



## National Association of State Retirement Administrators

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### Results of Survey on Disability Benefit Processes April 2004

*This survey of statewide retirement plans' disability benefit processes reveals a wide range of approaches and methods used to administer disability benefits for public employees. 45 retirement systems participated in the survey.*

**1. Social Security Status of plan participants:**

All are eligible: 19  
Some are eligible: 19  
None are eligible: 7

**2. For respondents who answered Some are eligible: Are disability eligibility standards different for Social Security-eligible participants than for those who do not participate in Social Security?**

Yes: 2  
No: 17

**3. What standard does your plan use to determine participants' eligibility for disability benefits?**

Eligibility for Social Security disability benefits: 3  
Inability to perform any duties: 8  
Inability to perform duties of current position: 22  
Other: 12 (described below)

- Temporary up to a maximum of 30 months is ability to do your job. Total and permanent after Temporary is exhausted is ability to be gainfully employed.
- The first 24 months they must be unable to perform the duties of their own occupation. After 24 months they must be unable to perform the duties for any position they are qualified for.
- Most of our disability plans require that the applicant be permanently incapacitated for the performance of duties of their current position; some are based on Social Security Disability eligibility
- If currently contributing, the inability to perform duties of current position; otherwise, any duties
- We have two options: partial is "inability to perform duties of current position," and total is "inability to perform any duties."
- PERS - any duty; Teachers' - current position
- Disability Retirement: Inability to perform any duties. STD: Inability to perform duties of current position.
- Current position or one of equal stature and compensation made available by the member's employer
- We use the same definition as social security but the member does not have to be eligible for social security
- We contract a Medical Consultant to make our disability determinations unless a member has qualified for Social Security Disability

- Inability to perform any duties for general plan members; inability to perform public safety duties for police and fire plan members
- We have both an Ordinary Disability and Accidental Disability. The latter is work-related where a member is found unable to perform the duties of the current position.

**4. For respondents whose disability standard is Eligibility for Social Security Benefits: Do you require that the applicant receive approval from the Social Security Administration before qualifying for disability benefits under your plan?**

Yes: 3

No: 0

**5. Who in your system makes the determination of eligibility for disability applicants?**

**Medical Board:** 12

**Governing Board:** 11, including

- Board based on staff and medical adviser recommendations
- Board based on recommendation of medical advisors
- Board based on examination of medical panel
- Following review of medical doctors
- Governing board on basis of recommendation of physician

**Staff:** 7, including:

- Staff and/or a medical board
- Staff based on consultation with medical board
- Staff based on recommendation of consulting physician

**Combination:** 8, including:

- Board physician and governing board
- Board committee, including a rehabilitation specialist and legal specialist, makes recommendation to administrator
- Disability committee, made up of board members and doctors
- A medical consultant makes a recommendation and an authorized agent of the executive director determines disability

**Third Party Administrator:** 4

**Social Security Approval:** 3

**6. Does your process for determining eligibility for disability benefits include the applicant's ability to appeal an adverse decision?**

Yes: 42

No: 3

**Comment:** If a disability claim is denied, a claimant can pursue that denial through two phases. The first phase is called Reconsideration; the second phase involves a hearing before an administrative lawyer.

**7. Does your plan provide disability benefit coverage for law enforcement personnel or firefighters?**

Yes: 35

No: 10

**8. For plans that provide disability benefit coverage for law enforcement personnel or firefighters: Are disability benefit standards or provisions for law enforcement personnel or firefighters different from those for other employee groups, such as general employees or teachers?**

Yes: 9

No: 19

No response: 2

Comments: 5, including

- Police and Fire have some additional provisions not available to all other groups
- There are certain causation presumptions available to law enforcement and firefighters (heart condition, cancer, respiratory condition) that are not otherwise available. Benefits are same formula
- The standards for a job-related disability are much broader in our police plans
- Slight difference between systems such as factors and projection of years (to age 55 for police; age 65 for general employees) etc.
- State troopers and investigators whose disability is due to an on-the-job injury are immediately eligible to apply for disability benefits. Otherwise, five years earned service is required before one can apply for disability benefits.
- Police and firefighters can get enhanced benefits if qualify under social security

**9. For respondents whose plan provides disability benefit coverage for law enforcement personnel or firefighters: Is the process used to determine eligibility for disability benefits for law enforcement personnel or firefighters different from the process used for other employee groups? If so, how?**

Yes: 4

No: 31

**10. Once approved for disability benefits, does the System review the disabilitant's status or otherwise confirm that the member is still disabled?**

Yes: 41

No: 4

***If yes, please describe the process:***

- Our TPA requests additional information, depending on the individual claimant, to support an on-going disability.
- Disabilitants are required to submit a Proof of Continuing Disability form annually, measured from the date the benefits commence. If the form is not submitted, three follow-up inquiries are sent at 6-week intervals. If the form is not received after the third notice, benefit payments may be suspended.
- We ask the local Social Security Administration office to review our list of disability retirees to confirm that they are still eligible for social security disability benefits. This is performed once

a year for all recipients under the age of 65; the month for review is based upon when they first started receiving fund disability payments.

- Our disability benefits are triggered by approval of Social Security benefits. A member sends us their Notice of Disability Award. Our staff works up a benefit estimate based on years of service and salary and sends packet with an application to the member. (average of 3 weeks from receipt of award). When documents are returned we pay the member benefits back to the date of determination of the disability.
- We require the disabilitant to be reviewed once each year for the first five years unless we determine the disability is total and permanent. Our review can be as simple as supplying us with updated medical records or as complex as a physical capacity utilization test.
- First review is conducted 2 years after the date of incapacity and then on subsequent 2-year cycles until the recipient changes to service retirement or something about the recipient's circumstance indicates no further review is warranted.
- We require a periodic reexamination of our disability retirees every 3-5 years depending upon the cause of disability. The system reimburses the member for the cost of the doctor's examination.
- Annual form to members to confirm earnings. Generally a semi-annual form to members for medical information.
- annual medical reviews if necessary
- We require an approved disability benefit recipient to apply for continuation of the payment along with medical reports once each year for the first five years and every three years thereafter until age 65. In some cases, our medical advisor will waive this process if the prognosis is no possible chance of improvement in the recipient's condition.
- The State agency overseeing retirement boards is charged with re-examination and re-instatement. Review once each of the first two years of disability and then once every three years
- Members are required to submit updated medical information on a yearly basis which is again reviewed by our medical review committee for renewal of eligibility for disability retirement. Also, member is required to provide proof of any outside earned income on a yearly basis.
- Reviews are conducted on a case by case basis as determined by the staff manager in concert with our outside adjudicator firm. No more than annually.
- A disabled annuitant's eligibility must be recertified eighteen months after the date the first check is issued and thereafter as specified by the medical consultant. The executive director may waive the necessity for a recertification based on the recommendation of the medical consultant.
- We set up a review process, usually between 6 months and 3 years depending on the nature of their disability and age.
- Reevaluation of new medical information. Usually two years, but depends on the disability.
- On recommendation of the medical board, may review federal tax returns or require subsequent medical exams. No further confirmation once age 60 is reached.
- Request the disabilitant's complete questionnaire.
- Those not placed on permanent disability (terminal illness or catastrophic accident) are reviewed annually by members of the medical board.
- Reexamination once each year during the first five years following retirement. Once every three years thereafter.
- Medical re-exams are done once a year during the first five years following disability retirement, and once every three years thereafter until age 60.
- Retirees are required to submit a statement from their physician stating they are still disabled. This is required once a year for the first five years and every three years there after.
- If approved as MINE (Medical Improvement Not Expected) no required review. Otherwise, Medical Board sets continuing disability review date.
- Each case is handled on its own merits based on the nature of the disability. Some recipients are approved with a re-exam in 6 months or a year; some are approved with no re-exam. State law also requires recipients to file yearly earnings statements; based on the results, they may be brought up for a re-exam.

- Eligible for review and medical re-examination requested by the Board until the applicant becomes 60 years of age.
- Our PERS system has income limits imposed on members receiving disability benefits. Also, disabilities are reviewed annually.
- Disability is granted either on a permanent basis or for one year pending annual review by committee. If member is granted social security disability for same condition, then review is waived as long as social security benefits remain in effect.
- Each year, disability recipients are required to provide proof of continued disability status. If they are not able to do so, the system has the authority to require the recipient to undergo an evaluation to make a determination.
- periodic re-examinations and annual verification of earnings and income
- Medical Board determines either MINE (Medical Improvement Not Expected) or, at age 55 for police & fire or age 65 general employees, no review required, or set a continuing disability review date.
- Require complete physical exam and review by ERS medical board. Timeframes depend on the case and whether or not multiple evaluations are done.
- For temporary benefit period we ask for updated medical as soon as the medical guideline for the condition is reached. Timing of follow-up depends on diagnosis after that. For total and permanent benefits we follow-up by requesting up to date treatment notes and if necessary an IME.
- Annually until age 60 a physician must certify that the member is still disabled.
- We have not reviewed status in the past but are now contracting with an insurance company to do that. We will be looking at all open claims beginning with those approved for benefits within the last 3 years.
- We check each year for the first five years then once every three years until they reach normal retirement age.
- Semi annual medical reviews
- The retirement board has the authority to order additional medical testing at any time to determine continued disability status.
- Once a year for the first five years and once every three years after that we send out a letter to the member asking 1) doctor's name and address; 2) last appointment date; 3) name and address of any employer; 4) How much did you make. The system follows this up with a letter to the doctor and or the employer. The doctor answers a few medical questions and enters the last appointment date. The employer gives us an average monthly salary. Our 3rd letter to the member is sent certified mail at 60 days. If still no response then we stop or delay benefits.
- Members are reviewed yearly for continuing eligibility. Provide updated medical information copies of income tax forms for self or if married and files separately for spouse as well.
- Disabilitants' status is reviewed by third party administrator, who conducts medical re-exams and monitors income. Any employment by a PERA disability retiree may trigger a re-evaluation of retiree's disabling condition by TPA and provide evidence that retiree is medically able to earn 75% of pre-disability earnings from a system-covered employment. The system requests that members who receive STD payments report any deductible income to TPA, who may estimate the deductible income that the member would be eligible to receive. The system also annually audits the income reported by a random sample of members who receive STD payments.

**11. Are disabilitants permitted to earn income while receiving disability benefits?**

Yes: 41

No: 4

**12. For those responding Yes to question 11: are disabilitants permitted to work for an employer who is a member of your system, while receiving disability benefits?**

Yes: 24

No: 16

No response: 1

Comments:

- Claimants are limited to 100% of pre-disability earnings.
- Only as a trial return to work period.
- Yes with certain limitations
- Yes, however, they cannot earn creditable service.
- Yes, but if the disability retiree earns more than his average final compensation the benefit is temporarily suspended during period of re-employment.
- There are no restrictions as long as they are under the salary limit.
- During a school year they may work no more than 90 days as a substitute or on a one-half time basis. There is also a three consecutive month trial period full-time to see if they are able to return.
- If they are part-time and earn less than a certain amount.
- Earnings limit applies for private employment and employers covered by system
- Part-time basis only
- Trial work period is limited to one year.
- Just not same employer
- only after approval of the employment by the retirement board and in a position that is ineligible for enrollment in the system
- Yes, but certain limits apply

**13. For those responding Yes to question 11: Is there a dollar or time limit in place regarding disabilitants who earn income? If so please explain.**

Yes: 31

No: 10

Comments:

- For a period of four months, benefit payments reduced by 50% of gross income from employment. For next 5 months, reduced by 100% of gross income.
- Coincides with their return to work trial under the Social Security Administration.
- If a disabilitant makes more money than the position he left his benefit is reduced by \$1 for each \$2 earned over his base.
- Limitations are dictated by whether employment is with a system employer or by outside employment.
- They may earn the difference between their maximum retirement allowance and the maximum salary of the next higher salary grade from which they retired.
- Coverage A has a one month and a six month earnings limitation based on an individual members indexed final compensation Coverage B has an annual earnings limitation based on the CPI.
- For general plan members, earnings plus benefit cannot exceed salary for position held previously. For police and fire, it's 125 percent of the salary for the position held at time of disability.
- Accidental disability recipients can earn up to an amount equal to the salary of the position that they left plus \$5,000 less the amount of their disability allowance.

- Earning limit while on disability retirement is \$40 000. This means when the member combines outside earnings with the Teachers' Retirement annuity, it cannot exceed \$40,000 in any calendar year.
- Those who return to work in the private sector may return and remain employed up to 9 months. After 9 months, benefits are suspended.
- 50% of previous salary
- Ordinary disability retirees have an earnings limitation in all employment until normal retirement age is reached.
- may not earn meaningful income
- Social Security guidelines
- For those working with a TRS employer, limit of 49% of time and dollars. Also, disability benefit and salary may not exceed salary in their prior position. Employment outside TRS is limited to prior salary
- Earnings are limited to their average compensation adjusted by the CPI each year. The total of their disability earnings and eligible outside earnings cannot exceed this limit.
- The total of their outside income and their annual disability benefit cannot exceed their final average compensation
- May earn the difference between AFC (adjusted annually for inflation) and disability benefits for all (public or private employment) until age 65 for general employees or 55 for police & fire—then regular serv earnings limitation at the time of their retirement.
- Earnings limitation based on formula in statutory provision required until age 70.
- \$15 000/year
- Recipients cannot exceed 100% of their indexed highest annual compensation. Effective July 2004, income cannot exceed 100% of their indexed Final Average Salary
- Difference between AFC and benefit
- Outside employment income is limited to temporary period. and must not require abilities that prevent member from working his own job. It does reduce benefits. Outside employment is very limited for
- 50% of annualized pre-disability income.
- Those who return to work for a private employer can't earn more than the monthly social security limit. They can't return to work for an employer of our System.
- Allowed to make the difference between what they were earning at the time of disability and what we pay them. If it has been more than a year since the accrual date, the earning limit is increased by average wage inflation.
- While a member is receiving a disability benefit, members must complete and return quarterly statements of earnings until they reach normal retirement age. Statements are mailed to members and must be returned by the date indicated on the statement or their disability payment will be suspended. If a member exceeds the earnings limit established by the Retirement Code, the disability portion of the member's monthly benefit will be adjusted. A member generally cannot receive more in disability benefits and earnings than what their salary was at the time they retired. The amount of the earnings limit is provided to them in the benefit letter, which is forwarded to all disability retirees approximately one week before their initial checks are sent.
- Under PERS, they are not allowed to have other employment since they must be disabled from doing all jobs. Under the Teachers' plan, they can accept other employment since they only have to be disabled from their current position.

**14. For disabilitants who are found to have returned to work or accrued income in excess of established limits while receiving disability benefits, what efforts, if any, are made to collect benefits already paid? Please explain.**

- Disabilitant notified and third party administrator requests lump-sum repayment. If not feasible, a payment plan may be established. Also procedure for setting off or reducing future benefit payments and disabilitant identifying information submitted to State set-off program (recoup from tax refunds etc.). In extreme
- If a claimant was overpaid, the TPA will work with the individual to recover the overpayment. If that is unsuccessful the overpayment is turned over to a collection agency.

- Case by case basis would attempt to recover.
- We have reporting requirements to be followed and if they are not we stop the benefit. We have not encountered a situation as reported above.
- Disability benefits are reduced in the following calendar year to recover the amount in excess of their earnings limitation. Earnings that exceed the 80% of the individual's average final compensation adjusted by COLA may trigger a discontinuance of the disability benefit.
- We do not recover benefits already paid but their retirement allowance is reduced by the amount in excess of their final salary. If they are restored to active service at a salary equal to or in excess of their final salary, the retirement allowance will end and they will be restored to membership.
- If a disability retiree has returned to work he/she is ineligible to receive benefits from the point in time of employment. Disability benefits stop and a collection action is levied against the retiree. If the retiree is eligible, and chooses to convert to a service retirement no benefit payments can be received by the retiree until any monies owed for have been repaid.
- Coverage A members who exceed their one month earnings limitation have the amount they exceed collected back. If they exceed the earnings limit six consecutive months, we collect back the difference and terminate their disability benefit. Coverage B members who exceed their annual earnings limitation have the amount exceeded collected back.
- offset disability benefit that they are drawing
- We ask members to submit an estimate of what they think they'll earn and apply an offset accordingly to the current benefit payments. We then require members to submit forms W-2 or any other earnings reports annually. If we have offset by too much we adjust the payment the next month. If we have not withheld enough, we then offset the current year's payments by any overpayments from the previous year.
- Accidental Disability recipients must annually file earnings statements with the regulatory agency who then notifies retirement boards of those who have overearned. Members then have an opportunity to appeal the amount through a hearing or pay the excess. They are also subject to the allowance stopping if they do not respond.
- Once it is determined that a member returned to work without notifying the retirement system, the member is required to repay all disability checks they were given after the date they returned to work. If a member exceeds their disability earning limitation they are required to repay dollar for dollar every dollar they went over the limit.
- Because our definition is totally and permanently disabled from all employment it is rare that someone returns to work. In that case we will take action against them or offset benefits paid against any future pension benefits.
- We recoup any unauthorized income through the payroll system.
- If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided the executive director may do all things necessary to recover the erroneously paid benefits.
- None we reduce future payments
- We review earnings on a calendar year basis. Once a retiree is determined to have exceeded the earnings limitation we offset the pension to recover the excess earnings. The offset occurs only over 12 months. For the first 10 years of retirement the offset is \$1 for every \$2; after 10 years it is \$1 for every \$5 in excess.
- No collection; benefits cut off.
- None. Benefits are just terminated.
- No
- Disabilitants are contacted to collect overpayments
- If they have returned to work for a time period that exceeds the allowed 90 days disability benefits will be suspended. If benefits have already been paid TRS will pursue collection of the entire amount that should not have been paid.
- None
- Future benefits are reduced to recover any overpayments made.
- Their disability benefit is reduced to recover the amount they have exceeded.
- Pursue repayment of benefits.
- If one of our employers employs a disability recipient and does not give us notice the employer is responsible for the benefits that were erroneously paid.

- Pension reduction takes place to collect excess gainful occupation.
- The Retirement System will automatically deduct from a member's disability retirement if they exceed income limits.
- If a disabiltant returns to work their disability is canceled
- As with any overpayment we work with the member to obtain the funds. In extreme cases, we will sue.
- The courts have ruled we are entitled to obtain up to one year of overpayment back.
- Each year recipients are required to report their earnings including disability and Social Security disability for the prior year. If earnings exceed the acceptable limit the disability benefit is offset by the appropriate amount. A minimum 20% disability benefit is payable by law, however.
- not applicable.
- Repayment plan
- If benefits have been made in error all legal efforts are made to recover the payments..
- We advise member of overpayment and that we will deduct from future benefits unless reimbursed
- None at this time.
- We currently have about 6 individuals who have rec'd social security disability benefits that we were Unaware of. Since we offset ss benefits we have begun offsetting the benefit and requested reimbursement of overpayments.
- For any overpayment we reduce their recurring payment by 25% until recovery is made. If that takes longer than 5 years we can reduce further or suspend.
  1. Directly from member.
  2. Payroll deduction if return to work with state employment.
  3. Through future benefits that may be payable.
  4. If refund of contributions requested deduction from refund.
  5. Through state attorney generals office.
- If the retirant is still active, a repayment agreement (if applicable) is established and an attempt to collect monies is completed.
- n/a
- Send a letter requesting repayment. Adjust benefits when they are resumed
- Benefit overpayment is calculated and member becomes indebted to the system. If a continuing benefit is to be paid in the future member may take a lifetime reduction to future benefits to repay overpayment.

**15. Does your plan permit former disabiltants to return to work, then qualify again for disability benefits?**

Yes: 41

No: 4

**Comments:**

- Deemed continuation of prior disability unless member has been actively at work on full-time basis for at least six months.
- Rarely happens
- Once retired always retired
- If benefit was suspended, they have up to a year to fall under the previous award (subject to reevaluation). Otherwise, they go through full process again.
- The person would have to prove disabled status from the current position in this situation.
- less than 3 months, automatic; 3-12 months, provide medical information; more than 1 year, reapply

**16. Please provide any additional comments regarding your system's disability benefits or provisions, or this survey.**

- This is a program that is extremely difficult to administer. I look forward to reviewing what others are doing.

- Benefit levels are dependent upon whether the recipient is covered under the age-restricted provision of the plan or the non-age restricted provision. Age restricted is 66 2/3 of the AFC non-age restricted is 59% of the AFC. The plan allows for offsets of Workers' Compensation and Social Security Disability benefits if statutory requirements are met.
- Disability retirement, whether duty or non-duty, requires total and permanent disability from all gainful employment. Employment restrictions are not limited to employers participating in the retirement system. While law enforcement and firefighters receive a higher minimum benefit than other members, the criteria and standards for disability eligibility are the same.
- The disability earnings test for both the general plan and the police and fire plans measures against the salary of the position held at the time of disability, but we ask the former employer for information on the current value of that salary or the salary of a similar position. We are thinking about simply changing the law to apply an automatic CPI escalator to the original salary to lessen the administrative burden of contacting the former employer each year.
- If a physician releases a disabilitant to return to work, that member has a three-month trial period during which time if they are unable to perform their job duties they automatically can revert back to disability retirement. If they work longer than three months, they would have to apply for disability benefits and provide new medical information all over again.
- We have stringent requirements (totally and permanently disabled from any employment) but we project service to 30 years for purposes of calculating the disability benefit.
- Rules have been approved and effective May 1, 2004 when a disability annuitant receives his/her Normal retirement age as set for his/her particular plan; they may opt to switch from receiving a disability benefit to a retirement benefit. The retirement benefit may be a higher payment. Also, prior to age 65 or when a member switches to a retirement benefit our disability benefits are paid from employer contributions and the member's retirement account balance is not reduced and will continue to accrue interest. Our disability annuitants are also eligible for a retiree health insurance credit to be applied towards health insurance. The health insurance must be carried through this agency. Our disability annuitants, like our retirees, are also eligible to maintain their health insurance and continue or join our dental and vision insurance.
- Disability benefits are no greater than normal retirements based on similar plans' salary and service.
- We answered no to the question about once they are approved, does the system review their status to confirm they are still disabled; however, the Medical Board may initially approve a member for disability with the requirement that proof of disability must be provided again after a year has passed. This is not as common as unconditional approvals.
- Effective July 1, 2004, our system is outsourcing the disability program to an insurance company. We will no longer be making the determinations in-house.