

29A.27 Pay and allowances injury or death benefit boards judicial review damages.

Officers and enlisted persons while in state active duty shall receive the same pay, per diem, and allowances as are paid for the same rank or grade for federal service. However, a person shall not be paid at a base rate of pay of less than one hundred dollars per calendar day of state active duty.

In the event any officer or enlisted person shall be killed while on duty or in state active duty, in line of duty, or shall die as the result of injuries received or as a result of illness or disease contracted while on duty or in state active duty, in line of duty, dependents, as defined by the workers' compensation law of the state, shall receive the maximum compensation provided by such law.

Any officer or enlisted person who suffers injuries or contracts a disease causing disability, in line of duty, while on duty or in state active duty, shall receive hospitalization and medical treatment, and during the period that the officer or enlisted person is totally disabled from returning to military duty the officer or enlisted person shall also receive the pay and allowances of the officer's or enlisted person's grade. In the event of partial disability, the officer or enlisted person shall be allowed partial pay and allowances as determined by an evaluation board of three officers to be appointed by the adjutant general. At least one member of the board shall be a medical officer.

Any claim for death, illness, or disease contracted in line of duty while on duty or in state active duty, shall be filed with the adjutant general within six months from the date of death or contraction of the illness or disease.

Where the provisions of this section may be applicable or at other times as considered necessary, but at least once a year, the adjutant general shall appoint a state review board consisting of three officers, one of whom shall be a medical officer, for the purpose of determining the continuation of benefits for individuals who have established their eligibility under this section. Once established, benefits shall be paid until terminated by the review board and shall continue for the duration of the disability even though the individual may no longer be medically qualified for military service and may have been discharged from the national guard.

Judicial review of any decision of the evaluation or state review board may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review must be filed within a period of thirty days from date of mailing by the adjutant general by certified mail of notice of the board's decision. Within thirty days after the filing of a petition for judicial review, the adjutant general shall make, certify, and file in the office of the clerk of the district court in which the judicial review is sought a full and complete transcript of all documents in the proceeding. The transcript shall include any depositions and a transcript or certification of the evidence, if reported. The attorney general of Iowa, upon the request of the adjutant general, shall represent the board appointed by the adjutant general against whom any such appeal has been instituted.

The provisions herein provided shall apply to all individuals receiving benefits under this section or who subsequently may become entitled to such benefits.

All payments herein provided for shall be paid on the approval of the adjutant general from the contingent fund of the executive council.

In the event benefits for death, injuries or illness are paid in part by the federal government, the state shall pay only the balance necessary to constitute the above designated amounts.

No payment received by any officer or enlisted person under the provisions of this section shall bar the right of such officer or enlisted person, or their heirs or representatives, to recover damages from any partnership, corporation, firm or persons whomsoever who otherwise would be liable, nor shall any such sums received

under the provisions of this section reduce the amount of damages recoverable by such officer, enlisted person, or their heirs or representatives, against any partnership, corporation, firm or persons whomsoever who otherwise would be liable.

[C51, § 625; R60, § 1006; C73, § 1051; C97, § 2189, 2212, 2213; S13, § 2215-f23; C24, 27, 31, § 452; C35, § 467-f21, -f31; C39, § **467.21, 467.31**; C46, 50, § 29.21, 29.31; C54, 58, 62, § 29.27; C66, 71, 73, 75, 77, 79, 81, § 29A.27]

84 Acts, ch 1170, § 1; 92 Acts, ch 1238, § 15; 99 Acts, ch 99, §1; 2001 Acts, 2nd Ex, ch 1, §15, 28; 2003 Acts, ch 44, §114

Footnotes

Workers' compensation, see chapter 85