



Ohio Administrative Code

Rule 123:1-33-01 State of Ohio disability leave program.

Effective: September 1, 2024

(A) The department of administrative services ("the department") provides disability leave benefits to eligible State of Ohio employees.

(B) An employee who is eligible to receive disability leave benefits may receive disability leave benefits due to a disabling illness, injury, or condition.

(C) Procedures to be followed for determining an application for disability leave benefits.

(1) Employees will submit an application for disability leave benefits to the director of the department or the director's designee within twenty calendar days from the last day worked due to the disabling illness, injury, or condition.

(2) Employees will submit a request to extend disability leave benefits within twenty calendar days of the ending date of granted disability leave benefits or within twenty calendar days of the date of a written request for additional information.

(3) Employees will submit to the director or the director's designee, within twenty calendar days of a request to do so, medical documentation from a state licensed medical practitioner establishing that the employee's illness, injury, or condition prevents the employee from performing the duties of the employee's position, a similar position, or other duties within a transitional work program.

(4) The director or the director's designee is responsible for determining whether an employee is eligible and meets the specifications for receiving disability leave benefits due to a disabling illness, injury, or condition.

(5) Eligible employees who fail to file an application, a request for an extension, or the requested medical documentation relating to the claim within the deadline may have their disability leave benefits delayed to the date of the filing.



(D) Payment of disability leave benefits.

(1) Disability leave benefits will commence following a waiting period of fourteen consecutive calendar days from the last date worked due to the disabling illness, injury, or condition.

(2) Disability leave benefits will be paid at sixty-seven per cent of the employee's base rate as of the date the employee became disabled, up to a lifetime maximum of twelve months based on the employee's scheduled hours of work at the time of the filing of their claim. All disability leave benefits that were granted for claims filed on or after October 29, 2006, will be counted toward the twelve-month lifetime maximum limitation.

(3) An employee receiving disability leave benefits, and an employee during the waiting period, may indicate a desire to utilize accumulated sick leave, personal leave, and vacation leave balances, as well as compensatory time, to receive up to one hundred per cent of pay for time on disability leave or during the waiting period. Such supplementation will have an effective date as of the date the employee requests the supplementation. The sick leave, personal leave, and vacation leave balances, and compensatory time, will be paid at a rate equal to the employee's base rate of pay in effect at the time the employee became disabled.

(4) An employee who does not have sufficient accumulated sick leave, personal leave, vacation leave, or compensatory time to be paid during the waiting period will be considered to be on an approved unpaid leave of absence.

(E) Service credit. An employee receiving disability leave benefits will continue to accrue service credit for purposes of determining vacation benefits, annual step increases, longevity supplement, and retirement benefits. Vacation leave benefits will not accrue while an employee is receiving disability leave benefits. The period during which an employee is receiving disability leave benefits will not count toward an employee's probationary period.

(F) Insurance and premiums.

(1) For those benefits paid in whole or in part by the state, the employer's and employee's share of



the health, life, and other insurance benefits will be paid by the employer during the time an employee is in a no pay status while the claim for disability leave benefits is being processed and during the period that the employee is receiving disability leave benefits. If an employee is in paid status while the claim for disability leave benefits is being processed, the employee is responsible for their share of health, life, and other insurance benefits.

(2) If an employee has exhausted disability benefits, the employee is not entitled to have health, life, or any other insurance benefit paid by the employer.

(3) If an employee's claim for disability leave benefits is subsequently denied and the employee had been in a no-pay status while the employee's claim was being processed, it is the employee's responsibility to reimburse the employer the insurance premiums paid on the employee's behalf.

(4) An employee receiving disability leave benefits may participate in an open enrollment period. Any change in the employee's health insurance benefits will be effective at the beginning of the benefit year.

(G) Termination of disability leave benefits. An employee's benefits will be terminated if the employee:

(1) Is removed from state service except as provided under rule 123:1-41-21 of the Administrative Code;

(2) Engages in any occupation for wage or profit that is the same or similar to their current state of Ohio position or has the same or similar physical or mental qualifications, except where the employee is engaging in transitional work, partial return to work, or light duty.

(3) Engages in any act of fraud or misrepresentation involving the disability claim including the alteration of attending physician statements;

(4) Fails to comply with the provisions of section 124.385 of the Revised Code or this rule;

(5) Is convicted of the commission of a felony; or



(6) Does not notify the appointing authority of a change of address.

(7) Fails to participate in a transitional work program that is agreed upon by both the employee's medical practitioner and the employee's appointing authority.

(H) Necessity of applying for retirement benefits.

(1) The following employees will apply for disability retirement benefits as set forth in paragraph (H)(2) in order to receive continued disability leave benefits:

(a) Disability retirement eligible employees who are nearing six months of continuous disability leave payments;

(b) Those employees whose physicians have deemed them permanently disabled; and

(c) Those employees whose total disability leave will exceed twelve months.

(2) To comply with the provisions of this rule, employees will complete all of the following:

(a) Submit an application to the applicable state employees' retirement system;

(b) Comply with all retirement system specifications; and

(c) Submit all information requested by the retirement system for disability retirement benefits.

(3) After the employee submits documentation establishing compliance with this provision, the employee may receive disability leave benefits in an amount that will bring the employee to sixty-seven percent of the employee's base rate of pay as of the date the employee became disabled.

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

(1) Any injury or illness received in the course of and arising out of any employment covered by any



workers' compensation or federal compensation plan, or during any period in which the employee is receiving, or has been approved for, occupational injury leave, salary continuation, or lost time wages from the bureau of workers' compensation except as outlined in paragraphs (I)(1)(a) and (I)(1)(b) of this rule.

(a) In the case of any injury or illness that may be covered by the bureau of workers' compensation, an employee may file an application for disability leave benefits within twenty calendar days of the receipt of a denial order from the bureau of workers' compensation.

(b) Employees who do not intend to appeal a denial order will submit an affirmation of such with their application for disability leave benefits.

(c) Employees who have or intend to appeal a denial order from the bureau of workers' compensation on an initial claim may receive an advancement of disability leave benefits. All disability leave benefits received by the employee as an advancement will be reimbursed by the employee to the disability leave benefits program if the employee is awarded weekly wage payments by the bureau of workers' compensation for the same time period for which the advancement was made or the employee has been paid a lost time wage settlement.

(d) An employee who receives injury pay pursuant to section 124.381 or section 5503.08 of the Revised Code may be eligible for disability leave benefits when injury pay expires if the employee has received a final notice denying workers' compensation benefits and has applied for disability leave benefits within twenty calendar days of such notice;

(2) Attempted suicide, or self-inflicted injury with the intent to do bodily harm, unless there is a medical history of treatment within five years from the current date of disability for a psychiatric illness, in which case the director or the director's designee reserves the right to review the claim for consideration of a benefit award;

(3) Any act of war, declared or undeclared, whether or not the employee is in the armed forces. In the case of an employee who is a veteran of the United States armed forces, disability benefits will not be denied because the employee contracted the illness or received the injury in the course of or as a result of military service and the illness or injury is or may be covered by a compensation plan



administered by the United States department of veterans' affairs;

(4) Participating in a riot or insurrection;

(5) Drug addiction or alcoholism. However, alcohol or other drug addiction diagnoses may be covered if the employee is receiving and complying with ongoing treatment and it is determined that such treatment program prevents the employee from working as documented by the treatment provider; or

(6) Any injury received or illness contracted in the act of committing a felony.

(J) Discipline of an employee receiving disability leave benefits. An employee receiving disability leave benefits may be disciplined pursuant to the provisions of section 124.34 of the Revised Code, an applicable collective bargaining agreement, or the appointing authority's policies. If the appointing authority conducts a pre-disciplinary investigatory interview, the employee may be granted administrative leave with pay for the duration of the interview. The employee will not receive payment of disability leave benefits for those hours spent on administrative leave with pay, nor will the hours count towards the employee's lifetime maximum benefit. If an employee is removed from service, disability leave benefits will be discontinued as of the date the employee is removed from service. The appointing authority is responsible for notifying the director or the director's designee of any employee removed from service who is receiving disability benefits.

(K) Appeals.

(1) Upon the denial of an employee's application for disability leave due to a medical issue, or upon the termination of disability leave benefits due to a medical issue, an employee may file an appeal to the director or the director's designee within thirty days of the date of notice of the denial or termination. If the employee provides new medical documentation with the appeal, the director or the director's designee will obtain a medical opinion from a third party to address the medical issue. The selection of a third party will be made within fifteen days of the appeal request unless an extension is agreed to by the parties. The third party will render a medical opinion within thirty days of the selection and the decision of the third party will be binding.



(2) Upon the denial of an employee's application for disability leave or upon the termination of disability leave benefits where no medical question is at issue, an employee may file an appeal to the director or the director's designee within thirty days of the date of notice of the denial or termination.

(L) The director or the director's designee will initiate all necessary steps to recover disability leave benefits or insurance premiums paid in error or paid as a result of fraud, or to make any needed adjustments to ensure that proper payment of benefits and insurance premiums has been made. When necessary, the director or the director's designee will request the attorney general to take appropriate action to recover improperly paid benefits or insurance premiums.