicant presented an affidavit of his physician, Dr. Chad Whyte, M.D., FAHS, dated August 4, 2024. Dr. Whyte has treated Applicant since approximately November 16, 2021. It is Dr. Whyte's professional opinion that Applicant's severe migraines "were either directly caused or were materially exacerbated by the work injury on or about July 6, 2021. . . ." Member Ex. 8. Dr. Whyte's assessment is that Applicant's current condition is much more severe than it was prior to the Injury. *Id.*
9. The City did not present any witnesses rebutting Applicant's testimony or evidence contrary to the evidence presented by Applicant.

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 in good standing 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)¹ 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

¹ Iowa Code Chapter 411 was amended by the Iowa Legislature earlier this year. Among other changes, Iowa Code § 411.6(5) was amended to expand the category of disabilities that qualify for an accidental disability retirement benefit. Because Applicant submitted his application for a disability retirement prior to the effective date of the 2024 amendments to Chapter 411, this appeal is being determined under the Iowa Code provisions in effect as of the time Applicant submitted his application.

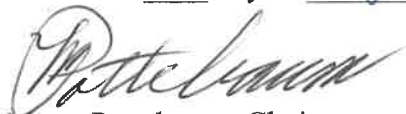
system's medical protocols pursuant to section 400.8, or in any other record or document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date membership commenced. A member who is denied a benefit under this subsection, by reason 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. Under the statutory standard in place at the time Applicant submitted his application for disability benefits, if the member meets the requirements for ordinary disability retirement benefits, the member must show that his 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. Because Applicant presented compelling evidence that his severe migraines resulted from or were exacerbated by the Injury and no evidence to the contrary was presented at the hearing, the Committee finds that the Applicant's disabling migraines were incurred in or aggravated by the actual performance of duty at a definite time and place, which was the Injury sustained by Applicant. Accordingly, the Committee reverses the initial determination that Applicant is eligible for an ordinary disability retirement benefit as a result of his migraines and instead concludes that Applicant is eligible for an accidental disability retirement benefit as a result of his migraines.

DECISION

The appeal for an accidental disability pension due to Applicant's migraines is hereby granted. Applicant qualifies for an accidental disability retirement benefit relating to Applicant's migraines. There are no other changes to Applicant's award, and Applicant shall continue to receive all other benefits as awarded by the System on February 28, 2024.

Dated this 15 day of August, 2024.



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 16th day of August, 2024.

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

Signature Kathleen Frase