

**44-5a04. Disablement and disability defined; cancellation of award, when.** (a) Except as otherwise provided in this act "disablement" means the event of an employee becoming actually incapacitated, partially or totally, because of an occupational disease, from performing the employee's work in the last occupation in which injuriously exposed to the hazards of such disease, and "disability" means the state of being so incapacitated.

(b) The administrative law judge may cancel the award and end the compensation if the administrative law judge finds that the employee:

(1) Has returned to work for the same employer in whose employ the employee was disabled or for another employer and is capable of earning the same or higher wages than the employee did at the time of the disablement, or is capable of gaining an income from any trade or employment which is equal to or greater than the wages the employee was earning at the time of the disablement;

(2) is absent and continues to be absent so that a reasonable examination cannot be made of the employee by a health care provider selected by the employer; or

(3) has departed beyond the boundaries of the United States.

**History:** L. 1953, ch. 246, § 4; L. 1990, ch. 182, § 11; L. 1993, ch. 286, § 74; July 1.