§ 1210. Members on temporary disability retired list: periodic physical examination; final determination of status

(a) A physical examination shall be given at least once every 18 months to each member of the armed forces whose name is on the temporary disability retired list to determine whether there has been a change in the disability for which he was temporarily retired. He may be required to submit to those examinations while his name is carried on that list. If a member fails to report for an examination under this subsection, after receipt of proper notification, his disability retired pay may be terminated. However, payments to him shall be resumed if there was just cause for his failure to report. If payments are so resumed, they may be made retroactive for not more than one year.

(b) The Secretary concerned shall make a final determination of the case of each member whose name is on the temporary disability retired list upon the expiration of five years after the date when the member’s name was placed on that list. If, at the time of that determination, the physical disability for which the member’s name was carried on the temporary disability retired list still exists, it shall be considered to be of a permanent nature and stable.

(c) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member’s physical disability is of a permanent nature and stable and is at least 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies.

(d) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member’s physical disability is of a permanent nature and stable and is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and if he has at least 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies, with retired pay computed under section 1401 of this title.

(e) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member’s physical disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and if he has less than 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he may be separated under section 1203 or 1206 of this title, whichever applies.

(f) (1) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member is physically fit to perform the duties of his office, grade, rank, or rating, the Secretary shall—

(A) treat the member as provided in section 1211 of this title; or

(B) discharge the member, retire the member, or transfer the member to the Fleet Reserve, Fleet Marine Corps Reserve, or inactive Reserve under any other law if, under that law, the member—

(i) applies for and qualifies for that retirement or transfer; or

(ii) is required to be discharged, retired, or eliminated from an active status.

(2) (A) For the purpose of paragraph (1)(B), a member shall be considered qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve or is required to be
discharged, retired, or eliminated from an active status if, were the member reappointed or
reenlisted under section 1211 of this title, the member would in all other respects be qualified
for or would be required to be retired, transferred to the Fleet Reserve or Fleet Marine Corps
Reserve, discharged, or eliminated from an active status under any other provision of law.

(B) The grade of a member retired, transferred, discharged, or eliminated from an active
status pursuant to paragraph (1)(B) shall be determined under the provisions of law under
which the member is retired, transferred, discharged, or eliminated. The member’s retired,
retainer, severance, readjustment, or separation pay shall be computed as if the member had
been reappointed or reenlisted upon removal from the temporary disability retired list and
before the retirement, transfer, discharge, or elimination. Notwithstanding section 8301 of title
5, a member who is retired shall be entitled to retired pay effective on the day after the last
day on which the member is entitled to disability retired pay.

(g) Any member of the armed forces whose name is on the temporary disability retired list, and who
is required to travel to submit to a physical examination under subsection (a), is entitled to the travel
and transportation allowances authorized for members in his retired grade traveling in connection with
temporary duty while on active duty.

(h) If his name is not sooner removed, the disability retired pay of a member whose name is on the
temporary disability retired list terminates upon the expiration of five years after the date when his
name was placed on that list.


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<tr>
<th>Revised section</th>
<th>Source (U.S. Code)</th>
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<tbody>
<tr>
<td>1210(a)</td>
<td>37:272(e) (less last sentence).</td>
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<tr>
<td>37:274(a).</td>
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<td>37:274(b) (less 1st sentence).</td>
<td>Oct. 12, 1949, ch. 681, §§ 402(d) (30th through 55th words), (e) (less 1st proviso of last sentence), (f) (as applicable to § 402(e)), 404, 63 Stat. 818–821.</td>
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<td>1210(b)</td>
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<tr>
<td>1210(c)</td>
<td>37:272(e) (last sentence, less provisos and less clause (2)).</td>
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<tr>
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<tr>
<td>1210(h)</td>
<td>37:272(d) (30th through 55th words).</td>
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In subsection (a), the second sentence is substituted for 37:274(a). The word “resumed” is substituted for the words “reinstated at a later date”, in 37:274(b).
In subsection (b), the last sentence is inserted for clarity to conform to an opinion of the Judge Advocate General of the Army (JAGA 1953/8438, 30 Dec. 1953) and an opinion of the Judge Advocate General of the Navy (JAG: III: 7: WBM: bg. 7 Jan. 1954).

In subsection (c), the words “or upon a final determination under subsection (b)” are substituted for the words “or upon the determination of a period of five years from the date of temporary disability retirement”, in 37:272(e). The words “at the time of the determination” are substituted for the word “current”, in 37:272(e). The words “and he shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section” are omitted as covered by sections 1201 and 1204 of this title. Reference to specific sections on permanent retirement are substituted for the word “permanently”, before the word “retired”, in 37:272(e).

In subsection (d), 37:272(f) (proviso) is omitted as surplusage.

In subsection (e), the words “and if he has less than 20 years of service computed under section 1208 of this title” are inserted to distinguish the separation requirement under this section from retirement requirements under subsection (d). 37:272(e) (last 19 words of clause (2) of last sentence) is omitted as covered by sections 1203 and 1206 of this title. The words “at the time of determination” are substituted for the word “current”.

In subsection (f), the first 39 words are inserted for clarity.

In subsection (g), the words “members in his retired grade traveling in connection with temporary duty” are substituted for the words “the rank, grade, or rating in which retired for temporary duty travel performed”. The words “for travel performed” are omitted as surplusage.

**Amendments**

1989—Subsecs. (c) to (e). Pub. L. 101–189 substituted “Department of Veterans Affairs” for “Veterans’ Administration” wherever appearing.


Subsec. (f). Pub. L. 99–145, § 513(a)(2)(B), designated existing provisions as par. (1), substituted “or rating, the Secretary shall—” for “and rating, the Secretary shall treat him as provided in section 1211 of this title”, added subpars. (A) and (B), and added par. (2).