



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 27, 2022

TIME: 2:12 PM

WSR 22-04-058

Agency: Department of Retirement Systems

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: LEOFF Plan 2 return from disability: To clarify the process when a Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 2 disability retiree returns to work

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 415-104-486 When does my disability benefit end?

Suspended:

Statutory authority for adoption: RCW 41.50.050

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-01-126 on December 13, 2021 (date).

Describe any changes other than editing from proposed to adopted version: No changes, the text being adopted is identical to the text as proposed.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New		Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New		Amended	<u>1</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: January 26, 2022

Name: Tracy Guerin

Title: Director

Signature:



WAC 415-104-486 When does my disability benefit end? The department may require comprehensive medical or psychological examinations to reevaluate your continued eligibility for disability benefits. For catastrophic benefits the department may also require or offer to provide comprehensive vocational examinations and/or submission of earnings information to evaluate your continued eligibility. You are required to contact the department if your medical/vocational or financial situation changes.

(1) Your duty or nonduty disability benefit will cease if:

(a) You return to work in a LEOFF-eligible position; or

(b) Medical examination reveals that you are no longer totally incapacitated for employment in a LEOFF-eligible position and you are no longer entitled to workers' compensation benefits under Title 51 RCW.

(2) Your catastrophic disability benefit will cease if:

(a) You return to work in a LEOFF-eligible position;

(b) Medical/vocational examination, or other information commonly available or provided to the department by an employer, reveals that your disability no longer prevents you from performing substantial gainful activity; or

(c) Your earnings exceed the threshold for substantial gainful activity.

If you believe you are capable of returning from your disability to work for your former employer and your employer agrees that you have met their requirements (examples could include a fit for duty test or polygraph), your disability benefit will end on the date you start working, as reported to the department by your employer. If you do not meet the requirements of your employer, you may challenge your employer's decision through the collective bargaining process, or other legal process against your employer.