

LONG-TERM DISABILITY INSURANCE PLAN

AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill modifies the Public Employees' Long-Term Disability Act by amending provisions relating to long-term disability benefits.

Highlighted Provisions:

This bill:

- ▶ authorizes the Utah State Retirement Office to request additional information to determine whether an eligible employee has a total disability;
- ▶ specifies an appeal procedure for an eligible employee if the Utah State Retirement Office denies or terminates a claim for long-term disability benefits;
- ▶ provides that when a valid benefit protection contract is in place, a disabled eligible employee does not accrue service credit during the period of total disability if the disabled eligible employee is eligible to retire with an unreduced retirement allowance;
- ▶ amends the amount that a monthly disability benefit is reduced by if an eligible employee engages in approved rehabilitative employment;
- ▶ provides that the Utah State Retirement Office may refer the eligible employee to a rehabilitative or vocational specialist for return to work assistance; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **49-21-401**, as last amended by Laws of Utah 2012, Chapter 298

34 **49-21-406**, as last amended by Laws of Utah 2003, Chapter 240

35

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **49-21-401** is amended to read:

38 **49-21-401. Disability benefits -- Application -- Eligibility.**

39 (1) An eligible employee shall apply for long-term disability benefits under this chapter
40 by:

- 41 (a) completing an application form prepared by the office;
- 42 (b) signing a consent form allowing the office access to the eligible employee's medical
43 records; and
- 44 (c) providing any documentation or information reasonably requested by the office.

45 (2) (a) If an eligible employee is unable to apply on the employee's own behalf, the
46 application may be made by a person who is:

- 47 (i) the attorney for an eligible employee; or
- 48 (ii) appointed as a conservator or guardian of the eligible employee.

49 (b) A person described in Subsection (2)(a), may not make an application for a
50 deceased employee.

51 (3) Upon request by the office, the participating employer of the eligible employee
52 shall provide to the office documentation and information concerning the eligible employee.

- 53 (4) The office:
 - 54 (a) shall review all relevant information;
 - 55 (b) may request additional information; and
 - 56 (c) shall determine whether or not the eligible employee has a total disability.

57 (5) If the office determines that the eligible employee has a total disability due to
58 accidental bodily injury or physical illness which is not the result of the performance of an

59 employment duty, the eligible employee shall receive a monthly disability benefit equal to
60 two-thirds of the eligible employee's regular monthly salary, for each month the total disability
61 continues beyond the elimination period, not to exceed the maximum benefit period.

62 (6) If the office determines that the eligible employee has a total disability due to
63 psychiatric illness, the eligible employee shall receive:

64 (a) a maximum of two years of monthly disability benefits equal to two-thirds of the
65 eligible employee's regular monthly salary for each month the total disability continues beyond
66 the elimination period;

67 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
68 preauthorized by the office's consultants, paid during the period of monthly disability benefits;
69 and

70 (c) payment of monthly disability benefits according to contractual provisions for a
71 period not to exceed five years if the eligible employee is institutionalized due to psychiatric
72 illness.

73 (7) If the office determines that the eligible employee has a total disability due to a
74 physical injury resulting from external force or violence as a result of the performance of an
75 employment duty, the eligible employee shall receive a monthly disability benefit equal to
76 100% of the eligible employee's regular monthly salary, for each month the total disability
77 continues beyond the elimination period, not to exceed the maximum benefit period.

78 (8) (a) Successive periods of disability are considered as a continuous period of
79 disability if the period of disability:

80 (i) results from the same or related causes;

81 (ii) is separated by less than six months of continuous full-time work at the individual's
82 usual place of employment; and

83 (iii) commences while the individual is an eligible employee covered by this chapter.

84 (b) The inability to work for a period of less than 15 consecutive calendar days is not
85 considered as a period of disability.

86 (c) If Subsection (8)(a) or (b) does not apply, successive periods of disability are
87 considered as separate periods of disability.

88 (9) The office may, at any time, have any eligible employee claiming to have a
89 disability examined by a physician chosen by the office to determine if the eligible employee

90 has a total disability.

91 (10) A claim brought by an eligible employee for long-term disability benefits under
92 the Public Employee's Long-Term Disability Program is barred if it is not commenced within
93 six months from the eligible employee's date of disability, unless the office determines that
94 under the surrounding facts and circumstances, the eligible employee's failure to comply with
95 the time limitations was reasonable.

96 (11) (a) If the office denies or terminates a claim for long-term disability benefits, the
97 eligible employee shall have the right to appeal the denial or termination to the office disability
98 claims review committee within 60 days of the denial or termination of long-term disability
99 benefits.

100 (b) An appeal of a denial or termination of long-term disability benefits described in
101 Subsection (11)(a) is barred if it is not commenced within the time limit described in
102 Subsection (11)(a).

103 (12) (a) If the office disability claims review committee, after reviewing an appeal
104 denying or terminating long-term disability benefits, denies or terminates a claim for long-term
105 disability benefits, the eligible employee may appeal the office disability claims review
106 committee's denial or termination to the executive director of the office in accordance with
107 Section [49-11-613](#).

108 (b) An appeal of a denial or termination of long-term disability benefits described in
109 Subsection (12)(a) is barred if it is not commenced within 60 days of the office disability
110 claims review committee's denial or termination.

111 (c) Following an appeal commenced under this Subsection (12), any further appeal
112 proceedings shall be conducted in accordance with the administrative hearing process
113 described in Section [49-11-613](#).

114 ~~[(H)]~~ (13) Medical or psychiatric conditions which existed prior to eligibility may not
115 be a basis for disability benefits until the eligible employee has had one year of continuous
116 eligibility in the Public Employees Long-Term Disability Program.

117 ~~[(H2)]~~ (14) If there is a valid benefit protection contract, service credit shall accrue
118 during the period of total disability, unless the disabled eligible employee is:

119 (a) exempted from a system~~[-]~~;

120 (b) eligible to retire with an unreduced retirement allowance; or ~~[is]~~

121 (c) otherwise ineligible for service credit.

122 [~~(13)~~] (15) Regardless of any medical evidence provided by the employee to support
123 the application for disability, an employee is not eligible for long-term disability benefits
124 during any period in which the employee:

125 (a) makes a claim that the employee is able to work; or

126 (b) has a pending action in a court or before any federal, state, or local administrative
127 body in which the employee has made a claim that the employee is able to work.

128 [~~(14)~~] (16) Notwithstanding the provisions of Section 49-11-618, upon written request
129 by an employer, information obtained under this part may, upon an order of a court or an
130 administrative law judge, be released to an employer who is a party in an action under
131 Subsection [~~(13)~~] (15).

132 Section 2. Section 49-21-406 is amended to read:

133 **49-21-406. Rehabilitative employment -- Interview by disability specialist --**
134 **Maintaining eligibility -- Additional treatment and care.**

135 (1) (a) If an eligible employee, during a period of total disability for which the monthly
136 disability benefit is payable, engages in approved rehabilitative employment, the monthly
137 disability benefit otherwise payable shall be reduced:

138 (i) by an amount equal to 50% of the income to which the eligible employee is entitled
139 for the employment during the month; and

140 (ii) so that the combined amount received from the rehabilitative employment and the
141 monthly disability payment does not exceed 100% of the eligible employee's monthly salary
142 prior to the employee's disability.

143 (b) This rehabilitative benefit is payable for up to two years or to the end of the
144 maximum benefit period, whichever occurs first.

145 (2) (a) Each eligible employee receiving a monthly disability benefit shall be
146 interviewed by the office.

147 (b) The office may refer the eligible employee to a [~~disability~~] rehabilitative or
148 vocational specialist for a review of the eligible employee's condition and a written
149 rehabilitation plan and return to work assistance.

150 (3) If an eligible employee receiving a monthly disability benefit fails to participate in
151 an office-approved rehabilitation program within the limitations set forth by a physician, the

152 monthly disability benefit may be suspended or terminated.

153 (4) The office may, as a condition of paying a monthly disability benefit, require that
154 the eligible employee receive medical care and treatment if that treatment is reasonable or usual
155 according to current medical practices.

Legislative Review Note
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Office of Legislative Research and General Counsel