

ODNR DISABILITY LEAVE POLICY - PROCEDURE

Effective	March 15, 2011
Purpose	To provide uniform guideline for the administration of disability benefits for ODNR employees.
Authority	OAC 123:1-33-01 through 123:1-33-12 OCSEA Article 35 FOP Unit 2 Article 43
Reference	ODNR Family and Medical Leave Act ODNR Leave Donation Policy ODNR Transitional Return to Work Policy ODNR Occupational Injury Leave Procedure ODNR Workers' Compensation Procedure Application for Disability Leave Benefits (ADM 4310) Supplemental Report: Disability Leave Benefits (ADM 4311) Disability Agreement (ADM 4313)
Resource	Office of Human Resources

Eligibility

An employee who becomes mentally or physically incapable of performing the duties of their position due to an illness or injury which lasts more than fourteen (14) consecutive calendar days are eligible for disability benefits. Eligible employees include any part-time permanent (exempt and non-exempt), established term regular, or established term irregular employees who have actual work hours of 1500 or more within a twelve (12) month period prior to the date of the disabling condition or a full-time permanent employee who has completed one (1) year of continuous state service immediately prior to the date of the disability. In order to be eligible for disability leave benefits an employee must be in an active pay status, on approved sick leave, on approved disability leave, on approved leave of absence without pay for personal medical reasons, or disability separated. An application for disability benefits based on the diagnosis of a mental disorder, including but not limited to, psychosis, mood disorders, anxiety, must be confirmed by a licensed mental health provider authorized by the Employer's Mental health Administrator. However, where the diagnosis is submitted by any other medical professional, the Employer shall make expeditious arrangements for the required examination by the licensed mental health provider. Approval of the application will be contingent upon the receipt of substantiation from such provider.

Conditions Precluding Approval and Receipt of Disability Benefits

Disability leave benefits are not payable for any disability caused by or resulting from:

- a) Any injury or illness received in the course of and arising out of any employment covered by workers' compensation, federal compensation plan, or during any period in which the employee is receiving occupational injury leave, salary continuation or lost time wages from the Bureau of Worker's Compensation
- b) Any injury, illness, or condition incurred or existing before the date an employee commences service for which the employee has consulted a physician or received medical treatment
- c) Attempted suicide or self-inflicted injury
- d) Any act or war, declared or undeclared, whether or not the employee is in the armed services
- e) Participating in a riot or insurrection
- f) Drug addiction, alcoholism, except for the period of time the employee is in a certified residential treatment facility cooperating with treatment as determined by the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) and/or Joint commission for Accreditation of Healthcare Organization (JCAHO)
- g) Any injury incurred in the act of committing a felony.

An employee receiving disability leave benefits will be subject to disqualification if the employee:

- a) Is removed from state service
- b) Is not in active pay status and is receiving retirement or disability from a state employee retirement system
- c) Engages in any occupation for wage or profit except while in a rehabilitation program
- d) Engages in any fraud or misrepresentation involving his or her disability claim
- e) Does not consult a state licensed practitioner for necessary medical care
- f) Is convicted of the commission of a felony.

In the event an employee submits an application for disability leave after either (1) the employee had received notice he/she is under investigation for possible disciplinary action or (2) where an investigation regarding the employee is actively underway, disability payments may be held in abeyance subject to the following procedure: The Agency shall promptly notify DAS that (1) an investigation is underway, (2) the date the investigation was initiated, (3) the basis of the investigation, and (4) why access to the employee is necessary to complete the investigation. A copy of the disability leave application and all accompanying documentation shall be forwarded with the notification. In the event that DAS concurs that the disability payments should be held in abeyance, DAS shall notify the employee, by regular certified mail, that the disability payments shall not be processed until the completion of the investigation. Upon completion of the investigatory interview, or the thirty day period, payments may be made, providing the application qualifies for eligibility. However, if the investigation cannot be completed as a result of the employee's absence, the investigatory interview shall be cancelled and the application shall be denied. The denial shall not prevent the submission of a new application, subject to the

same requirements. If the application for disability benefits is pending and/or has been approved prior to the initiation of the investigation, this section shall not be applicable.

Length of Eligibility

Disability leave benefits shall remain payable until it is determined by a medical professional that the employee is no longer disabled, until the effective date of retirement from the Ohio Public Employees Retirement System (OPERS), or has received a lifetime maximum payment of twelve (12) months of disability benefits.

Effective dates for eligibility under the new disability lifetime maximum are as follows for each employment category:

Exempt – October 1, 2006

OCSEA – March 1, 2006

FOP Unit 2 – February 1, 2007

All approved disability prior to the above dates will not be counted against the twelve (12) month lifetime maximum.

Filing a Claim

The Application for Disability Leave Benefits, Employee Statement Form (ADM 4310, Pages 1 and 2) is to be submitted by the employee, representative, or member of the employee's family to the employee's division/office personnel representative. The request must be submitted within twenty (20) days following the last day the employee worked. The Physician's Statement Form (ADM 4310, pages 3 and 4) must accompany the application, indicating the nature and reason of the disability. This must be completed in its entirety. Human Resources will complete the Application for Disability Leave benefits, Employer Statement and forward all completed forms to the DAS, Disability Unit.

Benefit Periods

Disability leave benefits will commence on the first day following the fourteen day waiting period. Disability leave benefits will remain in effect until the employee is no longer disabled or the maximum of one (1) year or until the employee is otherwise disqualified. An employee returning to work following a disability leave may be required to obtain a physician's written determination stating that the employee is permitted to return to work.

In cases where an employee is going to remain off work for a period of time which exceeds the physician's original estimated return to work date, a Supplemental Report: Disability Leave Benefits (ADM 4311) must be submitted indicating when the employee may return to work and why the disability is longer than initially expected.

Following the payment of disability leave benefits to an employee, successive periods of disability separated by less than six months of full-time work will be considered one period of disability unless the subsequent disability is due to a disabling injury, illness, or condition entirely unrelated to the causes of the previous disability and is separated by a return to active work status for at least one (1) full day.

Compensation

Disability leave benefits shall commence with employee's first scheduled workday following a waiting period of fourteen consecutive calendar days. The waiting period shall commence the day the disabling condition occurred.

Compensation for disability leave benefits shall be payable at seventy percent (70%) of the employee's base rate at the date the disability is approved for the first three (3) months and fifty percent (50%) for the remaining nine (9) months. Prior to the end of the first six (6) months of receiving disability, the employee shall submit an application to the Ohio Public Employees retirement System (OPERS) for disability retirement.

Effective for all new claims filed on or after July 1, 2009, disability benefits will be paid at sixty-seven percent (67%) of the employee's base rate of pay up to a lifetime maximum of twelve (12) months.

Payment of Disability Leave Benefits

Disability leave benefits are payable bi-weekly based on a pay period of fourteen (14) days. Disability leave benefits for any partial pay period remaining at the expiration of any period of disability accrue on an hourly basis, at a rate of eight (8) hours for each work day, and are payable at the expiration of the period of disability.

Employees receiving disability leave benefits shall continue to accrue service credit for purposes of determination of vacation leave accrual and longevity. However, vacation leave benefits shall not accrue while the employee is receiving disability leave benefits. Sick leave and personal leave benefits shall not accrue while the employee is receiving disability leave benefits. However, at the time the employee returns to active pay status, the sick leave the employee should have earned during the time they were on disability leave will be credited.

Employees desiring to supplement their disability leave benefits with sick leave, personal leave, vacation leave, and compensatory time, shall notify the Office of Human Resources at the time the claim is filed or after the employee begins to receive disability leave benefits. Any request for supplementation filed after the date an employee began to receive disability leave benefits shall be given an effective date as of the date the request was filed. Donated leave cannot be used to supplement disability leave.

The total amount received by an employee while receiving disability leave benefits supplemented by sick leave, personal leave, vacation leave, and compensatory time balances

shall be an amount sufficient to give the employee up to one hundred percent (100%) of pay. The total amount received shall not exceed the gross pay an employee would have received in an eighty (80) hour pay period. The computation of gross pay shall include the employee's share of retirement benefits paid to OPERS after receiving three (3) month's of disability benefits.

Payment of Health Insurance

The state will pay the employee's health insurance premium while the employee is on disability leave. However, it will still appear as a deduction on the earning statement.

The state will continue to pay the health insurance premiums while the employee is on disability leave, waiting for the disability leave approval. If the claim is denied, the employee will be required to pay back all of the insurance premiums the state paid while waiting for a decision on the claim.

Transitional Work Policy

Per Article 34.05 of the OCSEA contract, article 42.07 of the FOP contract, and 123:1-33-01(C) of the Ohio Administrative Code, Agencies and the Unions may mutually develop transitional work programs designed to encourage a return to work by an employee receiving disability leave benefits. During the time an employee is in a transitional work program (maximum 90 days), the employee will be assigned duties which the employee is capable of performing based on the recommendation of the employee's attending physician. The employee will continue to receive disability leave benefits for the hours the employee is unable to return to work while the employee participates in an authorized transitional work program in accordance with paragraph (B) of rule 123:1-33-07 of the Administrative Code. If the appointing authority is unable to provide the employee with a transitional work program, the employee may receive disability leave benefits until he or she is capable of performing the duties of the employee's position, or until the appointing authority is able to provide the employee with a transitional work program, whichever is earlier. Please refer to the Ohio Department of Natural Resources Transitional Work Policy for more information about Transitional Work.

Appeals

If a request for disability leave benefits or the payment of a claim is denied, the employee shall be notified of the denial by the Department of Administrative Services (DAS). The employee may appeal, in writing, the denial of a claim to DAS within thirty (30) days of notice of denial/disqualification.

If the denial was based on the recommendation of the Department of Administrative Services (DAS) physician, after a review of the medical documentation, then the Director or designees will obtain a medical opinion from an independent third party physician. The physician will be mutually agreed to, and selected within fifteen (15) days of the appeal, unless an extension is agreed to by both parties.

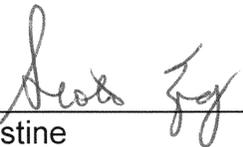
The third party physician must examine the employee and render a medical opinion within thirty (30) days of the selection. This decision is binding.

Where a medical question is not at issue, DAS will render a final decision on the appeal within thirty (30) days.

Work-Related Injuries/Illnesses

Employees becoming disabled on or after July 1, 2000 will not be advanced disability leave benefits on work-related injuries unless the employee has received a denial order from the Bureau of Workers' Compensation (BWC). Within 20 days of the BWC denying benefits, the employee may submit a copy of the denial notification with an application for disability leave benefits.

The employee must also indicate whether he/she is appealing the BWC denial. If the employee is appealing the BWC decision, disability leave benefits may be paid as an advancement of the workers' compensation claim. If the employee is not appealing, the claim will be processed solely as a disability claim.

Office of the Director:	<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Disapprove
		
David Mustine	3/2/11	Date