

# LEOFF Plan 2 — Disability Benefits



Washington State Department of Retirement Systems

If you are a Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2 member and you become disabled, you might be entitled to a disability benefit. This publication describes disability retirement benefits and how to apply for them. The Department of Retirement Systems (DRS) recommends you contact a Retirement Specialist if you plan to apply for a LEOFF disability retirement.

## Eligibility

If you are totally incapacitated for continued employment with your LEOFF employer and you leave that employment as a result of your disability, you might be eligible for a disability retirement benefit.

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

You must file an application with DRS before you can qualify for a disability benefit. DRS will determine whether you are capable of carrying out the duties of the job you performed at the time of the disability or any other LEOFF-eligible employment you are qualified to perform. DRS will also determine whether your disability occurred in the line of duty. You are responsible for scheduling and paying for independent medical examinations to prove you qualify for disability retirement.

Each benefit has its own eligibility requirements. The four types of disability benefits are:

- Temporary duty disability
- Nonduty disability
- Duty disability
- Catastrophic duty disability

## Questions answered on pages 5 and 6

*How do I apply for disability retirement?*

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

*What is the lump sum payment option?*

*What happens once I receive a determination from DRS?*

*Can my monthly benefit increase after I retire?*

*Can I lose my benefit?*

*Can I work after retiring for a disability?*

*What happens if a payment error occurs?*

## 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, you must meet the following criteria:

- 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.
- You and your employer must make employer and member contributions on the compensation you would have

earned had you been working. If the payments are made for a retroactive period, interest is charged. If your employer offers a disability leave supplement or similar benefit, your first six months of service credit are interest free.

If your duty disability occurred between July 23, 1989, and June 30, 2002, the amount of service credit you can purchase is limited to six months and requires that you be receiving a disability leave supplement or similar benefit from your employer.

## Nonduty disability

If your disability didn't occur in the line of duty, you might receive a monthly benefit calculated as follows:

$$2\% \times FAS \times \text{service credit years}$$

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

Your monthly benefit will be actuarially reduced to reflect the difference between your age at the time of your disability retirement and age 53.

If you are age 50 and have 20 years of service credit, the reduction is 3% per year (prorated monthly) from age 53.

## Duty disability

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

- One-time payment equal to 150% of your eligible retirement contributions
- 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 nontaxable.

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

## Catastrophic duty disability

If your disability occurred in the line of duty and is so severe it prevents you from performing substantial gainful activity or substantial gainful employment in any capacity in the future, you might be entitled to receive a catastrophic duty disability benefit. For 2015, the *Social Security Administration* defines "substantial gainful employment" as working in a position whose average earnings are more than \$1,090 a month.

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

- 70% of your FAS
- 100% of your FAS, offset by Social Security disability and workers' compensation disability payments
- $2\% \times \text{FAS} \times \text{service credit years}$

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.

Medical insurance reimbursements are available for current, past and eligible COBRA enrollees. Reimbursement for these members is never greater than the COBRA coverage they are eligible for.

### Example

COBRA covers you up to \$800. You have medical insurance costs of \$500. Your premium reimbursement is \$500. If your medical insurance costs are \$1,000, your total reimbursement is \$800 — the entire COBRA coverage you are entitled to. You will not be reimbursed for the additional \$200 owed toward your medical insurance.

If you are receiving a catastrophic duty disability benefit and you are capable of performing substantial gainful activity or substantial gainful employment or your average earnings exceed \$1,090 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.

## Disaster response

There are certain circumstances, on or after March 22, 2014, when you might qualify for disaster response benefits and service credit. In the two situations listed below, your disability must have occurred while you were in eligible federal service providing eligible emergency management services.

### Working for a LEOFF Plan 2 employer

You might qualify for a disability benefit if you leave the employment of your LEOFF Plan 2 employer to provide a disaster response, and

you become disabled on or after March 22, 2014. Your benefit won't be reduced if you retire early. The benefit will be a minimum 10% of your Final Average Salary.

### Working in eligible federal service

You might qualify for service credit for a leave of absence if you become disabled when you leave the employment of your LEOFF Plan 2 employer to provide a disaster response, on or after March 22, 2014.

## Other possible disability benefits

You might 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.

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 could affect other benefits.

For more information, contact these organizations directly.



## How do I apply for disability retirement?

### To apply for a disability benefit, you must take the following steps:

- Contact DRS to request an application packet and benefit estimate. Have the following information ready:
  - Name
  - Address
  - Daytime phone number
  - Social Security number
  - Retirement system and plan
  - Spouse's or registered domestic partner's name and birth date
  - The date you became disabled
  - Whether the disability was incurred on the job
- Review your entire packet. Three different people must fill in three separate application sections and then return them to DRS.
  - Plan 2 Application for Disability Retirement (Part 1 of 3):** You need to complete this section, sign it and have it notarized. If you have a spouse or registered domestic partner, that person's signature must also be notarized.
  - Employer's Statement and Report (Part 2 of 3):** Complete the *Member Information* section, and then send this form to your employer. Your employer will complete the remainder of the form, sign it and mail it to DRS.
  - Disability Retirement Medical Report Application:** Fill in this form's first page, including the *Member Information* and *Mandatory Information* sections. Then send

the form and your job description to each physician treating you. Your physician(s) will complete the remainder of the form, sign it and mail it along with supporting documentation to DRS.

*Note:* The application review process will begin after DRS has received all three parts.



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

### An initial determination can be made within four to six weeks of DRS receiving all three parts of the application as well as all the needed support documentation.

Please send the following documentation with your disability application:

- 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
- Clarification from your employer regarding your job specification information
- Department of Labor and Industries or self-insurer file documentation, such as the *Report of Accident (ROA)*, *Independent Medical Examinations (IME)* and vocation records
- If you are applying for catastrophic disability, also send DRS a copy of your *Social Security Administration* disability award letter and any additional medical information the Social Security Administration provides.

You may apply for disability retirement 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 is the lump sum payment option?

**If your monthly benefit will be less than \$50, you may choose between a monthly benefit and 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.



## 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 to begin receiving your monthly disability benefit.

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

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



## Can my monthly 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 3% per year.**



## Can I lose my benefit?

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

If medical examinations show you have recovered from your disability, DRS will cancel your disability 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 that has duties you are able to perform. At no time should you be restored to duty at a pay rate that is lower than the current rate for the position you held at the time of your retirement. Following cancellation of your disability benefit and upon your return to a LEOFF-eligible position, you will begin earning service credit again and become eligible for an active member benefit.



## Can I work after retiring for a disability?

**Your disability benefit could be affected if you go to work for any public employer in Washington state.** In some cases, depending on the position and the extent to which you work, your disability benefit might be suspended and you might 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 happens if a payment error occurs?

**If you receive an overpayment of your monthly benefit, you will be required to repay it to DRS.** If you receive an underpayment, DRS will correct the error and pay you the amount owed.

## Taxation and assignment of benefits

**Federal income taxes:** A duty disability benefit is not taxable for amounts up to 10% of your FAS. A nonduty disability benefit is 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 disability benefit could be subject to assignment

or attachment to satisfy court and administrative orders for spousal or domestic-partnership maintenance and child support or orders federal law authorizes.

DRS is authorized to divide pensions between members and ex-spouses or ex-partners based on 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?*

### To contact DRS

<p><b>Call</b></p>  <p>Phone 360.664.7000 800.547.6657 TTY 711</p>	<p><b>Write</b></p>  <p>Department of Retirement Systems PO Box 48380 Olympia, WA 98504-8380</p>	<p><b>Email</b></p>  <p><a href="mailto:recep@drs.wa.gov">recep@drs.wa.gov</a></p> <p>It might be possible for other people to read messages sent over the internet. If you contact us by email, please include only the last four digits of your Social Security number.</p>
<p><b>Visit</b></p>  <p>6835 Capitol Blvd. Tumwater, WA 98501</p> <p><i>Directions</i> are available on the DRS website.</p>	<p><b>Hours</b></p>  <p>Monday - Friday 8 am to 5 pm Pacific Time</p>	<p><b>Website</b></p>  <p><a href="http://www.drs.wa.gov">www.drs.wa.gov</a></p> <p>You can also send us email through the DRS website. Visit the <i>Contact Us</i> page.</p>

### Privacy of your information

We are committed to protecting the privacy of your account information, including your Social Security number, which we use to track your account and submit required reports to the IRS. We will not disclose your information to anyone unless we are required to do so by law. If you have insurance coverage through PEBB, we might share your information with PEBB to better serve you.

### LEOFF 2 Disability Benefits

This document is a summary. It is not a complete description of a disability benefit. State retirement laws govern your benefit. If a conflict exists between the information in this document and what is contained in current law, the law governs.