

DISABILITY LEAVE

SOURCE: OHIO REVISED CODE 124.385, OHIO ADMINISTRATIVE CODE 123:1-33-07, & OCSEA/AFSCME BARGAINING UNIT AGREEMENT ARTICLE 35

CONTACT: OFFICE OF EMPLOYEE SERVICES

Disability Leave Policy:

Eligibility and Conditions

- Any full time permanent employee with a disabling illness, injury or condition that will last more than fourteen (14) consecutive days and who has completed one (1) year of continuous state service immediately prior to the date of the disability may be eligible for disability benefits.
- Part-time employees who have worked fifteen hundred (1500) or more hours within the twelve (12) months preceding disability shall be entitled to disability benefits based upon the average regular weekly earnings for weeks worked over that twelve (12) month period.
- The following conditions may be considered for disability leave benefits:
 - Any non work-related injury or illness that a doctor predicts will keep employees from performing their job duties for more than 14 days.
 - Childbirth in which recovery lasts longer than the six weeks covered by childbirth/adoption leave.
 - Any mental health or substance abuse condition for which all of the following are true:
 - Employees are receiving ongoing treatment from a licensed mental health provider or a certified drug treatment professional or an Employee Assistance Program (EAP) referral has been made.
 - The health care provider has determined that the condition or its treatment prevents performance of job duties for more than 14 days.
 - Childbirth in which recovery lasts longer than the six weeks covered by childbirth/adoption leave.

How to File for Disability Leave Benefits

1. Notify supervisor(s).
2. Obtain the Application for Disability Leave Benefits Form (ADM 4310) from the Office of Employee Services (OES) or online from the Department of Administrative Services Benefits Administration Services website. Complete the employee portion (pages 1 and 2), and return to OES within 20 days of the last day worked.

3. Take pages 3 and 4 of the application to the attending physician to be filled out. Pick up the completed form and return it to OES (or have it faxed to OES at 614-644-2108) within 20 days of the last day worked.
4. OES can approve most surgical applications. If OES can not work the claim, it will be sent to the Department of Administrative Services for their approval.
5. If asked to submit more information, or if the condition changes, complete the employee portion (page 1) of the Supplemental Report Form (ADM 4311). Take pages 2 and 3 to the health care provider to be filled out. Return it to OES by the deadline date.

Deadlines

1. The initial claim must be filed within 20 days of employees last work day.
2. Extensions and additional information must be filed either within 20 days of being notified of a claim decision, or within the 20 days following the ending date of benefits, whichever is later.
3. Appeals must be filed within 30 days of either the claim notification or the end of benefits, whichever is later.
4. If unable to meet the deadlines because of special circumstances, employees must file an explanation of the special circumstances along with the application, extension or appeal. If the circumstances are valid, they may be accepted as an extension to the time limit for filing the application, extension, or appeal.

Employee Responsibilities

1. File all applications, forms, mailing address changes, and other information regarding the claim with OES.
2. Provide required medical documentation to confirm the disabling condition. A lack of documentation may result in the denial of the claim.
3. Check the attending physician's part of the Application for Disability Leave Benefits to make sure that all the necessary information on the form has been completely supplied.

Waiting period for approved claims

1. The waiting period begins on the day that the disabling injury or illness occurs.
2. Employees should file for disability benefits as soon as they are disabled and unable to work. However, they must wait 14 consecutive days before they can receive any disability leave benefits.
3. Employees must use leave time (sick leave, personal leave, vacation time and/or compensatory time) to receive pay during the 14-day waiting period. That time cannot be restored.

Payment of Disability Leave Benefits

1. Once approved, employees will receive disability leave benefits in standard bi-weekly paychecks at 70 percent of their base rate of pay until one of the following happens:
 - The health care provider determines that employees are able to return to work.
 - The medical documentation of the injury or condition does not support the claim for disability benefits.
 - Employees have reach the end of their standard recovery period for the injury or illness, which is based on standard insurance guidelines used by the Department of Administrative Services.
 - Employees reach the end of three months of disability benefits.
2. The second paycheck received following approval for disability leave benefits will restore any leave time used while waiting for disability to be approved (except for the waiting period).
3. The State of Ohio will pay insurance premiums while waiting for disability leave approval. If the claim is denied, employees will be required to pay back all of the insurance premiums paid while waiting for a decision on the claim.
4. The State of Ohio will pay health insurance while employees are on disability leave. Although it will still appear as a deduction on the pay stubs, the state is paying the health insurance premium.

If a Disability Continues for More than Three Months

- If a disability prevents employees from being able to perform their job duties for more than three months, their disability benefits will be reduced to 50 percent of their base rate of pay.
- Disability benefits can last for a maximum benefit of one year.
- If a disability is permanent, or will last for more than one year, employees may be asked to file for disability retirement benefits from the Public Employees Retirement System (PERS).

Disability Retirement

- Disability retirement programs are totally independent and separate from the disability leave program provided but the state of Ohio. Disability retirement is provided by the Ohio Public Employees Retirement System.
- If you have less than five (5) years of state Service or are 60 or older, you may not be eligible to receive disability retirement.
- Once you submit proof that you have filed for disability retirement, disability leave benefits may be approved month to month until a decision is reached by the disability retirement system.

Disability Leave Supplement to Disability Retirement

- Once your disability retirement is approved, you may receive disability leave benefits to supplement your disability retirement benefits. The supplement brings your benefits up to 50 percent of your base rate of pay, and is only available until you reach the maximum benefit of one year.
- To receive this “supplement” from disability leave benefits you must submit documentation to your personnel officer detailing how much retirement you are receiving.
- Your agency’s payroll officer is responsible for providing supplemental disability leave benefits. Any questions you may have about supplementing your retirement benefits should be directed to your agency’s personnel officer.

State Employee Retirement Systems

There are five state employee retirement systems. They all offer disability retirement programs. Any questions about your disability retirement should be directed to the Office of Employee Services at the phone number below:

Public Employees Retirement System (PERS) 1-800-222-7377

Subsequent Disability

- If, after you file for a disabling condition, you have a subsequent disability, it may or may not be considered a new claim. To determine if a subsequent disability is a new claim, DAS Benefits Administration Services will consider the date that the second disability occurred and whether the two conditions are related to each other.
- If it is a new claim, you will serve a new waiting period. If it is considered the same claim, you will not serve an additional waiting period. Time accumulation under both the original and any subsequent disability periods will be added together, and applied toward your one-year maximum length of benefits.
- If you have a subsequent disability, talk to the Office of Employees Services about how your particular situation will affect your benefits.

Disqualifying Conditions

You can be disqualified from receiving disability leave benefits if:

- You are separated from state service.
- You engage in any occupation for wage or profit.
- You engage in an act of fraud or misrepresentation involving your disability claim.
- You do not consult a licensed practitioner for necessary medical care.
- You do not follow your prescribed treatment for your disabling condition.

- You fail to notify the appointing authority of a change of address.
- You are convicted of a felony.

If Your Claim Is Denied

- **Filing Additional Information**

You will receive a denial notification letter from the Department of Administrative Services (DAS). The letter will inform you of your right to appeal. The letter also may indicate what information is needed, how to submit the information and the deadline for filing the information. It is very important to meet your deadlines for filing additional information.

- **Third Party Medical Review**

If your claim is denied because of a medical issue, your claim will be reviewed by an independent third party physician chosen by DAS. You must request a third party medical review within 30 calendar days of the denial of your claim.

The third party physician will not examine you. The doctor's decision will be based on all the medical information in your file. DAS will be bound to the decision of the third party physician. You will then be notified by mail of the decision.

- **Appeals**

If you disagree with the physician's decision, or if your claim was denied based on a technical issue, you may request a hearing by filing an appeal.

You must request a hearing within 30 calendar days of either the date of the notification letter or the ending date of benefits, whichever is later. Your appeal must be in writing. At the hearing, you may be represented by an attorney or yourself, and you may present evidence and examine witnesses.

The hearing officer sends a recommendation on your claim to the Department of Administrative Services. The DAS legal office will send you a copy of the report and recommendation issued by the hearing officer. All parties involved in your appeal then have 10 calendar days to file an objection. The director of DAS then reviews the recommendations and objections, and issues a final order to all parties involved.

If you disagree with the director's order, you will have 15 calendar days to appeal to the Court of Common Pleas