



## Board of Trustees

November 21, 2019

**To:** Fairfax County Board of Supervisors

At our September 25, 2019 meeting, the Board of Trustees heard a disability appeal from Firefighter Jeffrey Cockey, who is suffering from respiratory and other conditions resulting from his acute exposure to hazardous chemicals while responding to a significant industrial fire. We were able to approve his claim for service-connected disability; which reimburses at a rate of 40 percent of his salary, but were not able to approve his request for severe service-connected disability; which reimburses at a rate of 90% of his salary.

Per the County Code for the Uniformed Retirement System, severe service-connected disability may only be granted if the disabling condition is on a specified list of conditions, which does not include conditions resulting from acute toxic exposure such as this individual's.

We thus recommend that this type of condition be added to the list of impairments. In addition, we request that the language used to describe Hepatitis C, which is largely no longer a permanent disabling condition, be updated as well.

Thus our Board approved, by unanimous vote, to respectfully request that the Board of Supervisors ask staff to re-evaluate the severe service-connected disability language in Code and consider amending it in accordance with the attached proposed changes. We further request that the change be applied retroactively, so that we may consider Mr. Cockey's claim for severe service-connected disability.

Sincerely,

Uniformed Retirement System Board of Trustees

## Proposed Changes to County Code

### Section 3-3-37.2. - Severe service-connected disability retirement.

(d) \*Severe disability\* shall mean an impairment from the list below that permanently incapacitates the member from performing the necessary duties of the position in which he or she had been employed prior to sustaining the impairment.

#### 1. Schedule of impairments:

- (A) Loss of both hands or both feet;
- (B) Loss of one hand and one foot;
- (C) Loss of one hand and the sight of one eye;
- (D) Loss of one foot and the sight of one eye;
- (E) Loss of the sight of both eyes;
- (F) Paralysis, either paraplegia or quadriplegia;
- (G) Cancers determined to be compensable by the Virginia Workers' Compensation Commission which were caused by documented contact with a toxic substance, pursuant to Section 65.2-402(c) of the \*Virginia Code\* ;
- (H) Loss of speech;
- (I) Loss of hearing;
- (J) A mental incapacity that meets the criteria for disability benefits under the Federal Old-Age Survivors' and Disability Insurance Act;
- (K) ~~Hepatitis~~ Chronic Hepatitis C determined to be compensable by the Workers' Compensation Commission which was caused by documented exposure to HCV-positive blood or other potentially infectious material (OPIM) in the workplace or during work-related activities, as described in Section 65.2-402.1.(a) of the Virginia Code; or
- (L) Occupational Asthma or Occupational Hypersensitivity Pneumonitis determined to be compensable by the Workers' Compensation Commission which was caused by documented exposure to a toxic substance in the workplace or during work-related activities, as described in Section 65.2-402(c) of the Virginia Code. This condition, added on {date} is to be applied retroactively to any service-connected disability applications submitted on or after June 1, 2019