

PLAN
LEOFF
2

Disability Benefits

for members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2

If you are a LEOFF Plan 2 member and you become disabled, you may be entitled to disability benefits. This publication describes disability retirement benefits and how to apply for them. The Department of Retirement Systems (DRS) recommends that you contact a LEOFF retirement services analyst if you plan to apply for disability retirement.

You may be eligible for disability retirement benefits if you are totally incapacitated for continued employment with your LEOFF employer, and you leave that employment as a result of your disability.

You do not need a minimum amount of service credit to be eligible for a disability retirement benefit.

You must file an application with DRS before you can qualify for disability retirement benefits. DRS will determine whether or not you are capable of carrying out the duties of the job that you performed at the time of the disability, or any other LEOFF-eligible employment you are qualified to perform. DRS will also determine if your disability occurred in the line of duty. You are responsible for scheduling and paying for independent medical examinations to prove that you qualify for disability retirement.

There are four types of disability-related benefits. Each type has its own eligibility requirements. The four types of disability benefits are:

- Temporary Duty Disability
- Non-Duty Disability
- Duty Disability
- Catastrophic Duty Disability

Temporary Duty Disability

If you do not earn full service credit because of leave associated with a duty disability, you have the option to purchase up to 24 months of service credit for each covered duty disability. To establish service credit:

- Your disability must have occurred in the line of duty;
- You must have received your injury on or after July 1, 2002, and be eligible to receive workers' compensation benefits; and
- You and your employer must make employer and member contributions on the compensation you would have earned had you been working. Interest is charged if the payments are made for a retroactive period. If your employer offers disability leave supplement or similar benefits, your first six months of service credit are interest free.

If your duty disability occurred on or after July 23, 1989 but before July 1, 2002, the purchase of service credit is limited to six months and requires that you received a disability leave supplement or similar benefits from your employer.



Non-Duty Disability

If your disability did not occur in the line of duty, you may receive a monthly benefit calculated as follows:

$$2\% \times \text{Final Average Salary} \times \text{service credit years}$$

Final Average Salary (FAS) is the monthly average of your 60 consecutive highest-paid service credit months.

Your benefit will be actuarially reduced to reflect the difference between your age at the time of disability retirement and age 53. If you are age 50 and have 20 years of service, the reduction is three percent per year from age 53.

Duty Disability

If your disability occurred in the line of duty, you may choose between a non-taxable:

- One-time payment equal to 150% of your eligible retirement contributions; or a
- Minimum monthly benefit of at least 10% of your FAS.

If you have fewer than 60 service credit months when you become disabled, the average will be based on your actual total of service credit months. If the normal retirement benefit calculation rule yields a monthly benefit greater than 10% of your FAS, you will receive the higher benefit amount. However, only the amount equal to 10% of your FAS is non-taxable.

Note: Contributions made to restore service credit after the restore deadline are only refunded at 100%

Catastrophic Duty Disability

If your disability occurred in the line of duty and is so severe that it prevents you from performing substantial gainful employment in any capacity in the future, you may be entitled to receive a

catastrophic duty disability retirement benefit. Substantial gainful employment is defined by the Social Security Administration as average earnings of not more than \$1,010 a month (as of 3/12).

The catastrophic duty disability benefit can be calculated in two ways:

- At least 70% of your FAS (subject to offset by Social Security disability and workers' compensation disability payments); or
- Using the formula, $2\% \times \text{FAS} \times \text{service credit years}$.

You will receive the greater of the two amounts, but your total benefit will not exceed 100% of your FAS.

In addition to your monthly benefit, you will be reimbursed for premiums you pay for employer-provided health insurance, COBRA and Medicare Parts A and B. If you are entitled to Medicare, you must enroll and maintain enrollment in both Medicare Parts A and B to remain eligible for the reimbursement. These premium reimbursements are not taxable.

If you are receiving a catastrophic duty disability benefit and you are capable of performing substantial gainful employment or your average earnings exceed \$1,010 a month, your benefit will automatically convert to a duty disability benefit and you'll no longer be reimbursed for your medical premiums. If you are able to perform in a LEOFF-eligible position your benefit will be stopped.

What is the lump sum payment option?

If your monthly benefit will be less than \$50, you may choose between a monthly benefit or a lump sum payment. If you choose the lump sum payment, you are considered retired from LEOFF. If you choose a monthly benefit, you cannot take a lump sum payment at a later date.

How do I apply for disability retirement?

You must take the following steps to apply for disability benefits:

Step 1. Request an application packet and estimate of benefits by contacting DRS. Please be prepared to give us the following information:

- Name
- Address
- Daytime phone number
- Social Security number
- Retirement system and plan
- Spouse's or qualified domestic partner's* name and birth date
- The date you became disabled
- Whether or not the disability was incurred on the job

Step 2. Read through all of your application packet materials. There are three separate parts to the application that must be completed by different individuals and then returned to DRS.

- **Part 1 of 3, Application for Disability Retirement**, complete, sign and have notarized. Your spouse's or partner's signature must also be notarized;
- **Part 2 of 3, Employer's Statement and Report**, complete the *Member Information Section*, then send the form to your employer. They will complete the remainder of the form, sign and mail it to DRS;
- **Part 3 of 3, Medical Report**, complete *Member Information Section*, including the *Mandatory Field*, then send the form and a copy of your job description to your physician.

*Qualified domestic partners have the same survivor and death benefits as married spouses, though there may be differences in how taxes are handled at the federal level. In a qualified domestic partnership both individuals have met the state's legal requirements and registered their partnership with the Secretary of State's office or another jurisdiction. Please contact the Secretary of State's office if you have questions about these requirements. Throughout the remaining text of this publication, a qualified domestic partner will be referred to as a "partner," however, this definition will apply.

Your physician will complete the remainder of the form, sign and mail it along with supporting documentation to DRS.

Please note that the application review process will not begin until DRS has received all three parts.

How long will it take for a determination to be made?

It depends on the complexity of your case. In many cases, an initial determination can be made within four to six weeks. If DRS finds that your application requires supporting documentation (for a catastrophic disability, for example), the process may require much more time—anywhere from several months to as much as a year.

We will contact you if we need more information. Examples of supporting documentation include:

- All medical records, reports and charts pertaining to your disabling condition;
- Complete physician information, especially if you are being treated by more than one doctor;
- Copy of your Social Security Administration disability award letter and any additional medical information provided by the Social Security Administration;
- Clarification from your employer regarding your job specification information;
- Department of Labor and Industries or self insurer file documentation such as Report of Accident (ROA), Independent Medical Examinations (IME) and vocation records.

You may submit any of the preceding information with your application to help expedite the determination process.

You may apply for disability retirement and receive a determination of eligibility from DRS before separating from employment. If you have

already separated you may still apply for disability retirement as long as you were disabled at the time of your separation.

What happens once I receive a determination from DRS?

If you receive a denial

You may petition for a review within 120 days of receiving your denial letter. If your petition is denied, you will be informed of appeal procedures. You will have 60 days to appeal the decision.

If you are approved

DRS will mail you an approval letter with additional information. You must separate from employment in order to begin receiving your benefit.

If you continue to work and have not separated employment within 90 days of your approval date, DRS will rescind its approval. You must reapply and submit current medical evidence to be considered for a benefit.

Your retirement date is the first of the month following your date of separation. For example, if your application is approved on May 4, and you separate from service on May 15, your retirement date is June 1 and you will receive your first benefit on the last working day of June.

Can my benefit increase after I retire?

On July 1 of every year following your first full year of retirement, your monthly benefit will be adjusted by the percentage change in the Consumer Price Index to a maximum of three percent per year.

Can I lose my benefit?

If you are receiving a monthly disability benefit, DRS may require you to undergo comprehensive medical examinations at the expense of DRS. You or your doctor must report any changes in your condition to DRS.

If medical examinations show that you have recovered from your disability, DRS will cancel your retirement benefit and issue an order that you be restored to duty. If this happens, you will be entitled to notice and a hearing. If you are unable to perform the duties of your former rank, you may request assignment to a lower rank which has duties you are able to perform. In no event are you to be restored to duty at a pay rate that is less than the current rate for the position you held at the time you began your retirement. Following cancellation of your disability retirement benefit and upon your return to a LEOFF-eligible position, you will earn service credit and become eligible for the benefits available as an active member.

Can I work after retiring for disability?

Your disability retirement benefit may be affected if you go to work for any public employer in Washington. In some cases, depending on the position and the extent to which you work, your retirement benefit may be suspended, and you may be required to make contributions to a retirement system. If you decide to return to work, call DRS to determine how your benefit will be affected.

What if there is an error?

If you receive an overpayment of your disability benefit or refund, DRS will require that the overpayment be repaid. If you receive an underpayment, DRS will correct the error and pay you in full.

Taxation and assignment of benefits

Federal Income Taxes

Duty disability benefits are non-taxable for amounts up to 10% of your FAS. Non-duty disability benefits are subject to federal income tax. You will need to complete a W-4P form so the proper tax amount is withheld from your monthly benefit. If you do not complete the form, DRS will apply IRS withholding rules as though you are married and claiming three exemptions. This is regardless of the number of

exemptions you qualify to claim on your income tax return.

Assignment and attachment of benefits

Your retirement benefit may be subject to assignment or attachment to satisfy court and administrative orders for spousal or domestic partnership maintenance and child support, or orders authorized by federal law.

DRS is authorized to divide pensions between members and ex-spouses or ex-partners based upon court-ordered property division. If the divorce decree or dissolution of domestic partnership complies with the applicable law, DRS will send the property division payment directly to the ex-spouse or ex-partner. For more information, refer to the publications *Can Legal Action Affect My Retirement Account?* and *How Can a Property Division Affect My Retirement Account?*

Other possible disability benefits

You may also be eligible for disability-related benefits from the Department of Labor and Industries (workers' compensation benefits), Department of Social and Health Services, the Social Security Administration, your employer, and disability insurers. Please contact these organizations directly for more information.

Except for catastrophic duty disability, the benefits you receive from the Social Security Administration, Department of Labor and Industries, or other disability insurers do not affect your benefit amount with DRS. However, the benefit from DRS may affect other benefits. Please contact these organizations directly for more information.

Contacting DRS

For more information about your plan, refer to your *LEOFF Plan 2 Member Handbook*, visit the DRS website, or contact DRS directly. DRS office hours are 8 a.m. to 5 p.m., Monday through Friday, except legal holidays.

Website: www.drs.wa.gov

Telephone: 800.547.6657, or
360.664.7000 in the Olympia area
For LEOFF disability questions press 4

TTY: 866.377.8895, or
360.586.5450 in the Olympia area

Email: recep@drs.wa.gov

Address: PO Box 48380
Olympia, WA 98504-8380

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Summary Description

The rules governing disability are contained in state retirement law. This publication is a summary, written in non-legal terms. It is not a complete description of the law. If there are any conflicts between what is written in this publication, and what is contained in the law, the applicable law will govern.