

Superseded 5/12/2015

49-21-401 Disability benefits -- Application -- Eligibility.

- (1) An eligible employee shall apply for long-term disability benefits under this chapter by:
 - (a) completing an application form prepared by the office;
 - (b) signing a consent form allowing the office access to the eligible employee's medical records; and
 - (c) providing any documentation or information reasonably requested by the office.
- (2)
 - (a) If an eligible employee is unable to apply on the employee's own behalf, the application may be made by a person who is:
 - (i) the attorney for an eligible employee; or
 - (ii) appointed as a conservator or guardian of the eligible employee.
 - (b) A person described in Subsection (2)(a), may not make an application for a deceased employee.
- (3) Upon request by the office, the participating employer of the eligible employee shall provide to the office documentation and information concerning the eligible employee.
- (4) The office shall review all relevant information and determine whether or not the eligible employee has a total disability.
- (5) If the office determines that the eligible employee has a total disability due to accidental bodily injury or physical illness which is not the result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to two-thirds of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period.
- (6) If the office determines that the eligible employee has a total disability due to psychiatric illness, the eligible employee shall receive:
 - (a) a maximum of two years of monthly disability benefits equal to two-thirds of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period;
 - (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses preauthorized by the office's consultants, paid during the period of monthly disability benefits; and
 - (c) payment of monthly disability benefits according to contractual provisions for a period not to exceed five years if the eligible employee is institutionalized due to psychiatric illness.
- (7) If the office determines that the eligible employee has a total disability due to a physical injury resulting from external force or violence as a result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period.
- (8)
 - (a) Successive periods of disability are considered as a continuous period of disability if the period of disability:
 - (i) results from the same or related causes;
 - (ii) is separated by less than six months of continuous full-time work at the individual's usual place of employment; and
 - (iii) commences while the individual is an eligible employee covered by this chapter.
 - (b) The inability to work for a period of less than 15 consecutive calendar days is not considered as a period of disability.

- (c) If Subsection (8)(a) or (b) does not apply, successive periods of disability are considered as separate periods of disability.
- (9) The office may, at any time, have any eligible employee claiming to have a disability examined by a physician chosen by the office to determine if the eligible employee has a total disability.
- (10) A claim brought by an eligible employee for long-term disability benefits under the Public Employee's Long-Term Disability Program is barred if it is not commenced within six months from the eligible employee's date of disability, unless the office determines that under the surrounding facts and circumstances, the eligible employee's failure to comply with the time limitations was reasonable.
- (11) Medical or psychiatric conditions which existed prior to eligibility may not be a basis for disability benefits until the eligible employee has had one year of continuous eligibility in the Public Employees Long-Term Disability Program.
- (12) If there is a valid benefit protection contract, service credit shall accrue during the period of total disability, unless the disabled eligible employee is exempted from a system, or is otherwise ineligible for service credit.
- (13) Regardless of any medical evidence provided by the employee to support the application for disability, an employee is not eligible for long-term disability benefits during any period in which the employee:
 - (a) makes a claim that the employee is able to work; or
 - (b) has a pending action in a court or before any federal, state, or local administrative body in which the employee has made a claim that the employee is able to work.
- (14) Notwithstanding the provisions of Section 49-11-618, upon written request by an employer, information obtained under this part may, upon an order of a court or an administrative law judge, be released to an employer who is a party in an action under Subsection (13).