



Article 35 - Disability Leave: Questions & Answers

Q What is the eligibility criteria?

A You must have completed one year of continuous state service and be a permanent full-time or part-time employee or established term regular or established term irregular employee having worked (or in active pay status i.e., vacation, (sick leave does not count). 1500 or more hours within the 12 months before your disability.

To be eligible for disability leave benefits, you must be: 1) in active pay status on approved sick leave, or 2) on approved disability leave; or 3) on approved leave of absence without pay for personal medical reasons or 4) disability separated.

You will not receive disability benefits for a prior Workers' Compensation injury. You may be eligible to receive disability benefits if you file an initial disability claim within 20 days of the Bureau of Workers' Compensation denial of an initial Workers' Compensation claim.

You may be eligible to receive benefits for up to 12 weeks as an advance if you have filed a claim for Workers' Compensation and the claim has been denied by the Bureau of Workers' Compensation.

You are not eligible for benefits for injuries incurred in the act of committing a felony, participating in a riot or self-inflicted injuries including attempted suicide.

Alcohol or other drug addiction diagnoses may be covered if the employee receives treatment from a mental health and/or alcohol and other drug addiction program, and it is determined that such a treatment program prevents the employee from working as documented by the treatment provider.

Eligibility for disability for mental illness must be determined by a licensed mental health professional through United Behavioral Health, which currently administers mental health services under the employee health plan.

Q How do I apply for disability leave?

A By completing the "Application for Disability Leave Benefits" form (ADM 4310). All sections of the application must be completed or your application may be denied. You and your physician are each responsible to complete a section of this form. Urge your physician to provide complete, specific and detailed information including testing results. This form is available through your Personnel/Payroll Office.

Q Where do I file my claim for disability and what happens next?

A Return all four pages of your form to your Personnel/Payroll Office **within 20 days of your last day worked or your benefit may be denied.** In the event you are unable to meet the deadline, a statement indicating the extenuating circumstances preventing you from meeting the deadline must be attached to the application. Your representative or a family member may file on your behalf if you are unable. The employing agency will then complete an Appointing Authority statement and within five days will send the claim along to the Department of Administrative Services (DAS) Benefits Administration Section for processing. Some agencies may approve

routine claims for a standard recovery period but denials may only be done by DAS.

Q Am I obligated to tell my supervisor that I'm filing for disability?

A Yes. Your supervisor is entitled to know if you're going to be off work, and in order to be on authorized pay status, you must complete leave request forms. Although you are obligated to notify your supervisor of your absence and complete leave forms, you may keep the nature of your disability confidential. Your personnel office is required to handle information regarding your claim in a confidential fashion or face possible disciplinary action.

Q What can I do to ensure my claim is processed quickly and without unnecessary delay?

A Complete and return the application as soon as possible. Stress the importance of providing complete and detailed information on the application with your doctor. If your disability is expected to exceed the date for which your claim has been approved, fill out a Supplemental Report: Disability Leave Benefits form (ADM 4311) as soon as you are aware you will exceed your approved date.

Call your personnel/payroll office to see if your application has been sent to DAS in the appropriate time frame. Call to see if your application has been received by DAS.

Make arrangements to pick up your application or any additional information from your doctor's office and mail the information in yourself. If mailed, mail it by certified mail - return receipt requested. If it is hand delivered, have an extra copy date stamped for your records.

Keep a separate file that contains copies of your application, additional information, any correspondence mailed or received about your claim and sheets of paper to jot notes of conversations about your claim.

Q How long will it take before I know whether my application has been approved and when will I get my check?

A Once personnel is notified, it is put on the next payroll. Altogether you can expect to wait 5-6 weeks from the beginning of your disability to receive a check. If you are experiencing a financial hardship, you may request a special check from your personnel/payroll office by showing evidence of the hardship such as utility shut-off notices, delinquent payment notices, etc. A special check can be prepared earlier than the normal payroll cycle, but this process is reserved for financial hardship cases. In some cases employees have returned to work before they receive a check for their disability benefits. Incomplete information and appeals of denials add more time to the processing. DAS will send you and your payroll/personnel office a letter when they've reached a decision on your claim. This usually takes about two weeks after the claim is received by DAS.

Q How will I get paid during the waiting period and until I get a disability benefit check?

A You will have to rely on your various leave balances. You must complete a request for leave form showing the types of leave you want to use, otherwise you will receive no pay.

Q How does being on disability affect service time, step increases, longevity increases, pay raises and probationary periods?

A Length of service for retirement and state seniority is not affected by disability. Likewise, service time for step and longevity Increases is not affected by disability leave. Pay raises and step increases that would have occurred during disability will be received when you return from disability leave. Since step increases are given when the step indicator on your paycheck reads 26, you will want to make sure that your step indicator is appropriately adjusted once you've returned from leave. Your step indicator should have increased by one number for each pay period you were on disability leave.

Q How does disability leave affect vacation leave, sick leave and personal leave?

A Vacation and personal leave will not accrue while you are on disability. Sick leave you would have accrued during your disability will be credited upon your return to work.

Q What about my health insurance?

A If you are in a pay status, your health insurance will continue. While you are in a no pay status and during the time you receive disability benefits, your share and the employer's share of your health insurance benefits will be paid by the State. If your claim for disability benefits is later denied, you must repay the State for premiums paid on your behalf.

Q What is the amount of the disability benefit and how long can I get it?

A The disability lifetime benefit is a maximum of 12 months. Disability is paid at 67% of the employee's base rate.

Q What is the "waiting period" and how long is it?

A A waiting period is the period of time you must wait before you will receive the disability benefit. The waiting period is 14 days. You do not have to wait for this period to be over to file for disability, but you won't receive the disability benefit until it has passed. Your waiting period begins the day your disabling condition occurred. Your disability leave benefit will start with the first scheduled workday following the 14-day waiting period.

Q What happens when my lifetime disability leave is exhausted/maxed out and I am still disabled or I become disabled after I have reached the maximum allowable benefit?

A If you have exhausted all paid leaves (including disability leave, sick, vacation and personal leave) you may apply for an unpaid medical leave of no longer than 1 year pursuant to Articles 31.01(c) and 31.03 of the contract. The state must honor this request. The state may disability separate you at any point if it believes that you will never be able to return to your job. If it has not already done so after you have been off for two years or have reached your maximum allowable disability benefit (which ever comes first), the state will disability separate you.

Q Will I be reimbursed for any sick, personal or vacation leave I used during my disability?

A Yes, if disability is approved and you used these leaves after your 14-day waiting period. Any leave used during the waiting period will not be reimbursed. You will see this leave reimbursed on your first disability check stub.

You may supplement your disability benefit to make up the difference between your 67% benefit and 100% of your pay. You will not be reimbursed for leave used to supplement disability.

Q What about PERS retirement contributions?

A The state will continue to contribute their portion and your portion will be deducted from your disability checks. After being on disability for 3 months, the state will pay both the state's and your share of PERS contributions.

If you are receiving disability as an advancement of Workers' Compensation, you will be entitled to have any PERS contributions deducted from your disability check reimbursed. Since PERS gives service credit for Workers' Compensation illnesses or injuries, you can have those contributions refunded by contacting payroll to have them complete a "Payroll Deduction Refund/Adjustment Request" form to be sent in to DAS payroll. DAS payroll will then make the request to PERS to have the contributions refunded.

Q Do I have any rights if my disability is denied?

A Yes. If your benefits are denied, you will receive a letter telling you why your benefits are denied. If your claim is denied, you may file an appeal within 30 days.

If your benefits are denied due to a medical reason, you may provide additional medical information (within 20 days of the date you were notified of the determination) without waiving your right to an appeal. If, after DAS has reviewed the additional information, your benefits are still denied, you will still have the opportunity to file an appeal.

Appeals must be filed in writing. An appeal of a denial due to technical reasons will be reviewed and decided by the director of DAS. An appeal of a denial due to a medical question will be handled by obtaining a medical opinion from a third physician. If you so request, the third party physician can be mutually agreed to by your doctor and DAS.

Q I am scheduled for surgery. Can I submit a disability claim now so it can be processed?

A Yes, but you can file for disability no sooner than 2 weeks before your first day off of work.

Q I received a letter from the disability section approving only a portion of the time that my doctor wants me to remain off work. What should I do?

A You should submit additional information from your doctor demonstrating the medical necessity for the additional time. This should include information about difficulty in recovery, tests, complications or any other information that confirms the need for you to remain off work. Except for "confidential" claims, this information should be submitted to your personnel/payroll office.

Q How are later disabilities handled? When is a claim considered the same claim, and when is it considered a different claim?

A If you suffer another unrelated disability while currently on disability, it will be considered the same claim. A new waiting period will not have to be served.

If after returning to work, you suffer an unrelated disability, it will be considered a new claim. A new waiting period will have to be served.

If after returning to work, you suffer a related disability (requiring you to be off work for 14 days or more) and have been back at work for six months or less, it will be considered the same claim, and you will not have to serve another waiting period. However, if you were back to work for more than six months under the same circumstances, you would have to serve a new waiting period because it would be considered a new claim.

Q Can I file a claim for disability if I suffer a work related injury?

A If you suffered a work-related injury, you should file for Workers' Compensation, Salary Continuation, or Occupational Injury Leave (OIL). If you work in certain agencies and suffer an injury inflicted by a ward of the State, you may be eligible to receive benefits for up to 960 hours under the Occupational Injury Leave (OIL) program. You must first file for occupational injury leave. You also need to file a Workers' Compensation claim. If you suffer a work related injury that does not involve a ward of the state, you may be eligible to receive up to 480 hours of Salary Continuation. You may also be eligible to receive Salary Continuation if your OIL claim is denied. If you are disapproved for OIL or Salary Continuation, you may file for Disability and Workers' Compensation at the same time. You must file for Disability within 20 days of the time you were denied OIL or Salary Continuation and you must also file a Workers' Compensation claim.

Q Can I be required to return to work while on disability?

A In the event your physician indicates that you are able to return to work on a part time basis or to participate in a Transitional Work Program as developed by the union and

management, you will be required to return to work under those conditions.

Q Do I have a right to return to my previous job after I am disability separated?

A You have the right to reinstatement to a position for two (2) years from last date *worked*.

Q How do I apply for reinstatement?

By making a written request to the appointing authority no more than once every three months and no later than three (3) years from last date worked. Your request must be accompanied by medical evidence you are capable of performing the essential portions of your job duties.

Q What happens after I apply for reinstatement?

A The appointing authority shall either reinstate you or require you to take a medical and/or psychological exam to certify you are able to return to work.

Q Can I grieve my disability separation?

A Disability separation or denial to reinstate from an involuntary disability separation is not grievable but can be appealed through the State Personnel Board of Review. OCSEA does not represent employees at the State Personnel Board of Review.

Q How does disability separation affect my health insurance?

A. While on disability separation the state no longer pays your health insurance. To

continue health care coverage, you must pay the premiums. You can do this for only 18 months after which you will need to find health insurance through some other means.

Q How does disability separation affect my vacation, sick, and personal leave?

A Employees do not accrue vacation, sick or personal leave while on disability separation.

Q How does being on disability separation affect my service time for step increases, longevity, retirement, and pay raises.

A Length of service time for step increases, longevity, retirement, and pay raises will stop when you go on disability separation.

Q What about retirement contributions?

A No contributions are made by the state and the employee cannot make contributions either, therefore no service credit is granted for time off on disability separation or on extended medical leave.

Q May I file for disability retirement from disability separation?

A Yes, if you have five (5) years of contributing service credit.

Q Do I have reinstatement rights from disability retirement?

A Yes, if you are disability separated and granted disability benefits by a state retirement system. You have reinstatement rights to your position for five (5) years from last day *worked*.

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